



Northwest Territories Legislative Assembly

Standing Committee on Accountability and Oversight

Public Review of the Access to Information
and Protection of Privacy Commissioner's
1999/2000 Annual Report

Wednesday, April 4, 2001

Public Review

Standing Committee on Accountability and Oversight

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STANDING COMMITTEE ON ACCOUNTABILITY AND OVERSIGHT**Public Review of the Access to Information and Protection of Privacy
Commissioner's 1999/2000 Annual Report****Wednesday, April 4, 2001****1:30 p.m.**

CHAIRMAN (Mr. Dent): I would like to call the meeting to order. We are on item 11 of our agenda, which is a public review of the Access to Information and Protection of Privacy Commissioner's 1999-2000 Annual Report. I would like to welcome Ms. Elaine Keenan-Bengts to our committee. Ms. Keenan-Bengts is the Access to Information and Protection of Privacy Commissioner. Before we get into your opening comments Ms. Keenan-Bengts, members of the committee had a great interest in what happened over the weekend. To let the members know, Ms. Keenan-Bengts tells me that the winner took the cash instead of the Hummer. He has to report it as income, I think. Ms. Keenan-Bengts, Do you have any opening comments?

MS. KEENAN-BENGT: I do, thank you. I would, first of all, like to thank you all for the opportunity to meet with you today and discuss the ATIPP Act and my third annual report. As you all know, this act has two separate and distinct purposes. The first purpose is to ensure an open and accountable government and to allow everyone access to what is going on in government, subject, of course, to certain exceptions to allow for the effective running of the business of government.

The second purpose is to protect, as far as possible, the private information of individuals which is held by government and government agencies. In some respects, these two different purposes are in conflict with one another, and there is a balancing act to be done, and discretion which must be exercised in order to accomplish both objectives.

Most of the work required by the act is done by the government itself. It is only when someone questions the exercise of discretion outlined in the act that I become involved at all. A large part of my job is to give independent opinions as to whether or not that discretion is being properly exercised, give suggestions, and directions. The other part of my job is to help government ensure that personal information held by the government remains confidential. I personally hold the view that this may be the more important of the two roles that I play.

Information and communications technology today make it easier and easier to share information. Because of this, it is ever more important to make sure that personal and private information remains that way. Because government runs the

business of the people, it has access to extremely personal information of individual people, from health records to financial information. It is essential that such information be used only for the purposes that it is intended, and is not shared or publicized or otherwise released except with the consent of the individual involved. The right to privacy is one of the most fundamental rights we have. Protecting that privacy in this day and age is sometimes more difficult than it appears.

Let us talk first about the Access to Information side of things. This is the side of things that the public seems to focus on when they hear about Information and Privacy Commissioner. It is the part of the act that is fundamental to the open and accountable government. Government is a business, and the public are its shareholders. Every shareholder is entitled to know how the business is being run, and to object if they do not agree with the way things are being done. Unless the public is able to access the information however, it is difficult if not impossible for them to comment intelligently on the way the government is doing its business.

Furthermore, open government and the right of the general public also encourages those who run the business of government to follow good business ethics and practice. Be that as it may, the analogy between government and business is not perfect. There must remain in the government an ability to keep some information confidential in order to get business done. Those exceptions are provided for in the act. Some exceptions are mandatory, which means if that information is of a particular kind, it simply can not be released.

For example, Cabinet conferences are protected in order to allow free and open debate among Cabinet on policy issues. This does not necessarily mean that every piece of paper in a Minister's office is protected, but it does mean that if it meets the criteria set out under the act as a Cabinet conference, the information will be protected from exposure.

Other exceptions under the act are discretionary, which means that the government agency must make a decision as to whether or not to release the information in question. In this category is information which, if disclosed, could reasonably be expected to reveal advice, proposals, recommendations or policy options developed for the public body, information relating to negotiations being undertaken by the government body involved, the content of draft legislation, and the contents of agendas or minutes of meetings of a board or agency. Also included in this category is information which would otherwise be protected by solicitor/client privilege, law enforcement information, and where the release of the information is likely to impair relations between the Government of the Northwest Territories and another Canadian government, including First Nations negotiators. There are actually quite a number of discretionary exemptions.

As I mentioned before, in most cases, my office will not be involved in a request to the government for information unless the person who is asking for the information is not satisfied with the way the request for information has been handled by the public

body, or if information about a third party is involved and that third party objects to the release of the information. When this happens, I receive a request to review the public body's decision not to release the information. It is my role to review the matter and make recommendations.

My recommendations are not binding, but constitute an independent review and interpretation of the act. If the recommendations which I make are not accepted by the public body, or if the individual who requested the review is not otherwise happy with the decision made by the head of the public body who ultimately makes the decision as to whether or not to release the information, the applicant has the right to apply to the Supreme Court of the Northwest Territories for a legal and binding interpretation of the act.

With one notable exception, government agencies that I have dealt with in my review of access requests have been cooperative and have worked with me to complete the reviews requested. Recommendations that I have made over the last three years, for the most part, have been accepted by the public bodies involved.

The one notable exception has been the Financial Management Board Secretariat, which has taken a confrontational and obstructionist view and approach to the act. There appears to be a corporate culture of secrecy and protectionism. My requests for information, documents, submissions, are routinely not complied with within the time limits I have requested them, and I normally provided either two weeks or a month depending on the complexity of the information that I am requesting. My recommendations, when made, are routinely rejected out of hand.

In one particularly difficult case, a request for information made in 1998 has yet to be fully addressed by this public body. The applicant, in frustration, simply gave up after two and a half years. The only government body which has rejected my recommendations outright has been the Financial Management Board Secretariat, and this they have done more than once.

As noted in my Annual Report, when the approach taken to every request for information or review is adversarial, it gives the impression that the public body is trying to hide something. This becomes even more pronounced when the government agency involved is the government agency which controls the money. The spirit and intention of the act is to encourage openness and accountability. I would hope that this, of all government agencies, would be open to public scrutiny in its workings. The alternative is the kind of political controversy which has plagued HRDC and the Prime Minister's office in recent months.

Moving on to the privacy side of things, the other role that I have is to ensure that personal information is protected; names, addresses, telephone numbers, financial information, medical information, anything that would tend to identify an individual person or his or her personal circumstances. The government holds personal information about each and everyone of us. If we apply for a driver's license, we

give personal information. If we ask for medical treatment, we give personal information. If we want to get married, we give personal information. If we need social assistance or the help of a social worker, we give personal information to the government. The list goes on and on.

