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Mr. Graham Steele Information and Privacy Commissioner PO Box 1000, Station #270 Iqaluit, Nunavut X0A 0H0

Tel: (867) 979-3081 | Email: admin@atipp-nu.ca

May 6, 2021

RE: Commissioner's Review Report

Your File: 21-194

ATIPP Request: 1029-20-EIA0174

Dear Graham Steele.

This letter is in response to your Review Report 21-194 regarding your recommendations on the Department of Executive and Intergovernmental Affairs' ATIPP request **1029-20-EIA0174**.

The Department agrees to implement your recommendations in revising the redactions according to the provided guidelines as well as adding the missing elements mentioned in the report to the extent that is possible.

In the release of this ATIPP request for a workplace investigation to the applicant, the Department explained the reasoning behind its approach and released all personal information that it determined the applicant has a right to under the Act. The suggested revisions would see the release of personal information belonging to multiple third parties including that of the witnesses and respondent. It is important to note that once a release is made, the information is no longer afforded protection and is free to be used by the applicant in any way they see fit.

Review Report 21-194 also suggests that improper redactions were made, especially considering that most of the redacted information is obvious or already known to the applicant. The Department is aware of the latter – the resulting redactions were meant to protect the privacy rights of implicated third parties.

Should the Department follow through with the suggestions in their entirety there is a concern that this precedent will impede future workplace investigations. This may create uncertainty where witnesses may fear finding their personal information in simple web searches if the applicant posts the release publicly. Should this occur, among other consequences, implicated individuals may experience adversity when being reviewed for future employment opportunities.

Your office's report *Comprehensive Review Of The Access To Information And Protection Of Privacy Act, June 19, 2017* speaks to the above and the overall contentions regarding ATIPP and workplace investigations. As in your review report, the comprehensive review acknowledges the difficulty in completing such ATIPP requests under the current iteration of the Act and recommends provisions be added akin to the other jurisdictions to allow the release of workplace investigations to those eligible, without third party review.

This amendment to the Act, while suggested, has not been implemented and raises an impediment to following through with the recommended time constraints in your review report. Under s 26 of the ATIPPA, it would not be possible to revise the request as recommended without providing notice to those whose personal information we are considering releasing. The Department accepts the recommendations, but it must serve the respondent and witnesses with notice pursuant to s 26 of the Act.

Moving forward, the Department is committed to upholding our current privacy laws but recognizes that there may be amendments to the ATIPPA that benefit Nunavummiut, enhance our service standards and provide an opportunity to make additional cultural considerations. It naturally follows that policies and procedures would need to shift accordingly. Discussion will begin at the next ATIPP Coordinators Committee meeting succeeding the date of this letter.

Sincerely,

Hon. Joe Savikataaq

Premier of Nunavut

Minister of Executive and Intergovernmental Affairs

CC: William Mackay, Deputy Minister of Executive and Intergovernmental Affairs Yuri Podmoroff, Territorial ATIPP Manager, Executive and Intergovernmental

Affairs

ATIPP Applicant