

**NUNAVUT  
INFORMATION AND PRIVACY COMMISSIONER**

Review Decision 06-24  
June 5, 2006  
Review File: 05-110-5

**A. BACKGROUND**

On approximately October 21<sup>st</sup>, 2004, the Applicant requested certain information about himself from his personnel records with respect to certain matters which arose during his employment with the Government of Nunavut. The Request for Information was addressed to various public bodies, including the Legislative Assembly, the Department of Economic Development and Transportation (ED & T), and the Department of Community and Government Services (CG & S). The Applicant requested correspondence “exchanged, sent and/or received” among a number of named government employees relating to the Applicant. The request was responded to by ED&T on approximately November 19, 2004. In the response, the ED&T indicated that access was being provided to all correspondence, letters and e-mails exchanged, sent and/or received” among five named individuals. The response also indicated that some information had been severed from some of the records pursuant to section 23(1) of the *Access to Information and Protection of Privacy Act* . On December 23, 2004, the Applicant asked my office to review the response, indicating that he felt there were additional records responsive to his request which he had not received. In particular, he noted that on some of the records he received, the correspondence indicated that a “cc” had been sent to another individual on the list, but the “cc’d” copy had not been provided in response. He also indicated that one of the individuals had told him that a letter had been put on his personnel file but no such letter had been disclosed.

In August of 2005, I issued recommendations on most of the issues raised by the Applicant. I reserved my recommendations with respect to whether or not section 23 of the Act had been properly applied to the records provided to the Applicant because I had not been provided with copies of those records in their severed and original forms. I now have those records and have had the opportunity to review them.

## DISCUSSION AND RECOMMENDATIONS

The public body has now provided me with two sets of documents. The first set is all of the records which were identified as being responsive to the request for information and the second is the set of records which was provided to the Applicant.

For ease of reference, I will comment only on those records which do not appear to have been disclosed to the Applicant or which have been disclosed but with some deletions. I will provide copies of these pages to the Minister with these recommendations and will number them sequentially for greater certainty. I have also reduced names to initials for the purpose of this report.

The public body has provided little explanation as to why certain records have not been disclosed. The only explanation they have provided is that the records and parts of records that were not disclosed were protected from disclosure pursuant to section 23 of the Act. Section 23 provides that the public body must refuse to disclose information which would constitute an unreasonable invasion of a third party's privacy.

Section 23 reads as follows:

23. (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy where

(a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;

(b) the personal information was compiled and is identifiable as part of an investigation into a possible contravention of law, except to the extent that disclosure is necessary to prosecute the contravention or continue the investigation;

(c) the personal information relates to eligibility for social assistance, student financial assistance, legal aid or other social benefits or to the determination of benefit levels;

(d) the personal information relates to employment, occupational or educational history;

(e) the personal information was obtained on a tax return or gathered for the purpose of collecting a tax;

(f) the personal information describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities or credit worthiness;

(g) the personal information consists of personal recommendations or evaluations about the third party, character references or personnel evaluations;

(h) the personal information consists of the third party's name where

(i) it appears with other personal information about the third party, or

(ii) the disclosure of the name itself would reveal personal information about the third party;

(i) the disclosure could reasonably be expected to reveal that the third party supplied, in confidence, a personal recommendation or evaluation, character reference or personnel evaluation; or

(j) the personal information indicates the third party's race, religious beliefs, colour, gender, age, ancestry or place of origin

(4) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy where

(a) the third party has, in writing, consented to or requested the disclosure;

(b) there are compelling circumstances affecting the health or safety of any person and notice of the disclosure is mailed to the last known address of the third party;

(c) an Act of the Northwest Territories or Canada authorizes or requires the disclosure;

(d) the disclosure is for research purposes and is in accordance with section 49;

(e) the personal information relates to the third party's

classification, salary range, discretionary benefits or employment responsibilities as an officer, employee or member of a public body or as a member of the staff of a member of the Executive Council;

(f) the personal information relates to expenses incurred by the third party while travelling at the expense of a public body;

(g) the disclosure reveals details of a licence, permit or other similar discretionary benefit granted to the third party by a public body, but not personal information supplied in support of the application for the benefit;

(h) the disclosure reveals details of a discretionary benefit of a financial nature granted to the third party by a public body, but not personal information supplied in support of the application for the benefit or that is referred to in paragraph (2)(c); or

(i) the disclosure reveals financial and other details of a contract to supply goods or services to a public body.