The privacy provisions of the act set out rules about how the government can collect such information and what it can be used for. The basic rules are simple; any information collected should be used only for the purposes it was collected and should not be used for any other reason or purpose, or disclosed to any other person without the expressed consent of the person about whom the information relates.

It sounds simple, but sometimes it is not so easy to follow. In this day and age, it is often tempting to use information collected for one purpose, let us say to register a motor vehicle, for entirely different purpose, let us say to collect a debt owing to the government. For example, if I register my vehicle the government knows that I have recently been the lucky winner of let us say a brand new Hummer, that is a viable and valuable asset which they could seize to collect a debt which I owe to the government for a fine for littering. The problem is, when I registered my Hummer, I had no intentions that information would be used to help the government collect a debt against me. My information was improperly used. I am not saying that this happens. I am giving this as an example of how information in one hand could be used, and has been used in the past, for other purposes.

Another example is the use of personal health information. On a very basic level, when you or I go into a local health centre for medical treatment our files are pulled. Sometimes those files come into full public view and can be seen by anyone who walks in the office. This year I had one complaint where the individual involved was appalled to see that his medical condition, which was an infectious disease, was noted in large black letters on the front of his file. The file was in open view of anyone who might walk by the desk that it was on. In this case, I worked with the medical clinic involved to correct the problem. Medical information in this clinic will no longer appear on the front of the file cover and more care will be taken to make sure the files are not in public view.

On a far higher level, the protection of personal health information is an issue which is taking up much time and energy across the country at the moment. You may be surprised to know that your personal health information, sometimes with your name and other personal identifiers attached, is being used for medical research purposes, and you may not know it. I certainly did not know about it until about a year ago when I started discussing this issue with my colleagues in southern Canada. Several of the provinces are now passing legislation to deal with the protection of personal health information and this may be something the government should be monitoring and considering in future legislation here.

I will be hosting the Information and Privacy commissioners from across the country in Yellowknife, in June of this year. This will be one of our main topics for discussion. It is a huge issue and there are conflicting interests, all of which are noble and good causes. How governments balance these interests is a difficult and continuing problem, and one that is going to have to be dealt with.

The government must also be aware of privacy issues when the government starts to contract out such government responsibility such as, for example, the vehicle registration system. It is incumbent on the government when contracting out these sort of things to ensure that the contract includes provisions which prevent that contractor from using the information obtained for any reason other than for the purpose that it was obtained, and ensuring the private body, which is now doing that work of government, knows that they are subject to the act.

One of the concerns that I raised in my annual report is although the Access to Information and Protection of Privacy Act sets out a number of rules about the government's collection and use of personal information, its provisions are weak in terms of what happens if one of these rules are breached. Particularly if the invasion of privacy was accidental. Although the act specifically provides for the Information and Privacy Commissioner to review, for example, a denial of access to information, it does not specifically provide that this office can review a complaint of invasion of privacy or improper use of personal information.

That would not and has not, quite frankly, stopped me from receiving complaints, and doing what I can to investigate them and correct them, nor does it stop me from making recommendations about how the matter should have or could have been handled differently. However, if a particular government department, against whom a privacy complaint is made, refuses to cooperate in an investigation that I may undertake, there is absolutely nothing in the act to compel compliance with my requests, nor is there any requirement that the head of the public body involved even consider any recommendations I might make as a result of any investigation I do. In fact, the only real penalty that can be imposed for breach of personal privacy provisions of the act can be applied only after a prosecution in court, and only if the information was improperly used in bad faith.

An employee, who in good faith, makes a mistake, a simple mistake, in releasing personal information is not subject to any sanction or penalty. As I recommended in my annual report, I would like to see this change so the ATIPP Commissioner can investigate and make recommendations in the event of a breach of privacy provisions of the act, and to require government to deal with my recommendations in the same way as they are required to do under the access provisions of the act.

Finally, to give an individual recourse of the courts if they are unhappy with the way government deals with the recommendations made. To my mind, this is the most important and urgent change required to this legislation. My annual report also

contains a number of other recommendations, and perhaps I could just touch on a few of them here.

One of the problems that has been met again and again, is that when recommendations are made by my office they are not being dealt with by the head of the public body involved. Under the act, the head of the public body, be it the Minister or whoever else is designated as the head under the act, is required to deal with my recommendations within 30 days. That deadline has rarely been met, and in one particularly bad case, it was almost a year between the time that a recommendation was made and the head of the public body actually acted on it.

By amending this provision to provide that if no decision has been made within 30 days of the recommendation, that the recommendations are deemed to have been accepted, it will compel those required to deal with these matters to do so in a timely fashion, or be met with the consequences. Another provision that is important, and it is really a housekeeping issue, is there are many 30-day notice periods under the act. Unfortunately, if one mails a letter in Yellowknife to a more remote community it can take 14-20 days for a letter to get there. If the 30 days starts to run from the day I mailed the letter, whoever is on the other end of it is not going to have much time to reply. If it takes more than two weeks to get there and two weeks to get back, the 30 day period is going to be missed. The time should only begin to run from the time the intended recipient actually receives the document, and the legislation should provide for some type of service of documents, either by registered mail or by personal service by a process server. It is essential to the fair process of this act that all parties have adequate time to deal with and respond to matters which arise under it.

The third issue, and I will not dwell on it at all, municipalities in most jurisdictions are included under Access to Information and Protection of Privacy Legislation, and it is my respectful opinion that it is time to add these organizations and these government institutions to our legislation. The other items are really housekeeping items.

There has been no review of the specific public bodies which are covered by the act since it's inception in 1998. One issue arose this year with respect to the Public Utilities Board, which does not appear to fall under the act. My question is, "why?" There may be good reason, or maybe it was just an oversight. I do not know. There may be other public bodies that were inadvertently left out. I would simply recommend a review of the list of public bodies be done, and public bodies that are not presently there, there should be consideration of adding them.

Along the same lines, the government is required under the act to produce and update as necessary an Access and Privacy Directory, which should be made available to the public. This directory must, by law, include a list of all the public bodies subject to the act, and the title and address of the agent coordinator for each such public body. It would be useful as well to include in that directory a copy of the

act and any regulations made under the act and an address and contact number for my office. There is an Access and Privacy Directory, but it has not been updated since 1997 and it is not readily available to the public.

