Standing Committee on Oversight of Government Operations and Public Accounts Review of the 2012-2013 and 2013-2014 Annual Reports of the Information and Protection of Privacy Commissioner of Nunavut Iqaluit, Nunavut September 18, 2014

Members Present:

Tony Akoak
Pat Angnakak
Joe Enook
George Hickes, Chair
David Joanasie
Steve Mapsalak
Allan Rumbolt
Alexander Sammurtok, Co-Chair
Joe Savikataaq

Staff Members:

Alex Baldwin Nancy Tupik

Interpreters:

Attima Hadlari Mikle Langenhan Mary Nashook Simon Okpakok Thomas Suluk Blandina Tulugarjuk James Panioyak

Witnesses:

Elaine Keenan Bengts, Information and Privacy Commissioner of Nunavut

>>Committee commenced at 13:21

Chairman (Mr. Hickes): Good afternoon, everybody. I would like to welcome all the Members of the Committee and Ms. Keenan Bengts to the Assembly and all our viewers from

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across the country and territory. Welcome to the Standing Committee on Oversight of Government Operations and Public Accounts. Today, we've got the pleasure of having our Information and Privacy Commissioner attend the hearing today.

I would like to start, at this time, with a prayer from Mr. Enook to get us going. Thank you.

>>Prayer

Chairman: Everybody has a copy of the agenda in front of them. Any questions? Thank you. At this time, I would like to take a moment to provide my opening comments.

Good afternoon and thank you. Before proceeding, I would like to ask Members, witnesses, and visitors to put their cellphones and other electronic devices on silent mode.

I would like to take this time to formally welcome everyone present to this meeting of the Legislative Assembly's Standing Committee on Oversight of Government Operations and Public Accounts.

We are meeting today on the occasion of our Committee's hearing on the 2012-13 and 2013-14 annual reports to the Legislative Assembly of the Information and Privacy Commissioner of Nunavut, Ms. Elaine Keenan Bengts.

I would first like to introduce my Committee colleagues. We have:

Tony Akoak, Member for Gjoa Haven; Pat Angnakak, Member for Iqaluit-Niaqunnguu; ለcndipidasic pide.

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Joe Enook, Member for Tununiq; David Joanasie, Member for South Baffin:

Steve Mapsalak, Member for Aivilik; Mr. Allan Rumbolt, Member for Hudson Bay;

Alexander Sammurtok, Member for Rankin Inlet South; and Joe Savikataaq, Member for Arviat South.

Missing out of our group today, but I'm assuming they will be watching us, as they are unavailable:

Mr. Isaac Shooyook, Member for Quttiktuq; Simeon Mikkungwak, Member for Baker Lake; and Samuel Nuqingaq, Member for Uqqummiut, who will be joining us shortly.

As an independent officer of the House, the Information and Privacy Commissioner is required to prepare and submit an annual report to the Legislative Assembly.

The Access to Information and Protection of Privacy Act exists to achieve two broad goals: ensuring that the public has access to government information while preventing the unauthorized use or disclosure of personal information held by government departments and other public bodies.

The Information and Privacy
Commissioner plays a key role in
maintaining this balance. In addition to
providing independent reviews of
decisions made by public bodies with
respect to requests made under the
legislation, the Information and Privacy
Commissioner may offer formal

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comments on proposed legislation as well as providing public education. The Information and Privacy Commissioner may offer formal comments on proposed legislation as well as providing public education on the Act.

Ms. Elaine Keenan Bengts was appointed Nunavut's first Information and Privacy Commissioner in 1999. She was reappointed in March of 2010 for a third five-year term of office. I would also like to note for the record that she has served as the Information and Privacy Commissioner of the Northwest Territories since 1996 when that jurisdiction's legislation originally came into effect.

The Information and Privacy Commissioner's most recent appearance before a Standing Committee of the Legislative Assembly took place on April 18, 2013, on the occasion of the consideration of her 2011-2012 annual report.

Officials from the Government of Nunavut's Department of Executive and Intergovernmental Affairs subsequently appeared before the Standing Committee. The Standing Committee's report on its hearing was subsequently presented to the Legislative Assembly on May 14, 2013. The Government of Nunavut's response to the Standing Committee's report was tabled in the Legislative Assembly on September 6, 2013. The Information and Privacy Commissioner's 2012-2013 annual report was tabled in the Legislative Assembly on September 16, 2013.