The public body has not provided any particulars with respect to which particular subsection of section 23 which they feel applies. Nor is there any detailed explanation as to why access to some records as a whole appear to have been denied. I am, therefore, left to do my own analysis without the benefit of the public body's reasoning. Virtually all of the records are e-mails and e-mail chains.

#### Pages 1 and 2

This is an e-mail chain which starts with an e-mail from the Applicant sent to a number of people, including G.G., one of the people noted in the Applicant's request for information. It has been forwarded by the primary recipient to B.B., another one of the individuals listed in the Applicant's request. It appears that these pages were not provided to the Applicant at all. There is no third party information contained in this exchange that is not the Applicant's own personal information, nor does it appear that any other exemptions to disclosure apply and I therefore **recommend** that they be disclosed.

#### Pages 3 and 4

This chain begins with an e-mail from B.B. to R.K., both of whom are named in the

Applicant's request. Again, it appears that the Applicant was denied access to this entire record. Once again, I can see nothing in the exchange that is personal information of a third party, the disclosure of which might be considered an unreasonable invasion of that person's privacy. I **recommend** that these pages be disclosed.

#### Page 5

This chain originates with the Applicant and is addressed to B.B.. Again, there is nothing in this page which would, if disclosed, constitute an unreasonable invasion of a third party's privacy. I **recommend** that it be disclosed.

#### Pages 6 and 7

This chain originates with B.B. and is addressed to another government employee and to N.W.. There are two more e-mails in the chain which are exchanged between B.B. and N.W.. In the final e-mail in the chain, the entire exchange has been forwarded to another employee, apparently one involved in the disciplinary process with respect to the Applicant.

Once again it appears that the Applicant was denied access to the entire record. There is only one line which contains third party information that is unrelated to the Applicant's request and this line should be severed. With this exception, I **recommend** that this record be disclosed.

#### Pages 8 and 9.

This chain begins with an e-mail from the Applicant to B.B. and another individual. There is a response to the Applicant and the record has been forwarded to others within the department. One of the others provided a response to B.B. and B.B. then forwarded the whole of the chain to another employee. It appears that the Applicant was denied access to this record as a whole. There is, however, nothing within the record which, if disclosed, would constitute an unreasonable invasion of any third party's personal information. There is no reason not to disclose the record and I **recommend** that it be disclosed.

Pages 10 and 11

This e-mail chain starts with an e-mail to B.B. from another government employee in the same department. It is entitled "Personnel Issues" and it is apparently in response to a request by B.B. for assistance in dealing with a personnel issue involving the Applicant. The entire chain is, once again, eventually forwarded to a third employee.

Although there is nothing in this chain which is protected from disclosure pursuant to section 23 of the Act, it may fall under the protection of section 14 which reads as follows:

14. (1) The head of a public body may refuse to disclose information to an applicant where the disclosure could reasonably be expected to reveal

(a) advice, proposals, recommendations, analyses or policy options developed by or for a public body or a member of the Executive Council;

This having been said, the onus is on the public body to establish that the record is protected from disclosure and before I could determine whether or not the section might apply, I would have to know more about the various functions of the various employees involved in the e-mail chain. If the person involved in this e-mail chain has some expertise in labour relations and his/her function is to advise managers about personnel issues, the argument that section 14 applies might be quite strong. If, on the other hand, the advice is simply fortuitous and given by someone whose role has nothing to do with personnel, the argument would not be nearly as strong. I have no knowledge of the job descriptions of any of the individuals involved and cannot, therefore, conclude that section 14 does, in fact, apply. Furthermore, this is a discretionary section of the act which requires the public body to actively consider the reasons for and against disclosure before refusing to disclose.

In this case, the public body has not relied on this section of the Act and I can, therefore, only surmise that they have exercised any discretion they might have under section 14 to allow disclosure.

I therefore **recommend** that this record be disclosed to the Applicant.

#### Pages 12 and 13

This e-mail chain originates from the desk of B.B. and is sent to several individuals. The e-mail makes certain comments about the Applicant and then asks for advice. Again, there is nothing in any of these e-mails that fall under section 23 of the Act. My comments with respect to section 14 above apply, as well, to this record. I would **recommend** that the record be disclosed.

#### Pages 14 and 15

This e-mail chain begins in the same way as the one discussed as pages 12 and 13. The difference, here, is that the response is from another individual. Again, I see nothing in this e-mail chain that is protected from disclosure pursuant to section 23. As well, my comments with respect to section 14 apply here as well. Without more, I would have to **recommend** that this record be disclosed.

#### Page 16

All of the e-mails in this chain originate from the desk of B.B.. Again, there is nothing contained on this page which, if disclosed, might be an unreasonable invasion of a third party's privacy. I **recommend** that it be disclosed.

#### Pages 17 and 18

This e-mail chain originates with the Applicant, and several of the recipients of that original e-mail are individuals who have been named in the Applicant's request for information. It appears that it has been forwarded by B.B. to two other people. Nothing in this chain contains personal information the disclosure of which would be an unreasonable invasion of a third party's privacy. I **recommend** that these pages be disclosed.

#### Pages 19 and 20

This chain begins with the same e-mail as began the chain on pages 17 and 18. Again, there is nothing in the chain that, if disclosed, would in any way constitute an

unreasonable invasion of a third party's privacy. I **recommend** that these pages be disclosed.

#### Page 21

This e-mail chain originates with the Applicant. It contains his own personal information, but no information which would reveal anything about a third party. I therefore **recommend** that this page be disclosed.

#### Page 22

Again, the first e-mail in this chain is the same as the one which starts the chain on page 21. Again, nothing in this e-mail constitutes the personal information of anyone other than the Applicant. I **recommend** that it be disclosed.

#### Page 23

This is yet another chain which begins with the e-mail sent by the Applicant which is referred to on page 21. Again, there is nothing in this chain which would reveal anything about a third party. I **recommend** that the record should be disclosed.

#### Pages 24, 25, 26, and 27

Each of these records contains as one of the e-mails in the chain the same e-mail which originates from the Applicant himself. In each case, all of the information in the various e-mail chains has been disclosed except for a small part of this one e-mail. The information severed refers to a third party and contains other information about that individual. The specific information about the third party does not fall within one of the specific categories of information for which an unreasonable invasion of privacy is presumed. However, I am satisfied that it is the kind of information which would, if disclosed, constitute an unreasonable invasion of the privacy of that third party. In this case, however, there is no "disclosure" of information because the information originated from the Applicant. By definition, to "disclose" something is to reveal something not already known and because it came from the Applicant originally, to give it back to him cannot be said to be a "disclosure". It is my **recommendation** that these

records be disclosed to the Applicant without any part of them being severed.

#### Page 28

In this e-mail from B.B. to N.W. and R.K., the public body has severed the name of a person against who the applicant had, apparently, filed grievances. Ordinarily, the fact that grievances had been filed against a particular individual would be third party personal information the disclosure of which would constitute an unreasonable invasion of the third party's privacy. In this case, however, once again the Applicant already knows that he filed the grievances so there would be no "disclosure". Another name has also been severed. I cannot tell, from the context of the correspondence who the individual is or what their role might be in the larger scheme of things. Nor can I say, without more information, that the disclosure of this information would constitute an unreasonable invasion of the named party's privacy. Although I hate to suggest it in light of the fact that this matter has been ongoing for so long, this is a circumstance in which I believe it may have been appropriate for the public body to consult with the third parties. If the Applicant cannot deduce for himself from the context of the e-mail who the named individual is, and if he so requests, it would be my **recommendation** in this case that the public body consult the third parties in accordance with section 26 of the Act before determining whether or not to disclose the names.

#### Page 29

There is nothing in this e-mail chain which contains any personal information which, if disclosed, would constitute an unreasonable invasion of the privacy of a third party. I **recommend** that it be disclosed.