Finally under housekeeping, in order for the ATIPP Act to be effective there must be individuals within the government who have more than a mere passing knowledge of the act. There recently were sessions held for individuals responsible for handling request for information, and this is a start. Every time a new employee begins work for the Government of the Northwest Territories, there should be an orientation session which includes the basics of the Information and Privacy Act.

As a final comment, I would simply like to touch on the recently proclaimed Bill C-6 at the federal level. The Personal Information Protection and Electronic Documents Act came into effect on January 1st of this year. This act governs the protection of personal, private information in the private sector, as opposed to the public sector. In other parts of the country, there is a phase-in period to allow provincial governments to introduce their own legislation dealing with privacy issues in the private sector.

However, because of the constitutional nature of the Northwest Territories, the act is fully effective in this jurisdiction since January 1st. The effect of this is that complaints of invasion of privacy or improper use of personal information by the private sector will now be dealt with by the Federal Privacy Commissioner's office. As a private citizen of the Northwest Territories, quite frankly I resent that. Problems arising in the Northwest Territories of a local nature should be dealt with in the Northwest Territories. I would strongly urge this government to consider legislation to deal with the protection of personal privacy information in the private sector, and to bring these issues back home. Thank you for your attention, and I would be pleased to answer any questions you may have.

CHAIRMAN (Mr. Dent): Thank you, Ms. Keenan-Bengts. Would it be possible for our clerk to get a copy of your comments to make copies for all the Members?

MS. KEENAN-BENGTS: I will get a copy to him.

CHAIRMAN (Mr. Dent): Do Members have any questions? Mr. Miltenberger.

MR. MILTENBERGER: Thank you, Mr. Chairman. This is a question to give me a sense of scale. When we look at your report on the statistics, you talk about seven requests that you have received. Are you notified of the total numbers of requests that are made to public bodies? Do you have any idea of out of a hundred or a thousand requests for public information?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTSS: No, I have no knowledge if an Access to Information request is dealt with, and if the applicant is happy with it. I never know that it has been made. So, I have no idea how many requests for information are being dealt with at the government level, that I never see.

CHAIRMAN (Mr. Dent): Mr. Miltenberger.

MR. MILTENBERGER: Thank you, Mr. Chairman. In your opinion, after three years, with that kind of information, I do not know how you would obtain it unless you were CC'ed on things. I am trying to get a sense of what the demand is. Is the volume there? Seven is a relatively small number it would seem, but I am not sure out of how many. Do you think it would be beneficial to have some more information that would allow us to get a better perspective of how well this piece of legislation is used in your office?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengtss.

MS. KEENAN-BENGTSS: I would like to have that information. It would be very useful. It would give me a better sense of whether or not the government is actually complying with it. It could be that I have received seven out of 20 requests for information for review. It could be that I received seven out of 700. I have no idea. If it is seven out of 700, we are doing pretty good. If it is seven out of 20, we are not doing good.

CHAIRMAN (Mr. Dent): Mr. Miltenberger.

MR. MILTENBERGER: Thank you, Mr. Chairman. Do you have any ideas or thoughts of how we could possibly obtain that kind of information without making another onerous step in the process? Is there some way that you could be copied on requests just as a matter of course so we can track this? Thank you.

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengtss.

MS. KEENAN-BENGTSS: There is a media coordinator in each government department and public body. It might be appropriate to ask that person to keep statistics of applications actually received and dealt with, and then I could certainly collate them in my office.

CHAIRMAN (Mr. Dent): Thank you. Mr. Braden.

MR. BRADEN: Thank you, Mr. Chairman. To some degree coming off of Mr. Miltenberger's questioning, regardless of the number of complaints or the ratio that end up on the commissioner's desk, given the type of problems that Ms. Keenan-Bengtss does deal with, I wanted to ask from her point of view, is the act really working? Is it structured in such a way that the spirit and intent is able to be fulfilled? Thank you.

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTSS: For the most part, it is. I would like to see it have a few more teeth to deal with those governmental departments who are a little more reluctant to deal with me, but most government departments are dealing with it in a way that the legislation was intended and are following my recommendations for the most part. I get a number of phone calls from government agencies before it actually becomes a reviewing issue. They are not too sure. They will give me a call and say, "Listen Elaine. I have got this situation. This is what I am thinking. Does that sound right to you?", and without giving an opinion, because obviously at that point I cannot, what I can do is say, "Yes, I think you are going in the right direction here. You might want to try this or that." The number of requests for review that I get may not be quite the actual work I do, because I do get requests from individuals within the government from time to time simply asking my advice on how to deal with things.

CHAIRMAN (Mr. Dent): Mr. Braden.

MR. BRADEN: You have indicated that you felt the most urgency of the need of deficiency in the act right now as it relate to your ability to handle privacy complaints. Can you give us some sense of how much in terms of extra work, extra staffing, extra costs that this may require? Thank you.

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTSS: None, because I am already doing it. My concern is that there is no jurisdiction within the act allowing me to do it. I have received in the last year far more complaints about breaches of privacy than I have on reviews on access issues. The privacy end of things is becoming more pronounced. People are more and more concerned about their privacy. I have been receiving the complaints. I have been dealing with the complaints. I have been making recommendations. The problem is the act does not really provide for that. The act only provides for a review of access to information issues.

As I say, that has not stopped me. Without having it in the act, when a particular government agency decides that they are not going to cooperate with me, there is nothing I can do. If an individual who has gone through the process and I have made recommendations and the government agency does not deal with the recommendations, then they have no further recourse. There is nothing in the act that allows them to take a privacy complaint issue to the Supreme Court. Only access information issues can be taken to the Supreme Court, and that is what I want. I do not see that as requiring any extra resources. It is something that I am already doing, but without legislative authority to do it.

CHAIRMAN (Mr. Dent): Mr. Braden.

MR. BRADEN: Thank you. To the issue of non-compliance and specifically to the FMBS shop, what is your sense of the awareness or the appreciation across government and in particular FMBS of the significance of the law here and their choice not to comply? People are not really up to speed on what they should be doing and how they should respond to this.

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTS: In most government departments, the ATIPP coordinators are up to speed. As I say, the only department or government agency that I had an real resistance from is FMBS. All other government departments have people in place who appreciate the purpose, the spirit, and the intention of the act. For that matter, those who deal with these issues at FMBS also appreciate the intention and the spirit of the act. It is not that they do not appreciate it. It is simply that they do not like it, and they resist it.