Her 2013-2014 annual report was backdoor tabled under the provisions of Rule 44(2) of the Rules of the Legislative Assembly of Nunavut on August 13, 2014. It will be tabled formally in the House during the upcoming fall sitting of this House.

The Government of Nunavut's Department of Executive and Intergovernmental Affairs has overarching responsibility for the government's administration of the Access to Information and Protection of Privacy Act. The government's 2012-2013 annual report on the administration of the Access to Information and Protection of Privacy Act was tabled in the Legislative Assembly on September 6, 2013.

The government's formal response to the Information and Privacy Commissioner's 12-13 annual report was tabled by the Premier on March 20, 2014.

Amendments to the Access to Information and Protection of Privacy Act were passed by the Legislative Assembly in 2012 and came into force in May of 2013. These amendments provide the Information and Privacy Commissioner with clear authority to undertake privacy related reviews concerning personal information held by public bodies. The amendments also establish a statutory requirement for public bodies to notify her office where a material breach of privacy has occurred with respect to personal information under their control.

The Government of Nunavut's Department of Executive and Intergovernmental Affairs has recently produced a formal privacy breach and incident policy.

In recent years, a number of important

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themes and issues have emerged during consideration of the Information and Privacy Commissioner's annual reports to this Legislative Assembly. These include; disclosure of contracting, procurement, and leasing activities on the part of public agencies and territorial crown corporations, the application of access to information and protection of privacy legislation to municipalities and local housing organizations in Nunavut, and the management of electronic health records and the development of health-specific privacy legislation.

Today's hearing provides an opportunity for the Information and Privacy Commissioner's observations, concerns, and recommendations to be discussed in a public forum. The Standing Committee looks forward to a productive exchange this afternoon with the Information and Privacy Commissioner.

Tomorrow morning, senior officials from the Government of Nunavut will appear before the Standing Committee to publicly account for the government's actions in response to recommendations from the Information and Privacy Commissioner and Standing Committees of the Legislative Assembly.

In keeping with parliamentary practice, the Standing Committee anticipates reporting its findings and recommendations to the Legislative Assembly during the upcoming fall sitting. Under rule 91(5) of the rules of the Legislative Assembly, the government will be required to table a formal response to our report within 120 days of its presentation.

I would like to quickly address some housekeeping matters. For the benefit of

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With that, I will again welcome the Information and Privacy Commissioner, Ms. Elaine Keenan Bengts to our hearing and invite her to make her opening comment. Thank you.

Ms. Bengts: Thank you, Mr. Chairman. Good afternoon everybody. I'm pleased once again to be able to appear in front of you to update you on the activities of my office. Today I will be sharing with you some of the highlights of both my 2012-13 annual report and my 2013-2014 annual report.

I'm seeing a lot of new faces around the table so if you will indulge me, I'm going to go through a brief background of the act and how it works. The Office of the Information and Privacy Commissioner was established under the *Access to Information and Protection of Privacy Act* as an office to provide independent review and oversight of issues arising from the application of that act.

As you know, this act has two main objectives. The first is to provide members of the public with a right to access of public records. This means that with a few very narrow and well defined exceptions, the public is entitled, in fact, guaranteed to unimpeded access to all records in the custody or control of public bodies in Nunavut.

The second objective is to ensure that the information that the Government of

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Nunavut collects and holds about individuals is protected from unauthorized collection, use, or disclosure.

When the public has concerns about either the right to access public records or about the way in which public bodies are handling their personal information, a request to my office provides them with an independent assessment of the way in which the public body has acted.

When a complaint is received in my office, I investigate and provide a report which contains recommendations directed to the public bodies. My authority is limited to making recommendations only and I cannot compel public bodies to take any particular step. The power of my office lies in my ability to engage the public through the publication of my review reports and to make statements to the press and in other public forums such as this one.

My goal, however, has always been to work with the Government of Nunavut to improve procedures and protocols and responses. That approach, for the most part, works well.

The last two years, for me, have been busy ones. In 2012-2013 I opened 21 files. In 2013-2014, 23 new files. This makes for an increase year after year for the fourth year in a row and the trend continues this year with 14 new files so far in the first six months of the current fiscal year.

In 2012-2013, I issued five review recommendations and in 2013-2014, double that number. The number of privacy concerns which have been raised

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I'm pleased as well to see that the number of complaints about time extensions for responding to access to information requests was down to zero last year from five in the previous year.

