

**NUNAVUT
INFORMATION AND PRIVACY COMMISSIONER**

Review Decision 04-12
September 16, 2004
Review File: 04-216-5

A. BACKGROUND

By an undated letter received in my office on June 28th, 2004, the Applicant requested me to review the response he received from the Department of Justice regarding his request for copies of information about himself. The Applicant's initial request was for a copy of any file held by certain named individuals, all employed by various departments within the Government of Nunavut. It appears that three of the individuals named in the Applicant's request were with the Department of Justice, including Paul Okalik the Minister of Justice and Doug Wallace, then a Director of the Department. That initial request was made on or about March 10th, 2004. The Department of Justice responded to the Applicant's request insofar as it related to the named individuals employed with the Department of Justice and forwarded the request to appropriate authorities in other departments to respond with respect to other named individuals.

Because Mr. Okalik was both the Premier and the Minister of Justice, the Applicant was asked if he wished to have access to files held by Mr. Okalik in his capacity as the Minister of Justice or in his capacity as Premier. The Applicant responded that he wanted any files which Mr. Okalik had about the Applicant in any capacity. *Vis a vis* Mr Okalik, therefore, the Department of Justice reviewed those files which Mr. Okalik had in his capacity of Minister of Justice only. The request was then forwarded to Executive and Intergovernmental Affairs to respond to with respect to those files held by Mr. Okalik in his capacity as Premier.

It appears that the Applicant was provided with a number of records by the Department of Justice in response to the request made. There appear to have been no records disclosed which originated directly from the Office of the Minister of Justice or from the

then Director of Legal Division, Doug Wallace. The Applicant asked me to review these apparent omissions.

B. ISSUE

The sole issue which I have to review, therefore, is whether the Applicant received all records in the possession of the named individuals, in particular Mr. Okalik in his capacity as Minister of Justice and Mr. Wallace as Director of the Legal Division of the Department of Justice.

C. DISCUSSION

The argument made by the Applicant is simply that the Minister of Justice should have been kept informed about the Applicant's somewhat unique circumstances. The Applicant was, at the time in question, an employee of the Department of Justice who was having difficulties in his job as a result of certain events. It appears that he eventually lost his position with the Department. Essentially, his argument is that "surely the Minister was kept advised about the circumstances, so there has to be something about this situation in his files". He also notes that there were references in other people's e-mails to the Minister so he assumes that the Minister was included in discussions or meetings regarding his circumstances.

Similarly, with respect to Mr. Wallace, the Applicant argues that he received no records which appear to have been taken from Mr. Wallace's files. If I read his letter to me correctly, he feels that there should have been some record kept on the Director's file about the circumstances which would document the Director's actions.

For its part, the Department gave me a detailed explanation of the searches done and confirmed that the searches were completed by individuals other than Mr. Okalik and Mr. Wallace and, in fact, it appears that the initial searches were conducted a second time by the ATIPP Co-Ordinator for the department after the initial search was done.

I am satisfied that a thorough search of the Department's records was undertaken and that there is no reason to believe that the Applicant was not provided with all of the records responsive to his request. I say this for several reasons, most particularly:

1. The records provided to the Applicant included "Briefing Notes" to the Minister of Justice. Although the Minister may have been interested in the outcome of the personnel matter which the Applicant found himself at the center of, if only because of the rather unusual set of facts involved, there is no apparent reason why he would have become personally involved in the personnel issue. The Applicant was not a senior manager, nor did he come in daily contact with the Minister in the normal course of his employment with the Department. It appears that the Minister was kept apprised of the situation by means of briefing notes, but nothing more. The highest up the chain of command any official steps seems to have gone was the Deputy Minister and the Applicant has received copies of that correspondence. The Applicant also received copies of the briefing notes prepared for the Minister. There is absolutely nothing to suggest that there were any other written communications either to or from the Minister with respect to the Applicant's situation.
2. I have reviewed all of the materials which the Department has provided to the Applicant in response to his request for information. Nowhere in the documentation is there any reference whatsoever to Doug Wallace. Because the file appears to be well papered in terms of who was getting copies of what, I have no reason to believe that Mr. Wallace kept a separate file or even that he had any dealings with the issue of the Applicant's employment problems at all. I certainly have nothing before me to suggest that he was actively involved or involved at all in the discussions surrounding the Applicant and his employment situation.

C. RECOMMENDATION

Having completed my review, it is my opinion that the Applicant received all of the records in the custody or control of the Department of Justice that were responsive to his request for information. It is further my opinion that there is no evidence to suggest that there might be other records which were not produced either by the Minister of Justice or by the former Director of Legal Division. It would, therefore, by my recommendation that nothing further need be done to comply with the Request for Information submitted to the Department of Justice by the Applicant.

Elaine Keenan Bengts
Nunavut Information and Privacy Commissioner
September 16, 2004