MR. BRADEN: Mr. Chairman, I have other questions, but I would be happy to give up the floor and go around.

CHAIRMAN (Mr. Dent): Thank you. Mr. Bell.

MR. BELL: Thank you. I have several questions, but I would like to first start the matter of access and some of the comments that Ms. Bengts has made in her report obviously that are disturbing for our citizens and they reflect the feeling that is out there. She spoke of FMBS and what she says as a corporate culture of secrecy and protectionism. Her requests are routinely rejected out of hand, and certain applicants have just thrown their hands up in frustration and decided it was not worth it after being stonewalled. This is the perception that public has also, and what we are not seeing is probably many requests that do not get off the ground because people feel there is absolutely no sense in bothering when we have a shop like FMBS just refusing to comply with the legislation. It does speak to openness and accountability, and apparently our reluctance or our fear of it.

I do not hear the Commissioner saying that somehow the nature of the information that FMBS has is more sensitive, and it is more critical that they be more cautious than other departments. I hear her saying that there is a corporate culture of secrecy. I want to ask her to speak to giving the legislation more teeth, if that seems to be the only way around this, or if she can speak more to the spirit of the act and the fact that other departments are complying and recognizing the spirit of the act whereas FMBS is not. Maybe she can talk about some of her recommendations for remedying this.

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTS: I do not agree with you that FMBS has more sensitive information. FMBS does deal with more, because they are the people actually

running the nitty-gritty business of the government. Perhaps, they do have more of a reason to be careful about what they release to the general public. That having been said, and I can give an example, I recently made a recommendation that parts of the information that had been requested be released. The parts of the information that I recommended be released were information that was background. It had nothing to do with advice. It had nothing to do with recommendations. It was background information that government departments had provided to FMBS for a certain purpose. Each government department had provided information to FMBS, and it included background information, advice, and recommendations. It was my recommendation that the background part of things be released. It does not fall under the act as advice or recommendations if it is only background or historical information. That recommendation was rejected, and none of the information that I suggested be released was released.

How to give the act more oomph? Well, you could go the distance and give the Information and Privacy Commissioner order power so there is no choice as to whether or not my recommendations are followed. My recommendations would, in fact, be orders. Some jurisdictions have gone that way; Alberta, British Columbia, Ontario specifically. Other jurisdictions have the Information and Privacy Commissioner, like me, playing an ombudsman role, making recommendations that the government does not have to follow if they do not feel it is appropriate. I do not think that we have to go the order route.

I do not think we have to go the route that gives me the power to say, "You must do this." Or "You must do that." It is working in all of the other government departments. What needs to be done is to change the corporate culture at FMBS, and that takes some direction from the political bosses.

CHAIRMAN (Mr. Dent): Mr. Bell.

MR. BELL: So, just to clarify, on one end of things we have the possibility of onlooker type role like we have here now. That is the role that we see that you are playing. Some other jurisdictions give the Commissioner order power. Obviously, there is some middle ground. There are some steps in between, but when it is only one department that seems to be non-compliant continually and does not seem to be buying into the spirit of the act, then you feel this is more the issue of the corporate culture with the players in FMBS and not so much needing to change the legislation. Am I right?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTS: You have summed it up in a nutshell.

CHAIRMAN (Mr. Dent): Thank you, Mr. Miltenberger.

MR. MILTENBERGER: I want to touch on this issue, and some of the other recommendations. I notice on page 32, you made a very interesting quote from John Reid, the Information Commissioner of Canada in his 1998-1999 Annual Report. Part of it states that:

“parliamentarians and Canadians instinctively know that government distrust to openness and the tools which force openness upon them, Parliamentarians and Canadians instinctively know that they, not government, carry the burden of keeping the right of access strong and up to date.”

We have had this legislation for almost five years. You have raised some issues that bear looking at, and I am concerned although about having one of the most important, powerful, and influential units of governments being seen as the biggest offender in terms of not being open and transparent. A unit that was initially supposed to be small and have nowhere near the power and authority that it has accumulated over the years. I would like to raise that particular issue.

In terms of some of the broader ones, you have raised issues that have come up in some of the committees; the issue of electronic information of health records, and the security. As we push government to be open and we devolve stuff, we want to help the education and bodies to work together to share information, the issue of that kind of very personal information and privacy becomes critical.

You have raised the issue of the federal government has passed legislation and we have at least a five-year window. If we do not do something of our own, then we will have the federal legislation to do the job for us. I would like to have your opinion on that because we have gone through that with the human rights legislation with pay equity, where we tried to rely on fair practices in the federal human rights legislation and we got ourselves bogged down in some terribly long, proactive, and expensive litigation that is still underway. As we look at this, what kind of emphasis would you place on that particular component of your recommendation? Thank you.

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTS: Actually, since I wrote this report, I have discovered, much to my chagrin, that we do not have a five-year window of opportunity because, as I say, the constitutional nature of the Northwest Territories. Bill C-6 is the law in the Northwest Territories today, and has been since January 1st, 2001. That gives it a little more urgency, because as I have said, if my personal information is now being improperly used by a member of the private sector, I can make a complaint but it has to go the Federal Privacy Commissioner.

CHAIRMAN (Mr. Dent): Mr. Krutko.

MR. KRUTKO: I just wanted to touch on timelines and time frames where you are saying in some cases it has been since 1997-1998 that complaints had been filed and we are still waiting for results. There should be through legislation a maximum amount of time where they have to respond within that time frame. That way, they know regardless if they respond in a general nature, "This is information that has been made public and that is all we have.", and if you want other information you will have to go through another route. We do have the alternative of the court system, but that is taking the long way around. There should be timelines put in place through legislation, and through the Privacy Act which puts the onus on the department to make an attempt to reply within a shorter time frame than what they are seen to be doing to date. What reasonable timelines are you looking at? Do you have any ideas of how we can build that into the Privacy Act?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGT: Under the act, once I receive a request for review, the act gives me six months to complete the review and make my recommendations. In this one case where the gentleman made his request, I cannot remember if it was late 1997 or early 1998, FMBS told me that they could not provide the information required because they did not know what they had. It was all in boxes some places, and it had not been properly indexed or filed. They had to create a computer program in order to deal with this particular issue. I hope that was an unusual circumstance.

I do not know what kind of filing systems individual government departments have. I do not know if there is a filing system that all government departments use. As far as timelines are concerned, six months should do it. What I need is something in the act that gives me the ability within that six months to set time deadlines. If I say, "I want your reply to this complaint within four weeks.", there is nothing in the act that compels the government agency to provide it to me within four weeks. That is not met. I can help if they give it to me in four weeks, but if they do not all I can do is ask again and again and again. Six months should do it.