In an interesting development, issues involving local housing associations and local housing authorities established under the *Nunavut Housing Corporation Act* have, in the last year, come up several times. Local housing organizations collect considerable amounts of personal information and have significant power over important GN funds and, in theses circumstances, in my opinion, they should clearly be subject to both the access and privacy provisions of the Act.

Local housing organizations, however, are not specifically included in the list of public bodies subject to the Act and at least one of them gave me significant pushback in the last year when I asked them to address a concern raised by a constituent. In the end, however, the Nunavut Housing Corporation did intervene and provided their assistance in responding to the access to information request. This, however, created additional delay and work for everybody. I have, therefore, recommended that local housing authorities and associations created under the *Nunavut Housing*

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I should advise you as well that I met with people this morning from the Nunavut Housing Corporation and we had a really good discussion and I think that we found a way to go forward, so that's good news.

Another issue that has come up a number of times in the last two years is once again questions about the visibility of the process of granting government contracts to third parties. While the government has done some work with respect to proactive disclosure of contracts awarded, the information is difficult to find and contains very little in the way of detail about the contracts.

When I was drafting my annual report this year, I went looking to see what I could find out about a number of the contracts. It took me nearly 45 minutes to find out where the information was posted, and I think I'm pretty good in finding things on the Internet. While the information posted told me who was awarded various contracts when the contracts were awarded and the value of the contracts, there really were no other details whatsoever, even with respect to contracts which were for multi-millions of dollars.

Nunavut is a small jurisdiction in which government is one of the primary industries. Many individuals and companies rely on government contracts for their survival. Because of this, the interest in who gets which contract is very high. The more information about these contracts that can be made proactively available, the less room there

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can be for allegations of favouritism, nepotism, fraud, or other allegations of improper conduct. The larger the contract and the longer its duration, the more important it is to ensure that the process and the outcome are open. More work needs to be done to ensure more openness surrounding this area.

In closing, I would like to address briefly my own contract to do the work of the Information and Privacy Commissioner in Nunavut. As noted in the opening remarks, my third term as the Information and Privacy Commissioner is coming to a close in the spring of 2015. I have found, in particular, in the last two years, that the amount of time required to do this work has increased significantly. I have done a very informal survey of the workload of the offices of my counterparts from across the country. In most jurisdictions, the average file load for a full-time investigator is about 30 files. I am a part-time commissioner.

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In addition to my work as the Nunavut Information and Privacy Commissioner, for those of you who don't know, I am also the Information and Privacy Commissioner in the Northwest Territories and I run a law office in which I specialize in family law. My Nunavut caseload alone right now is about 20 active files. In the Northwest Territories, I have a similar number of files.

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Finding the necessary time to meet all my responsibilities is becoming an issue. For my part, I have decided to address this issue by closing my family law practice and to focus 100 percent on my role as the Information and Privacy Commissioner both in the Northwest Territories and Nunavut. This will free up the time I need to meet my

responsibilities under the ATIPP Act for the time being. It is, however, a shortterm solution.

Focusing on the future and whether it's happening in the spring when my current appointment comes to an end or in another five years, it is time to at least start planning to create both the infrastructure and the budget necessary to expand the office to a full-time commissioner position.

With that, I would like to open myself up for questions and I look forward to the discussion.

Chairman: Thank you very much for those opening comments. I would like to thank you for making us and the information and privacy work that you do a priority and to take such a big leap of faith.

I would like to open up the questions for the consideration of the 2012-13 and 2013-14 annual reports of the Information and Privacy Commissioner of Nunavut. Do you have any questions? Mr. Savikataaq.

Mr. Savikataaq: Thank you, Mr. Chairman. In your opening letter and also in your 2013-14 annual report, you told us that you will be shutting down your law firm to concentrate more on being a privacy commissioner. This should free up quite a bit of time. Do you have any plans for new initiatives or activities that you plan to undertake with the more time you might have or do you think that you will just spend that extra time on what you currently do? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan

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Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. There are some initiatives that I really would like to undertake. Number one, I have 15 years worth of recommendations that I have made. I think I'm on 100 or so recommendations. They're not well organized. I don't have the time right now to sit down and organize them for public consumption. That's one of the most important things going forward.

There are lots of projects that I would like to involve myself more in. For example, with the new authority given to me under the privacy provisions of the Act, I would like to be able to undertake privacy audits of various departments and organizations to see how they're doing and make suggestions for improvement.

That said, although I'm shutting down my family law practice, really, my time over the last two years as the Information and Privacy Commissioner of both Nunavut and the Northwest Territories has probably taken up about 70 percent of my work day in any event. How much more time there will be available, I don't know, but it certainly will give me more time and more time to do a better job. Sometimes I feel like I'm not keeping up and it's important to keep up.

That will still be my priority, but I do have other projects kind of lying in the background that I would love to undertake.

Chairman: Thank you. Mr. Savikataaq.

Mr. Savikataaq: Thank you, Mr. Chairman. Can you just elaborate on the recommendations? Are they for the future

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Integrity Commissioner and/or are they to the Government of Nunavut, the recommendations that have been piling up? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. No. What I'm referring to is the review recommendations that I make when somebody complains to me about either an access issue or a privacy issue. I'm obligated to complete a report and make recommendations. Those are all there, they're public documents, and they're on my website, but they're not well organized.

If somebody, for instance, wanted to look up how an exemption under section 23 has been handled in the past, they would have to do a lot of reading. What I would like to do is organize them so that you could identify which months relate to that issue so that they're easy to get at, so that it's easier for the public to see what I have been doing and on specific issues. They're all there, but they're not well organized because of the time commitment it takes to do that.

Chairman: Thank you. Mr. Savikataaq.

Mr. Savikataaq: Thank you, Mr. Chairman. Thank you for the explanation. Between the 2011-12 and 2013-14 fiscal years, you stated that you opened a total of 66 formal files, which has been a significant increase over the previous years. In your view, what specific factors account for the increase in files that had to be opened? Thank you, Mr. Chairman.

Chairman: Ms. Keenan Bengts.

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Ms. Keenan Bengts: Thank you, Mr. Chairman. In some respects, the work I do is cyclical. Every so often, we get one individual or two individuals in the public who glom on to the Act and make lots and lots of requests for information and the statistics kind of spike.

In the early years, we had one such applicant. It was in the early years and I think I opened 35 files in one year and of those, 30 of them were from one individual. That's not so much the case anymore, although there are one or two people out there who are good at using the Act. People seem to understand that there is an option out there for them more now than they did five years ago. The Act is more well known, I think. There has been some publicity around some of the issues.

Generally speaking, in Canadian society, in world society, privacy issues are becoming more and more day-to-day things for people. They're more aware of privacy issues. There's nothing I can put my finger on that says, "This is the reason there are more and it's increasing." I would like to think that it's because the Act is finally known to people and it's starting to be used because people know about it.

It seems like a long time to get to know about the piece of legislation, but let's face it, Nunavut has been going through a lot of changes in the last 15 years and there have been other priorities. Now maybe people are starting to settle in and understand that there's an Act available to them.

Chairman: Thank you. Mr. Savikataaq.

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Mr. Savikataaq: Thank you, Mr. Chairman. Also in your 2012-13 annual report to the Legislative Assembly, you indicated that you received one formal request for comments and in the 2013-14 annual report, you indicated that you received three formal requests for comments. The three requests came from the Department of Health, Nunavut Arctic College, and the Nunavut Housing Corporation. Can you provide further details on what specific issues you were asked to provide comments on? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. Nunavut Arctic College, with respect, wanted my input on a program they were implementing for an online registration system for their students and they wanted my comments on certain privacy aspects of that system, the questions they were asking, why they were asking them, whether it was appropriate for them to ask those questions, and how they could ask the questions in a way that wasn't invasive of the students' privacy or least invasive as possible.

The Department of Health asked me for my input on the project in which they're collecting - I can't remember the name of it - children's information over an extended period of time to follow the health of Nunavut's children. They asked me for my input on the privacy impact assessment that was done for that project.

The Nunavut Housing Corporation asked me for my opinion and advice on the issue of the LHOs. Δ የ Δ

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Mr. Savikataaq: Thank you, Mr. Chairman. Can you give a description as to what extent the government generally takes your feedback when they ask for your comments? Since they ask you, do they normally go with your suggestions? Thank you, Mr. Chairman.

Chairman: Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. For the most part, yes. I can say without a doubt that I have an influence. Do they always follow all of my recommendations? No and that's to be expected. I don't have to deal with the day-to-day practicalities of running the government. The government does. Sometimes my recommendations don't mesh with the day-to-day realities and I understand that.

In most cases, we have worked together to find a happy compromise that meets my concerns for the most part while it still meets the needs of the government in terms of running its business. There are going to be times from time to time that we just aren't going to see eye to eye and that's fine.

I would like to be asked my opinion on projects more often. There are lots of things that the Government of Nunavut and other public bodies do that affect the privacy of individuals in particular. It would be nice to be included in the discussion at the beginning of the discussion rather than being asked to make my comments on a final project and on a final product so that my concerns can be worked in at the beginning rather than try to be fit in at the end. That's one of the things I would like

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For the most part, when I make recommendations, they are considered and most of the time, we find a compromise if they're not followed exactly.

Chairman: Thank you for that response. Mr. Savikataaq.

Mr. Savikataaq: Thank you, Mr. Chairman. I am new to this job and position, so maybe some might know what answer this is, but can you make an enquiry on your own if you have a concern or does someone have to make a complaint to you towards a government body before you can act on it? Thank you, Mr. Chairman.

Chairman: Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. Until the new amendments, I had no power to investigate or undertake anything on my own. I now have that ability. It has only been a year and I haven't used that authority yet.

As I said earlier, that's one of the things I would like to do a little bit more, particularly with the Department of Health, is to do privacy audits with them. When I say privacy audit, I don't mean that in a negative way. I would like to be able to spend time with them and work with them to improve their systems because I know there are problems.

Do I have the authority to initiate investigations? Yes, but it's only very recent.

Chairman: Thank you. Mr. Savikataaq.

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Mr. Savikataaq: Thank you, Mr. Chairman. In your 2013-14 annual report to the Legislative Assembly, you referred to an incident where a public body initially told you that they simply do not have the time to deal with responding to your letter. In another, a formal submission to your office included what amounted to be a scolding of the applicant for being a bother. Can you describe the circumstance of this incident and how it was resolved? Thank you, Mr. Chairman.

Chairman: Thank you, Mr. Savikataaq. Ms. Keenan Bengts

Ms. Keenan Bengts: Thank you, Mr. Chairman. I should correct my annual report because it wasn't a public body who told me that they didn't have time for me, it was an LHO. So I think how that's been resolved is fairly evident, we've been talking. The Nunavut Housing Corporation stepped in, essentially, and took over that.... We've been talking since. It's turned out well that way.

The other one in which the response I got was an access to information request that was made to the Department of Economic Development and Transportation, I believe. The person who was handling the request for information was in the department, provided me with submissions that essentially said, look, this guy should know better. He knows that we don't have these documents and I am not going to look for them. That was a more recent matter and I am still in fact waiting for a response to my recommendations on that one.

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I think it's a matter, and I've said this before in the past, leadership on this issue, access to information, and how important it is... and privacy. Leadership on these issues come from the top and if the leaders in an organization, the deputy ministers, the directors, aren't fully on board with the Act, and let's face it, it's hard responding to these requests for information sometimes. It's time consuming and there is no clear benefit. In other words, it doesn't advance any particular project having to stop and do this access to information stuff. It's mundane work, it's not fun work, while I think it's fun, but no anyone say that, not everyone is a geek like me when it comes to this stuff. It's often that is piled on top of the other work they have to do.

In fact, in every case, except I think there are only two departments within the Government of Nunavut who have dedicated ATIPP coordinators. In every other case it's something that's added onto their job descriptions. So it's extra work that doesn't get them anywhere, really. They are already overburdened with work many of the times. The number of requests are becoming larger.

So I can see where people get frustrated with some of the requests made because not all of the requesters are sophisticated, really know what they want, really know where to look, but we can't get short, we can't deal with those people and push them off just because it's difficult to deal with them.

I think that's part of the problem, not all of the ATIPP coordinators have the resources or the time they need to do this stuff. So I'm working with that department, I'm hoping that we can improve the approach and we'll see

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Chairman: Thank you, Ms. Keenan Bengts. I can speak from experience of having to go through hundreds of pages of documents and emails and go through with finite detail to see how much information should be passed on to the applicant looking for the information. So I was not a dedicated ATIPP person either. Mr. Savikataaq.

Mr. Savikataaq: Thank you, Mr. Chairman. Is there any mechanism setup so that someone can't just make a whole bunch of others, even for someone in the government or for yourself for the sake of someone just decided that they had a grudge or wanted to make work for you. Someone in a government department or yourself and put so many requests in. Do you have to act on every one or can you say I think this shouldn't even come here? Thank you, Mr. Chairman.

Chairman: Thank you for that question. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. There is a provision in the Act which says that any public body can ask my office to disregard any access to information request if it's frivolous, vexatious, or repetitive.

Has it been used very often? It was used back in the day. Remember I was telling you about my very first? It was used with him. But it hasn't been used since. I haven't been asked by a public body if they could disregard any access request since.

It's there. It's available to public bodies. It's a pretty steep test for me to allow a public body to disregard an applicant but

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it can be done and it has been done.

Chairman: I thank you for doing that, personally. Mr. Savikataaq.

Mr. Savikataaq: Thank you, Mr. Chairman. Your recent annual report to the Legislative Assembly indicates that a significant volume of requests for reviews that are submitted to your office come from government employees who are involved in disciplinary matters, employment disputes or workplace conflicts with other staff. In your view, are these types of requests generally consistent with the purpose of the *Access to Information and Protection Privacy Act*? Thank you, Mr. Chairman.

Chairman: Good question, Mr. Savikataaq. Ms. Keenan Bengts.

Ms. Keenan Bengts: Yes, I do. Former employees are residents; they have the right as anybody else does to bring their government to task. Often times, they don't agree with the disciplinary proceedings or the outcome of the disciplinary proceedings or how they were treated. They feel like they need more information about why things happened the way they did. They think there must be something else underneath the surface.

Most of the time when they get the information that they have asked for, that's the end of it. They need to know. It's their own personal lives that have been affected by the decisions made. They don't think they have enough information from the process itself so they ask for the records. It happens quite often. For the most part once the records are actually provided, that's the end of it.

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Chairman: Thank you. Mr. Savikataaq.

Mr. Savikataaq: Thank you, Mr. Chairman. Amendments to the Access to Information and Protection of Privacy Act were passed by the Legislative Assembly in 2012 and came into force in May 2013. These amendments provide you with clear authority to undertake privacy related reviews concerning personal information held by public bodies.

These amendments also established a statutory requirement for public bodies to notify your office when a material breach of privacy has occurred with respect to personal information under their control.

In your 2013 and 2014 annual report to the Legislative Assembly you indicated that you received one privacy breach notification. Can you describe the circumstance of this incident and how it was resolved? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. I believe there was only one in 2012-13 and there were nine in 2013-2014. How each of them were resolved, I can tell you that I investigated each and every one of them. I did that before I had the authority to do it. I've done that for every year that I've been the Information and Privacy Commissioner. That said, I now have the authority to do that and I make recommendations.

Most of the time when it comes to privacy breaches, it's pretty hard to put your finger on whether or not there was actually a privacy breach or how it happened. **Δυγ<βναί** (Ͻϳγληυς): ٩σρος Γις γαρς. Γις γαρς.

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But for instance I'll give you the facts of one case. There was a case in a smaller community where an employee's former telephone number was called several times from within the office. There was an employee dispute going on. Somebody in the office, we can't put our finger on who or when or how, but somebody in the office who was in this dispute obtained, so collected information, obtained this telephone number that belonged or used to belong to another employee and made several phone calls to that number in theory to find out more about his past. Does that make sense so far?

We can't undo that. It's been done. Once privacy is breached, it's not something you can undo. In that case what I did. And we can't prove who did it. And we can't prove when it was done. But we know something happened and we know that there is an issue

What I did in that case is I made several recommendations on how to change the processes within the office to inform the employees about what they can do, about what they can't do.

My recommendations, when it comes down to privacy issues, is more about how can we change the processes and the policies and the way we do things so that this doesn't happen again. Those are what my recommendations are. For the most part, again, when I make those kinds of recommendations they are well received and at least the public bodies have accepted them and will implement them.

In some cases, again, like I say because I don't know the way the government

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works on a day to day basis sometimes my recommendations are impractical. And they say but we will look at it and see if we can work on something else.

That's how the privacy end of things works. I can't make orders. I can't order somebody; I can't order a public body to do anything. Some jurisdictions have the Information and Privacy Commissioner has order making power so for example in Ontario and in Alberta when the Information and Privacy Commissioner makes a report, gives a report, the public body is ordered to take certain steps. I don't have that power. All I can do is make recommendations.

That works for me because then I can work with the public bodies to make things better.

Chairman: Thank you, Ms. