

「つくこしてしてんとう」。 Minister of Justice Minista Maligaliqiyitkut Ministre de la Justice

September 16, 2021

Graham Steele Nunavut Information and Privacy Commissioner PO Box 1000, Station #270 607 Queen Elizabeth II Way Iqaluit, Nunavut, X0A 0H0

Dear Commissioner,

Re:

Request for Review

IPC File: 21-147

This letter is the Department of Justice's statutory response under section 36 of the Access to Information and Protection of Privacy (ATIPP) Act to the August 3<sup>rd</sup> Review Report of the Information and Privacy Commissioner (the commissioner).

In accordance with IPC preference, that these responses be sent at the Ministerial level, I am writing this letter in place of the letter dated August 27, 2021 sent by my Deputy Minister. Please note the conclusions in this letter have not changed from those stated in the previous letter.

## Recommendation # 1:

I recommend to the Department of Justice, and also to the Territorial ATIPP Coordinator for dissemination to all ATIPP Coordinators, that "exemption rationales" include at least the information outlined in paragraph 30 of this Review Report.

The Department of Justice recognizes the importance of notifying applicants under the Access to Information and Protection of Privacy (ATIPP) Act as to the rationale for redactions and "the reasons for the refusal and the provisions of this Act on which the refusal is based" (ATIPPA s 9(1)(c)(i)) as quoted in your report.

Based on this recommendation, the Department of Justice has consulted with the Manager of the Territorial ATIPP Office to create a standard "Exemptions Rationale Form" for its use across ATIPP Coordinators. The standard form will encompass the required explanations as outlined in paragraph 30 of your Review Report.

## Recommendation #2:

I recommend that the information redacted on the following pages be disclosed:

- a. The information on pages 50, 61 and 82 redacted under s 20(1)(a).
- b. The information on pages 54, 81 and 127 redacted under s 20(1)(k).
- c. The information on pages 1 to 19, other than the names of guards and inmates, which may be redacted under s 23.
- d. The information on pages 54, 114, 116 and 195 redacted under s 23, as discussed in paragraphs 78 to 81.
- a. The information on pages 50, 61 and 82 redacted under s 20(1)(a).

After careful review, the information on pages 61 and 82 redacted under s 20(1)(a) will be disclosed. As for the redactions on page 50 under s 20(1)(a), the Department of Justice has chosen not to disclose this information. The details provided on page 50 constitute as evidence in a criminal matter and it would be premature to release this information to the public before charges have been laid.

b. The information on pages 54, 81 and 127 redacted under s 20(1)(k).

The Department of Justice has chosen not to accept the recommendation for disclosure of pages 54, 81 and 127 redacted under s 20(1)(k). The information on pages 54 and 81 outline security measures of the BCC building that are best kept confidential to deter the smuggling of contraband within the facility and allow for greater security.

The redaction made on page 127 will remain, as it protects the interests of the Department of Justice should there be need to use external facilities during emergency situations. By keeping this information redacted, it prevents the smuggling of contraband into external facilities that may be used by the Department of Justice in the future.

c. The information on pages 1 to 19, other than the names of guards and inmates, which may be redacted under s 23.

The recommendation to disclose information on pages 1 to 19 has been accepted by the Department of Justice. All redactions on pages 1 to 19 have been re-evaluated and the broad redactions made under section 20 (1)(a) have been removed.

The redactions that remain on pages 1 to 19 fall under three sections of the *ATIPP* Act. The first set of redactions are made under s 23(1) which pertain to the names of inmates and personal information of guards.

Under s 20(1)(k), three redactions remain on pages 3, 8, and 18 as it was determined the information revealed structural deficiencies within the Baffin Correctional Center and would comprise the security of the building.

The last redactions which remain, fall under s 20(1)(a) on pages 13 and 16. The information was not disclosed as it is provides detailed evidence of a criminal matter which has not been brought before the courts and would be premature to release this material.

d. The information on pages 54, 114, 116 and 195 redacted under s 23, as discussed in paragraphs 78 to 81.

The recommendation to disclose information on page 54 and 195 has been accepted by the Department of Justice.

The redactions on pages 114 and 116 have not been fully disclosed. Although amended, information is still redacted under s 20(1)(k). The reason for redaction is due to cyber security as the release of Video and Phone Conference ID numbers can create a risk of hacking if these numbers are not changed on a regular basis. As this information pertains to a third party, it was determined that the Department of Justice would proceed with this redaction in an abundance of caution.

## Recommendation #3:

For the information that I have found to be correctly redacted under sections 15(1)(a), and for any information redacted under ss 20(1)(a) or 20(1)(k) for which the Department of Justice does not accept my recommendation for disclosure, I recommend that the Department of Justice consider how to apply its discretion to that information.

The Department of Justice has considered how to apply its discretion to ATIPP Request 1029-20-JUS23125. After careful review of the redactions in this document, the Department of Justice is satisfied that the amended version, following the recommendations from the NUIPC, meets the criteria for redactions under sections 23(1), 15(1)(a), 20(1)(a), and 20(1)(k).

Sincerely,

George Hickes Minister of Justice