#### Page 30

This is an e-mail chain which has been disclosed to the Applicant but for a few words which have been severed. The reason for the severance appears to be to protect the identity of the person who provided some feedback about the Applicant. The simple fact that a person made a comment about another person does not necessarily make it personal information, the disclosure of which would be an unreasonable invasion of the

“teller’s” personal information. Was the comment made in confidence or in circumstances in which confidence would be assumed? Does the Applicant already know who made the comment? What specific subsection in section 23 applies to this circumstance? The public body has not provided me with any of this information. Because the onus is on the public body to establish the existence of an exemption from disclosure, it must give me that background if I am to be able to make a recommendation supporting their failure to disclose. In this case, that has not been done and I therefore **recommend** that this name and reference to the person’s position in the government be disclosed.

#### Page 31

Again most of this page has been disclosed except for a few words in one of the e-mails in the chain. The words constitute an opinion voiced by the writer about a third party. By the definition of “personal information” contained in section 2 of the *Access to Information and Protection of Privacy Act*, personal opinions about the individual expressed by others is the personal information of the person about whom the opinion is voiced. Would the disclosure of this opinion be an unreasonable invasion of the third party’s privacy. Again in this particular case, the public body has not given me any background to inform my consideration of the issue. In the circumstances, I cannot say that the disclosure would fall under any of the specified presumptions set out in section 23(1). Without more, and based only on the context provided by the document itself, I cannot agree with the public body that section 23(1) applies to protect this statement from disclosure and I **recommend** that the record be provided to the Applicant without severance.

#### Pages 32 and 33

It appears that this chain of e-mails was not provided to the Applicant in response to his request for information. Clearly there are parts of the e-mail that are in the nature of a friendly exchange of information between the two persons between whom the e-mails are being exchanged and are completely outside the scope of the Applicant’s request. There are parts of the discussion, however, that do relate to the Applicant and, insofar

as one of the people named in the Applicant's request for information is one of the people in the conversation, that part of the exchange is subject to disclosure. I have marked those parts of the exchange which are non-responsive and should, therefore be severed. I **recommend** that the balance of the record be disclosed.

#### Page 34

It appears that this is another record to which the Applicant was refused access. It is an e-mail which has the Applicant's initials as the "Subject Line" and that is the only reference to the Applicant. As it was sent by one of the individuals mentioned in the Applicant's request, I **recommend** that it be disclosed. There is nothing in it which could be considered any person's personal information.

#### Page 35

Again, it appears that this record was not provided to the Applicant. It is an e-mail from one of the named individuals in the Applicant's request and the subject line appears to refer to the Applicant, although cryptically. There is nothing in the e-mail that might be considered personal information and I **recommend** that the record should be disclosed.

#### Pages 36 and 37

This record was disclosed to the Applicant but a few words were severed from it. Again, the words severed appear to be words by which the Applicant might identify a person (this time outside of the government) who had provided feedback to the public body about the Applicant. The context of this e-mail leads me to the possibility that the information given by the third party was provided in confidence and on the understanding that his/her name would be kept confidential. It would be far easier for me to come to this conclusion had the public body provided me with some background as, I think, they are required to do to meet the onus placed on them to establish that the exemption applies. In this case, however, because of the context, I am prepared to accept that this is third party personal information, the disclosure of which might reasonably be expected to constitute an unreasonable invasion of that person's privacy. I therefore agree with the severance of the name in this instance and **recommend** no further action.

### Page 38

This page was not provided to the Applicant. It is from a third party and is addressed to one of the individuals named in the Applicant's request for information. Its subject is the Applicant. It is a statement of opinion about the Applicant and, as such, constitutes the Applicant's personal information and he is entitled to receive it. I **recommend** that the record be provided to the Applicant with the name of the author (which is his/her personal information) severed.

### Pages 39 and 40

These pages were not provided in response to the Applicant's request for information. The record is basically an e-mail from a third party stating his/her opinion about the Applicant's abilities to do his job. As noted above, the opinion expressed is an opinion about the Applicant and, barring any applicable exemption, he should be entitled to receive it. There is no indication that the opinion was provided in confidence. The context suggests that it may have been. I believe that it can be edited by severing certain parts of the record so as to make the identity of the third party unidentifiable and I **recommend** that this be done and that the Applicant be provided with a copy of the e-mail. **Alternatively**, the public body should give notice to the third party pursuant to section 26 of the Act, advising the author that it is considering disclosing the document with his name and opinions.

### Page 41

It does not appear that the public body disclosed this record when responding to the Applicant's request for information. It is an e-mail authored by one of the individuals named in the Applicant's request for information and the subject of the e-mail is the Applicant. There is no other personal information in the record. I **recommend** that it be disclosed.

### Pages 42 and 43

This is an e-mail from another third party and again appears to be the opinion of an

individual with whom the Applicant had contact in the course of his employment with the public body.

It does not appear that the Applicant was provided with any portion of this record in response to his request for information

As noted above, the opinion of others about the Applicant is the personal information of the Applicant. Again, the public body has not provided me with any argument or reasoning for their failure to disclose the record other than section 23 of the Act. The only personal information of third parties in this record is the identity of the person who wrote the e-mail. If the e-mail can be edited such as to make it unlikely that the Applicant could identify the writer, I **recommend** that that be done and that the Applicant receive a copy of the record. **Alternatively**, I recommend that the public body consult with the third party pursuant to section 26 of the Act and then reconsider its position with respect to disclosure.

#### Page 44

This is an e-mail from B.B. to a third party who is not an employee of the Government of Nunavut. It does not appear that this record was provided to the Applicant. The only personal information of any third party in this e-mail is the recipient's name and e-mail address. These pieces of information can easily be severed so as to protect the identity of the third party. I **recommend** that the personal information of the third party be severed and that this record be then provided to the Applicant.

#### Page 45

This is the third page of an e-mail chain which has been disclosed to the Applicant but for a few words on this page. Once again, I have to guess the exact reasons that the public body felt that these words should be severed. The words severed are contained in an e-mail which originated from the Applicant. It is unclear to me whether the words constitute personal information, let alone personal information which, if disclosed, would be an unreasonable invasion of a third party's privacy. I would have to be convinced of

this. Quite apart from that, however, it is clear that there would be no “disclosure” to the Applicant as he was the one who wrote the words. I **recommend** that this page be provided to the Applicant without any editing or severing of words.

#### Pages 46 and 47

This is another e-mail from a third party and again appears to be the opinion of an individual with whom the Applicant had contact in the course of his employment with the public body.

It does not appear that the Applicant was provided with any portion of this record in response to his request for information.

As noted above, the opinion of others about the Applicant is the personal information of the Applicant. Again, the public body has not provided me with any argument or reasoning for their failure to disclose the record other than section 23 of the Act. The only personal information of third parties in this record is the identity of the person who wrote the e-mail. If the e-mail can be edited such as to make it unlikely that the Applicant could identify the writer, I **recommend** that that be done and that the Applicant receive a copy of the record. **Alternatively**, I recommend that the public body consult with the third party pursuant to section 26 of the Act and then reconsider its position with respect to disclosure.

#### Pages 48 and 49

This is an e-mail from a third party to B.B. which appears to be a written summary of a meeting between the writer and others. Some of the commentary relates to the Applicant and his role in certain projects.

It does not appear that the Applicant was provided with any portion of this record in response to his request for information

Most of this record is not responsive to the Applicant’s request and does not relate to

him. In my opinion, the record can be edited such as to make it unlikely that the Applicant could identify the writer and I **recommend** that that be done and that the Applicant receive a copy of the record. **Alternatively**, I recommend that the public body consult with the third party pursuant to section 26 of the Act and then reconsider its position with respect to disclosure.

#### Page 50

This is one page of an e-mail chain which was disclosed to the Applicant except for a small portion of this page.

I am puzzled about why the public body would sever the portions they have done. Granted, the words severed are not in any way responsive to the Applicant's request for information. They appear to be about another issue altogether. The severed portion of the record has no personal information in it at all. What's more, this other topic of discussion appears in earlier parts of the chain and has not been severed, although it is non-responsive in the earlier parts of the chain as well. There is, in my opinion, no apparent reason for the public body to sever the part of the record to which the Applicant has been denied. I therefore **recommend** that the record be provided to the Applicant without editing.

#### Pages 51 and 52

This is a two page e-mail chain. On the top of the second chain is the same e-mail discussed at page 45 above. The same information has been severed. I **recommend** that a copy of these pages be provided to the Applicant without any words severed.

#### Page 53

This is an e-mail chain which includes an e-mail from the Applicant to a third party, which has then been forwarded to B.B. with the third party's comments. It does not appear to have been provided to the Applicant in response to his request.

There is nothing in this record which would, if disclosed, constitute an unreasonable invasion of any third party's privacy. I **recommend** that it be disclosed.

#### Pages 54 and 55 and Page 56

These two records are parts of e-mail chains, most of which have been disclosed to the Applicant. There is a small section in each record which has been severed. In each case, the severed section is contained in a copy of the e-mail discussed at page 30 above. In each case, I **recommend** that the records be provided to the Applicant with no information severed.

#### Page 57

This page contains the same e-mail as is discussed at page 31. Again, the record has been provided to the Applicant but for a few words which have been severed. As discussed above, the information severed constitutes an opinion about a third party but it is unclear whether the disclosure of that information would be an unreasonable invasion of the third party's privacy. Because the public body has not met the onus of establishing that the severed words fall within an exception to disclosure, I **recommend** that the record be disclosed with no severing.

#### Page 58

It appears that this record, which is an e-mail exchange involving B.B. and N.W., both of whom are named in the Applicant's request for information. It does not appear that this record was provided to the Applicant.

There is, in my opinion, nothing in this record which might constitute personal information, the disclosure of which would constitute an unreasonable invasion of a third party's privacy. I **recommend** that the page should be disclosed.

#### Page 59

It does not appear that the Applicant was provided with a copy of this record. The e-mail in this record forms part of the e-mail chain discussed at page 17 above. There is nothing in the record which might be considered third party information, the disclosure

of which would be an unreasonable invasion of that person's privacy. I **recommend** that it be disclosed.

#### Page 60

This page is the second page of an e-mail chain which contains the same e-mail as is discussed at pages 24, 25, 26 and 27 and I **recommend** that it be dealt with in the same manner.

#### Page 61

This page appears to consist of a series of e-mails all of which originated from the Applicant's desk. It does not appear to have been provided to the Applicant in response to his request for information. Because I have not been provided with any background, I can only guess why this record would not have been disclosed. It certainly does not contain a third party's personal information. It may not have been provided because it was not considered to be responsive to the request. It does appear to be only marginally responsive, if at all. I would, however, **recommend** that it be disclosed so as to remove any doubt.

#### Page 62

Again, this is an e-mail exchange which involves the Applicant himself as well as several of the persons named in his request for information. It does not appear that this record was provided to the Applicant. There is nothing in the e-mail that might be considered third party personal information and I **recommend** that the record be disclosed.

#### Page 63

This is an e-mail which originates from the Applicant himself. It does not appear that this record was disclosed. There is nothing in the e-mail that might be considered third party personal information and I **recommend** that the record be disclosed.

Page 64

This is an e-mail which originates from the Applicant himself. It does not appear that this record was disclosed. There is nothing in the e-mail that might be considered third party personal information and I **recommend** that the record be disclosed.

Page 65

This is an e-mail originating from the desk of B.B. and addressed to N.W.. Part of the e-mail involves a discussion about the Applicant. The second paragraph of the e-mail is about another individual altogether.

This record was not provided to the Applicant in response to his request for information.

I **recommend** that the e-mail be disclosed, subject only to the last paragraph being severed, as it relates to a third party and is not responsive to the Applicant's request.

Pages 66 and 67

This is a two page e-mail chain in which the first e-mail in the chain was written by the Applicant to another employee, who then forwarded it to B.B..

This record was not provided to the Applicant in response to his request for information.

There is nothing in the e-mail that might be considered third party personal information and I **recommend** that the record be disclosed.

Page 68

This page involves an exchange between B.B. and N.W. and involves information about the Applicant. It was not provided to the Applicant in response to his request for information.

The record contains no third party personal information. I **recommend** that it be disclosed.

Page 69

This page involves an exchange between B.B. and N.W. and involves information about the Applicant. It was not provided to the Applicant in response to his request for information.

The record contains no third party personal information. I **recommend** that it be disclosed.

Pages 70 and 71

This e-mail chain originated from the Applicant's desk and includes a response from B.B.. It was not provided to the Applicant in response to his request for information.

The record contains no third party personal information. I **recommend** that it be disclosed.

Page 72

This page involves an exchange between B.B. and N.W. and involves information about the Applicant. It was not provided to the Applicant in response to his request for information.

The record contains no third party personal information. I **recommend** that it be disclosed

Pages 73 and 74

This e-mail chain originated from the Applicant's desk and includes a response from B.B.. It was not provided to the Applicant in response to his request for information.

The record contains no third party personal information. I **recommend** that it be disclosed.

Page 75

This e-mail chain originated from the Applicant's desk and includes a response from B.B.. It was not provided to the Applicant in response to his request for information.

The record contains no third party personal information. I **recommend** that it be disclosed.

Page 76

This is the same e-mail as is discussed at page 28 and it has been disclosed to the Applicant except for a few words which have been severed.

If the Applicant cannot deduce for himself from the context of the e-mail who the named individual is, and if he so requests, it would be my **recommendation** in this case that the public body consult the third party in accordance with section 26 of the Act before determining whether or not to disclose the name.

Page 77

See page 30.

Page 78

See page 31

Page 79

See page 36

Pages 80 and 81 and Page 82

These records have been provided to the Applicant except for the name of a third party which has been severed. The same e-mail appears in both records. The paragraph in which the name appears is a discussion which has nothing whatsoever to do with the Applicant. It is a discussion about a third party's possible employment. I agree that the name has been properly severed and **recommend** that nothing further be done with respect to this record.

Page 83

See page 3.

Page 84

This record has not been disclosed to the Applicant. The record relates to leave granted to or requested by a number of individuals, including the Applicant, to attend a funeral in a small community. To the extent that it relates to the Applicant, it is responsive and I **recommend** that it should be disclosed. However, most of the record should be severed as it relates to third parties.

Page 85

Most of this e-mail chain is discussed at page 21. The record does not appear to have been disclosed to the Applicant.

The record contains no third party personal information. I **recommend** that it be disclosed.

Page 86

See page 30

Pages 87 and 88

See pages 24, 25, 26 and 27.

Page 89

See page 28

Page 90

This e-mail chain contains the e-mail referred to at page 30, plus a new chain. None of the information in this record involves third party personal information and I **recommend** that it be disclosed.

## Page 91

This record is not responsive to the request for information and I **recommend** no further action with respect to same.

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Although this record does not appear to relate to the issue in which the Applicant is interested, it does appear to be responsive to the Request for Information. It does not contain any third party personal information and I **recommend** that it be disclosed.

### **RECOMMENDATIONS**

My individual recommendations are set out above. As a general comment, I would say that it appears to me in this case that the public body took the very narrowest interpretation possible of the Applicant's request for information. With respect, this is the wrong approach. The approach that should be taken is to use the widest interpretation possible and, where there is some doubt, the Applicant should be asked to clarify his or her request. It is the public body's job to work with the Applicant to ensure that he or she receives the information he or she needs. It is not the public body's job to "protect" public records or people within the public body. My feeling, in reviewing the records in question, is that the public body looked for and then applied the very narrowest interpretation it could in this instance. This is likely why many of the records were not disclosed in the first instance. I would point out that section 7 of the Act places a positive duty on public bodies to work with the Applicant to ensure that he/she receives the information they need.

7. (1) The head of a public body shall make every reasonable effort to assist an applicant and to respond to an applicant openly, accurately, completely and without delay.

Furthermore, the stated objects of the Act as set out in section 1 are to provide full access to records in the possession of the public body, subject only to the narrow and

specific exemptions provided and, in those cases where access is denied, the onus is on the public body to establish that an exemption applies.

I am also very frustrated with the failure of public bodies in Nunavut (the public body in this instance is not alone in this) to provide a full and thorough explanation about why certain records or the portion of some records have not been disclosed. It is not sufficient simply to refer to a section of the Act, particularly where that section has a number of subsections and applications. In many instances, in order to evaluate whether something is third party information it is, for example, necessary to know whether the person is an employee of the public body or some other public body and whether the role in which the person is mentioned relates to his/her job functions or whether it relates to his/her private life. It is incumbent on the public body to establish that the exemptions apply, not on the Information and Privacy Commissioner to guess the circumstances. Public bodies must do a better and more thorough job of providing this office with their reasons for denying access to information.

**Elaine Keenan Bengts**  
**Nunavut Information and Privacy Commissioner**  
June 5, 2006