CHAIRMAN (Mr. Dent): Thank you. I hate to tell you this, but there are basements and warehouses full of boxes and boxes of records, and nobody has any idea where any file is in them. The records management is something that Members of the Legislative Assembly have pursued the government on, because there is no comprehensive records management policy. Each department is left on its own. I know of several departments that have rooms full of boxes of files that they have no idea what is inside them. Those boxes were put there quite sometime ago, and there is no history. Nobody know what is in them. It has been for the last ten years, a money issue, "We can not afford to put in systems, and bring our records up to date." There is much information that is difficult to get. Mr. Krutko.

MR. KRUTKO: The problem that you mentioned is the same problem that we have as Members of the Legislature. We try to get information out of a department,

where we ask questions or ask for information time and time again, and we get the same run around, "We are looking for it." Or "We cannot get to it." When they do reply, many times they will reply in such a nature that the information they gave me was totally irrelevant to the question that was asked. That type of information has to be insured that it is totally in the framework of the question was asked. So, you do get the appropriate information, and you do not get the push off that you get from departments.

People will not give you the information that you want from them. They will give you what they think you should get, and that is it. There has to be something there. On the timeline, that is something that we should be able to look at and put into place. The other question that I have is in regard to, we talk about FMBS and the problems that you are having. Is the problem with request being of a financial nature or is it a personal request in regard to information? Are they reluctant to give you financial information in the problems that you are having with them now?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGT: No, in the one case, as I said, the reluctance, it was information which FMBS had requested from each government department. Each government department had provided it. Part of the information was privileged and protected by the act. Parts of it were not. FMBS for one reason or another did not want to give away the information that was not protected. It was not financial information in this particular case. It was background information. This is what has been done in the past. These are the steps that we have taken to date. Part of the information was, "this is what we propose to do in the future." That part is protected, and I recommended that part stay confidential. What was not protected was, "this is what we have done in the past." There is no reason not to release that information. In fact, the act does not protect it. The information that has caused problems, has not been financial information, per se. On your other comment about MLAs making requests for information, just to point out MLAs can use this act, too.

CHAIRMAN (Mr. Dent): Mr. McLeod.

MR. MCLEOD: My question is regarding how far this act applies, how broad it applies. I heard you state that it currently does not apply to the municipalities or municipal government. I am curious, if it does apply to the agencies that view themselves outside of the government; housing boards, community futures, and those types of agencies. Coming from a small community, many times you hear circulating around the community, "So and so owes this much rent." I was just wondering as it stands now does the Privacy Act apply to covering those types of agencies?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGT: Most of them, yes. The public bodies that are covered are all listed in the regulations. My concern was that there are some that appear not to be covered. For example, as we discovered this year, the Public Utilities Board is one of those government agencies that is not listed under the act. Housing corporations, yes they are covered. Health boards, yes they are covered. Municipalities are not. They are a few other government agencies, for example, I do not believe that the Fair Practices Office falls under this act. I can not think of many others. The Labour Standards Board does. The Liquor Control Board does. WCB does. Most government agencies do fall under the act. Municipalities do not at this point.

CHAIRMAN (Mr. Dent): Thank you. Mr. McLeod.

MR. MCLEOD: Well, then my question to you would be, do you play a role in circulating this type of information out to these agencies or do you leave it up to the departments to do that themselves? Who provides this information? Who circulates it to the communities, agencies, and boards?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGT: That is a dual. There is nothing in the act that says, "You must do this." Or "You must do that" It is probably a dual responsibility. Under the act, the government is required to maintain the Access to Information Directory, which I referred to. That was originally done when the act first came into affect, but it has not been updated. Many of the names of the individuals who are the ATIPP coordinators, those people have come and gone and somebody else is in their place. It has to be updated.

As far as getting the word out about my role and my office's role, that is my responsibility and quite frankly that is one area that I have not done a good job in. I am working on it. I am trying to get a web page up, and some brochures and stuff like that. I have not done a good job of that to date, and that is someplace that I hope to concentrate in the next few months.

CHAIRMAN (Mr. Dent): Mr. McLeod.

MR. MCLEOD: Just one more question. Are there any formal processes that fall under this? In some of the committees, we see hearings for housing, for example, where there is a room packed full of people. They are airing all their income, and even talking about their character. Everything seems to be public. Does this act cover this? Is there anything that would? To me, sitting in one of these things, I was embarrassed to hear some of the stuff that was being discussed. Yet, it seemed to be a legal formal process, and it was acceptable.

CHAIRMAN (Mr. Dent): Mr. McLeod, just for clarity, was this a meeting of an LHO? Ms. Keenan-Bengts will need to know the nature of the organization.

MR. MCLEOD: It was a housing hearing so, the LHO through the Housing Corporation.

CHAIRMAN (Mr. Dent): The Housing Corporation. Ms. Keenan-Bengts.

MS. KEENAN-BENGTS: Where a piece of legislation provides for public hearings, then public hearings mean public hearings and whatever is said in those hearings is public. That having been said, not all government agencies hold public hearings. For instance, this office does not. I have not yet. There may be a case where it is appropriate, but right now all of my "investigations hearings" are done in writing. They give me information. I make my decision in writing. It is all written. A public hearing as provided for in legislation is fair game.

CHAIRMAN (Mr. Dent): Mr. Roland.

MR. ROLAND: Thank you, Mr. Chairman. Going back a little ways, when this act first came into being, I recall constituents of mine making comments to the fact this act really had nothing to it. It was made of legalese, and you can not do this, and you can not do that, but, in fact, there was no requirement for government to fulfill anything. What we are hearing here and seeing in reports seems to confirm that that is the case.

A government department can just turn a blind eye to it, make no response. If there is no response, then the person who initiated can go to the next step, to the Supreme Court if there is no reaction or movement on the government side. That is a serious concern when we talk about this. This was touted to be a tool that would be used by the people in the North, and the way of keeping information flowing and letting people know better why this is not made in government. That has not been the case now. Some departments have voluntarily, by the sounds of it, because there is nothing in the Act that would put the department or anybody on the line for not following through.

I guess maybe by holding the public hearings as we are here, or a public review of the Act and making a report to the House, we can put some pressure on government to start moving on the requests here, because I think it is going to be highlighted in our report, at least I would suggest that the fact that we have a fairly major concern with one department that has a lot of authority and power in it, as stated earlier by my colleague, Mr. Miltenberger. I

in the report we see that in this year alone, 1999-2000, seven new requests were made for review, and the majority of those had to do with FMBS. It was also stated that there were 60 general inquiries and in listening to a response of yours earlier to a question, you said there were some inquiries from the department as to how they would do things. Would that be included in the 60 general inquiries? Thank you.

CHAIRMAN (Mr. Dent): Thank you. Ms. Keenan-Bengts.

MS. KEENAN-BENGT: I do not keep specific records about every time I get a phone call, but I do go back through my diary and count the number of times I have talked to somebody about something dealing with the Act, and that would include those government agencies who have called me and said, "What should I do in this case?"

CHAIRMAN (Mr. Dent): Mr. Roland.

MR. ROLAND: Thank you, Mr. Chairman. I guess for us and again part of the reporting process, as stated earlier by one of the Members, it would be nice to know from the coordinators in the departments, finding out what was the total volume that came through their areas and what was handled and what had to go through yours. Seven is not a large number when you look at it. Sixty general inquiries to you, if that is similar to every department, then we are talking bigger numbers.

A question in the area where you have made reviews or have been asked to look into something and you have made calls to the departments and they refuse. At some point it goes to the final stage of the decision level and goes to the Minister, correct?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGT: Yes, in the case of FMBS I finally made a recommendation, which was rejected out of hand, that certain information be provided by a certain date. That was one of my first skirmishes with FMBS a couple of years ago. The recommendation was rejected out of hand for no reason and of course, the head of the public body is not required by the Act to give reasons.

CHAIRMAN (Mr. Dent): Mr. Roland.

MR. ROLAND: Thank you, Mr. Chairman. I think it would be again part of the reporting process in this forum so Members would be aware of what Ministers or what recommendations were made that required Ministers to either deny access to the information. I do not think we need to get to the detail of who and what, but mainly the fact that there were recommendations that went to the highest level and were turned down.

Again, in a public process and as Members we have an opportunity to address this in the House, for example, if need be if there is no cooperation. I do agree with the number of recommendations you have made that there needs to be some movement in amending the Act to include putting a little bit of bite into this Act that would at least have departments reacting to the recommendations or calls and inquiries, whereas right now one person went two and a half years then finally said, "Forget it. Life better go on." That is disappointing in that sense and I will have to go back to my constituent and inform them that their interpretation was correct back when they first had a chance to look at it. Thank you.

CHAIRMAN (Mr. Dent): Perhaps just to follow up on what Mr. Roland has been saying, and I think it is worth saying publicly, what we are doing now represents a new stage in the whole process of your reporting, Ms. Keenan-Bengts. The previous two reports did not go to committee and then get discussed there. What happens after we deal with the issue here, and we are going to hear from government witnesses as well, is that our committee will do a report, which will then go to the Legislative Assembly and will be discussed on the floor of the Assembly. So, this may be one step that has been missing in the past in terms of your role as an ombudsman person in terms of the public pressure, because now that pressure can be brought to bear where in the past it was dependant on the media or the public to express that. But this issue is now going to get on the floor of the House for sure. It is part of the evolutionary process that we are going through in terms of the Act itself. Mr. Braden.

MR. BRADEN: Thank you, Mr. Chairman. I want to get a bit of background here. What does the Act provide for in the way of penalties of any kind, I guess that would include going up to appeal at the Supreme Court level for non-compliance or any other violation. Is there any penalty? Thank you.

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTS: I do not think so. I do not think there is anything in the Act, which provides consequences for failing to comply with the timelines or requests of the Access to Information Commissioner.

CHAIRMAN (Mr. Dent): Mr. Braden.

MR. BRADEN: Thank you. The recommendation from you to look at providing the powers to subpoena documents is a fairly strong instrument. I am wondering, after three years now and a certain amount of discovery of how this is performing, do you really feel this is something you need now in order to fulfill your job, or are there other options or other things we could be doing to improve the level of compliance and cooperation? Do you want that power now? Thank you.

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTS: The problem is not necessarily in getting the documents from the government agency.

To give you a little background, the way I conduct a review, someone comes to me and says, "I made this request for information and I did not get everything that I wanted." At that point I will write to the government agency involved and say, "I have had this request for review. I would like you to provide me with your explanation as to why these documents were not provided, and I want you to provide me with copies of all of the documents that are relevant to this request." With one exception,

I have never been denied that. In every case the government agencies, including FMBS have provided me with copies of the documents in question.

So, to say do I need subpoena power at this point in time, I would say that I have not needed it yet. That having been said, a subpoena has a kind of an oomph that a request from the Information and Privacy Commissioner does not have. The fact that to date I have not had to pull teeth to get copies of the documents in issue, does not mean that I am not going to have that problem in the future.

There was an issue, and again it was with FMBS, where initially they did not want to provide me with the documents. In fact, they would not provide me with the documents unless I gave them something in writing, which frankly, I did not think I should have to do because it is provided for in the Act, that I would not release these documents to anybody else. That is my job, and I should not have to be reporting to FMBS as to what I am going to do or not do with these documents.

That having been said, we resolved the issue. We talked about it. They gave me the documents and I did not have to sign this form of theirs, saying that I would not show them to anybody. I think that might go back to your earlier question about whether or not government agencies really understand the Act. With that example in mind, maybe they do not.

CHAIRMAN (Mr. Dent): Mr. Braden.

MR. BRADEN: Thank you, Mr. Chairman. Further to that issue, I will call it "training," I think I have gotten the sense from you that you feel the level of awareness and preparedness is okay at the government level. I am wondering, in terms of any recommendations that we might make back to the Assembly, is this something we should underscore, that while the departments are doing okay now and are really on top of the game, are the departments current with keeping an ATIPP coordinator on staff? Are they well trained? Are they also doing what I think is part of their job, which is telling other people in their organization what is going on? Would we be better served if there were more frequent training going on? Thank you, Mr. Chairman.

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTS: At the grass roots level the ATIPP coordinators are well trained. They seem to know the Act. If they are not too sure, they do not have any problems with calling me and asking me questions. Where the problems lie, and where the issues have arisen are in the communities where the ATIPP coordinators are not residents.

Somebody comes and provides a local government agency. I cannot remember, I think it was in Norman Wells there was an issue where someone brought in a request for information to a local government office and it was clear that the

individual who received it had no idea that the Access to Information and Protection of Privacy Act even existed. So, of course there was a request for review at which time that issue was resolved. It did not have to go any further. I did not have to make a recommendation, because at the point the ATIPP coordinator took over and said, "No, you have to give him the information, he has requested it, it is a straightforward thing. You cannot just send him on his way."

So, at the grassroots level, I think that more training is necessary. I do not know if they go through some sort of orientation, but every new government employee should be told about the provisions of the Access to Information and Protection of Privacy Act.

There was another issue in Yellowknife where I was surprised that it happened. There was a breach of privacy and it was an employee who simply was not thinking when they release certain information. It was not intentional, it was not something that happens often, it was just that the person was not thinking. To my mind, that means that it is not drilled into them enough. If they simply do it without even thinking, it is because they have not been told often enough that you cannot do this.

CHAIRMAN (Mr. Dent): Mr. Braden.

MR. BRADEN: Further, Mr. Chairman, was recommendation about including municipalities in this legislation, and I wanted to ask the Commissioner if she has had any discussions with any municipal people, perhaps the Federation of Municipalities here. What is the view of the communities in the NWT to this kind of amendment? Thank you.

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGT: I have had no discussions with them. My recommendation that they be included comes more from my own personal observation, not only of the city of Yellowknife, but I have also seen issues arise in Hay River. The fact that I was at my brother's home in Calgary not too long ago and he was showing me his brand new computer, and how nifty it was, and he decided he was going to log on to the City of Yellowknife's web page. He did that and he pulled up all of my personal tax information for all to see. Not only where I lived, but how much I paid in taxes and everything else that there was about me. That was appalling and should not be on the web.

CHAIRMAN (Mr. Dent): You can go ahead and see the tax roll any time you want, but it is not on the web. You have to go in and ask for it. Mr. Braden.

MR. BRADEN: Thank you, Mr. Chairman. Just to clarify, I know there was an issue with the city specifically about that a few months ago. Was your experience much more recent?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGT: Yes, it was a few months ago. Several months ago, actually, and I did take it up with the city at that time.

CHAIRMAN (Mr. Dent): Mr. Braden, if you have more questions, I will come back to you. Mr. Bell.

MR. BELL: Thank you. I had one question about privacy issues and your earlier comments. If bureaucrats release information that is of a confidential nature, so long as it seems to be done in good faith, there really are no repercussions and nothing to address this. I find it disturbing because it is very difficult to determine what exactly "good faith" means. Certainly there has to be some standard here and there has to be some application of a duty of care or what a reasonable person might do in this case, and Mr. McLeod's questions about information that is released, it makes you wonder.

Because someone is ignorant of this law should not be reason enough to say, "Oh, well, it does not apply then. They made a mistake. It was in good faith." So, could you give me your thoughts on this standard of "good faith" and what that means to us so far as are bureaucrats potentially releasing information? I can imagine a million scary scenarios and I am wondering what your thoughts are on that. Thank you.

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGT: In everyday government business information is sought and given out all of the time and, as I said earlier, it is often a case of the individual government employee just not thinking about the privacy issue when they are dealing with their day-to-day government work. That is an issue that is a training issue. It is nothing more and nothing less.

Keep in mind that once personal, private information is released, there is no taking it back. Once someone gets that information, you cannot say, "Give it back to me and forget you ever got it." It just does not work that way. On privacy complaints, usually the most I can do is require that an apology be granted and ask the government agency involved to take steps to avoid this sort of thing happening again.

I suppose the more privacy complaints I get, the more aware government agencies will become about the privacy issues. I can say to them, "You have got to be aware of these things and you have to take steps to prevent this information from getting out." That is the only thing that anybody can really do with a privacy complaint once the information has already been released. You cannot take it back.

CHAIRMAN (Mr. Dent): Mr. Bell.

MR. BELL: I guess, then, what you are saying is that the government has a duty to train anyone with sensitive, private information in the government, and make sure they are aware of the nature of the information. And if they are not doing that and the information gets out, then the liability should be on the government and back on the department who were negligent in their duty.

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTTS: I think ultimate responsibility is with each individual department to make sure that their employees know the privacy law. I do not think individuals – unless they are acting in “bad faith” and handing out information where clearly it should not be handed out and doing it on purpose – I do not think individual government employees should be held accountable in terms of penalties or whatever when it was just a mistake. But, there are ways to prevent mistakes from being made. Does that make sense?

CHAIRMAN (Mr. Dent): Mr. Bell.

MR. BELL: Yes, it does. Thank you. I can imagine a lot of scenarios. Someone could release personal health information about people not realising that it is to a group who claims to be working on an awareness campaign. There are all kinds of scenarios that are out there, but clearly it has to be the departmental responsibility to train these people and make them aware that this kind of information cannot be released and if it is not being done and a mistake happens, I think it is back on the department who are negligent in their training and who have to bear the brunt. As you said, you cannot take this kind of thing back, and if we are going to be going around and try to punish every individual who makes a mistake, we are going to be busy. Thank you.

CHAIRMAN (Mr. Dent): Thank you. Mr. Delorey.

MR. DELOREY: Thank you, Mr. Chairman. I know that you have singled out the FMBS as being one of the biggest offenders of not releasing or having a hard time getting information from them. Do you have any success stories with the FMBS? Have they cooperated at any time when requests have been made from your office for compliance to information gathering?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTTS: Specifically FMBS?

CHAIRMAN (Mr. Dent): Mr. Delorey.

MR. DELOREY: Yes, specifically FMBS, because you did specifically say that FMBS was one of the worst offenders at times, that they refused to give out information. Have they cooperated at any time?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTSS: Occasionally. I think they genuinely feel that their position is the right position. I get the feeling whenever I am dealing with FMBS that I am no more than an annoyance. "Go away, we do not want to deal with you." Yes, they will give me things when I ask for them, however reluctantly they do that. My concern is that it often takes far longer than it should and far more effort than it should on both sides. They spend more time trying to avoid me and avoid my requests. The time and effort that is put in to avoiding me would be far better spent looking at the documents and seeing if they cannot release some of it.

Yes, they do comply eventually, but it is a lot of work.

CHAIRMAN (Mr. Dent): Mr. Delorey.

MR. DELOREY: Thank you, Mr. Chairman. In Nunavut are they getting caught up with some of the recommendations? For example, I know that they adopted a recommendation for municipalities to come under the Act on a graduated scale over a three-year period or whatever. Do you feel they are ahead of our Territory so far as in compliance with the Act?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTSS: They have very recently taken some steps in response to my recommendation from last year's annual report. As I understand what they have told me, and I made slightly different recommendations in Nunavut, but most of my recommendations have been accepted and they are being dealt with in Nunavut, with the exception being the inclusion of municipalities, which as you say, they are delaying because they feel that the municipalities are having a hard time just dealing with Nunavut at the moment. They do not want to put yet another thing on their plate.

Are they going faster? Slightly, maybe, because they dealt with it before this committee has dealt with it, but they are not speeding along.

CHAIRMAN (Mr. Dent): Mr. Delorey.

MR. DELOREY: From your experience, how do you see municipalities? Would they be objecting to being a part of the Act? Are there any indications that you have that they might be reluctant to become part of the Act?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTSS: I have gotten no indication whatsoever. I suspect that they would see it as being more work and therefore might be somewhat reluctant. But again, the question is, are you dealing with the bureaucracy of the municipalities or are you dealing with the politicians in municipalities. If you are dealing the

politicians, I think you might find that they are very supportive. If you are dealing with the bureaucracy, the administration, they might not be so supportive, because they will see it as an interference with their ability to do their work. I do not think they would be any different than any other government faced with this kind of legislation. Some of the bureaucracy is going to be reluctant.

CHAIRMAN (Mr. Dent): Mr. Delorey.

MR. DELOREY: You mentioned as of January 1st that 2001 we come under the Federal Act. How does that effect our act right now? Does it add things to our act, work in conjunction with our act, does it take away from it?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGTS: Bill C-6 deals with the protection of privacy, personal privacy in the private sector. Our act deals with the protection of privacy only in the public sector. Our act does nothing to control or to protect the individual privacy in the private sector.

For instance, if you go to Shoppers' Drug Mart here and get a prescription filled, and it is clear that that prescription is for a specific disease, there is nothing, there is no legislation whatsoever that prevents them from releasing that information. They have their own ethics, of course, to follow, but legally is there anything that stops them from spreading that information around, that says, "Hey, did you know Ms. Keenan-Bengts there, did you know that she has this disease?" There is no legislation which prevents that.

The federal bill deals with the private sector, the protection of privacy in the private sector. This Access to Information Act deals only with the public sector.

CHAIRMAN (Mr. Dent): Thank you. Mr. Delorey.

MR. DELOREY: I would think that your office comes under Justice, does it not?

CHAIRMAN (Mr. Dent): No, Mr. Delorey, the Commissioner is an officer of the Legislative Assembly. She reports only to the Members of the Legislative Assembly and not only to government members, but to all Members.

MR. DELOREY: When you mentioned time frames in delivering and getting answers from different departments, you do not have access to any delivering agency for delivering of documents or getting documents delivered to your office. You use the mail strictly, mostly?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts.

MS. KEENAN-BENGT: I use all forms of communication. I use email in non-sensitive situations. I use fax. I use couriers. When we are talking about out of the city, if I am dealing with somebody outside of Yellowknife, most often I will use mail, but if the situation demands it, I will use some faster means of delivering things. The issue is not how long it takes to get there. The issue is really how long the person has to react after they get it and the Act, as it is now written, at least arguably, the 30 days starts to run from the day that I send it out my door, whether it is delivered today or two weeks from now. My point is that really that 30 days should start to run only from the time that the recipient actually has it in hand.

CHAIRMAN (Mr. Dent): Mr. Delorey.

MR. DELOREY: You mentioned that the flow of information and the access to information out there in the public, whether it is through computers, email, or whatever. How do we stop that? How would our Act stop that now?

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts

MS. KEENAN-BENGT: How do we stop that? That is the \$64,000 question. When we are talking about government information – how do we stop it? We stop it by ensuring that our computer programs and our databases are secure, that only those who need to see them have access to them, that all government employees who have access to this kind of information are aware of the privacy provisions of the act and are trained in what they can and cannot release and to whom they can and cannot release it.

We can control it by when it comes to my attention and when I make a recommendation, the government agency involved taking a strong stand on it. Those are really the only ways. It is the technological age and it is going to be impossible to keep everything that is personal and private personal and private, but we can take steps to make it harder than it otherwise might be to exchange the information; even between government agencies.

CHAIRMAN (Mr. Dent): Thank you. Are there any further questions for Ms. Elaine Keenan-Bengts? Mr. Braden.

MR. BRADEN: One more Mr. Chairman. In looking ahead to the implementation of self-government in the Northwest Territories, we are now in the midst of in effect creating a new level of government - constitutionally enabled government among the aboriginal people in the First Nations. To what extent will those new levels of government be required to comply with, if not our own legislation, with federal legislation in this kind of thing.

I am asking that in the context of a special committee that has been set up to look at this kind of thing and how self-government will evolve in conjunction with public government. I am wondering if you could give us your views on self-government and

how those new organizations are going to have to look at this protection and privacy business. Thank you.

CHAIRMAN (Mr. Dent): Ms. Keenan-Bengts?

MS. KEENAN-BENGTSS: You ask all the easy questions. I do not know. If the ATIPP Act were amended to include this other level of government, they would have the same obligations and responsibilities as the government of the Northwest Territories has. They may well wish to deal with those issues themselves within their own context. There are constitutional issues involved. I assume that, and I have seriously done no research on this issue at all, but I assume that they would still be covered by the federal Access to Information Act and the federal Privacy Act and as first nations, even as a separate government, they would fall under those provisions. I would have to do a lot more research on that issue before I could give you a really intelligent answer to that.

CHAIRMAN (Mr. Dent): Thank you. Ms. Bengts, I would like to thank you very much for your attendance at our committee. We will tomorrow, in public session, be reviewing your report with Mr. Voytilla and also with officials from Justice. So, your session here with us today was the first step in our process. As I mentioned earlier, we will, at the end of the process, determine what sort of report we wish to make at the Legislative Assembly, and then that will be moved forward likely for discussion in the June session. So, there will be some follow-up. Again, Thank you very much for attending. Just one final thing. Can we be assured that the conference you spoke about in June - all of the sessions will be public will they?

MS. KEENAN-BENGTSS: Not all of them, but some of them will be. That was a joke.

-- Laughter

CHAIRMAN (Mr. Dent): Thank you Ms. Keenan-Bengts.

-- ADJOURNMENT

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