

**NUNAVUT
INFORMATION AND PRIVACY COMMISSIONER**

Review Decision 06-23
February 28, 2006

Review File: 05-167-5

A. BACKGROUND

On June 22nd, 2005, I received a request from the Applicant to review the response which he had received from the Department of Health and Social Services in connection with a request he had made for certain personal information about himself, including copies of

- a) all e-mails and faxes from [A.B.] and [C.D.] to [E.F.] of the University of New Brunswick and visa versa
- b) all transcribed notes from telephone calls from myself to [A.B.], [C.D.] and [G.H.]

That request for information was made on approximately May 11th, 2005. This was one of a number of requests for information made by the same individual at about the same time.

The public body responded by letter of June 7, 2005 indicating that all of the relevant records identified as responsive to the first part of the request had already been provided to the applicant in conjunction with another of his requests. They did, however, provide the relevant pages a second time. They denied the existence of any records that might be responsive to the second part of the request.

In requesting a review of the response, the Applicant indicated to me that he knew that there were more records in existence than were provided with respect to the first part of the request and that he expected to receive copies of those records from another source to prove this allegation. It is to be noted that this "proof" was never received from the Applicant. With respect to the second part of the request, he provided a copy of an e-mail which he had received in conjunction with an earlier Access to Information request in which there was reference to an assistant being instructed to transcribe certain voice mail messages which A.B. had received and saved on his voice mail system from the Applicant.

The public body was asked for its explanation with respect to both issues. In response, the department corresponded directly with the Applicant (with a copy to this office) advising him that in reviewing the Applicant's submissions to me in asking for the review, it appeared that they had misinterpreted the initial request for information. They indicated that they had interpreted it as a request for transcribed notes of two way telephone discussions between the Applicant and the named individuals. This prompted them to do a second search of the records and found records of transcribed messages which had been left by the Applicant on the voice mail of several named individuals within the department. These records were provided to the Applicant.

DISCUSSION AND RECOMMENDATIONS

As far as the first part of the request is concerned, I was asked to review the department's response to an earlier request for information. Although this request was much narrower, it included the same specific information being requested here. The records were provided to the Applicant in the first instance and again in this instance. In the first request, Health and Social Services did a thorough search of their records, requested and received e-mail records and, as I understand it, had the IT experts within the Department of Community and Government Services, the department responsible for information technology, to do a series of key word searches to cover all of the requests made by the Applicant in his first request. They provided the Applicant with over 400 pages of records.

Although the Applicant indicated that he could provide proof from the University of New Brunswick that there were, in fact, additional records in the possession of the Department, that proof was not forthcoming. In the circumstances, I am satisfied that the Department did a thorough and diligent search for the records requested and that they provided all relevant records to the Applicant on both requests. In my opinion the Department has responded fully and completely to this part of the request and I make no further recommendations.

With regard to the transcribed records of telephone messages left by the Applicant on the voice mail systems of various individuals within the department, I appreciate the fact that the department took a second look at the request once they had received a copy of the Applicant's complaint. Whether or not I would have read the request the same way they

initially did, I can't say. I do, however, see their interpretation as a reasonable one. One might have preferred that the Department had clarified the request with the Applicant, but I do not read anything into the fact that they did not do so, other than that they were confident that they understood the request.

As soon as their misinterpretation of the request was established, the Department took steps to re-visit the response provided to the Applicant and to provide him with the transcripts requested.

Although the Applicant has the impression that the Department has tried to avoid responding to his requests for information and has accused them of trying to hide things from him, I cannot come to the same conclusion. Quite to the contrary, my impression is that the Department has gone the distance in attempting to ensure that the Applicant has received a full and complete accounting of all the records requested. If there had been any indication in any of the other materials, including the materials relating to the Applicant's previous request, that the department had been trying to sidestep the request or equivocate in their responses to him, I may not so readily have accepted their explanation for their failure to provide the transcripts in question in the first instance. In the circumstances, however, I am satisfied that it was an honest misinterpretation of the request for information. Furthermore, the records have now been provided to the Applicant. I therefore make no further recommendations with respect to the second issue raised by the Applicant.

Elaine Keenan Bengts
Nunavut Information and Privacy Commissioner
February 28, 2006.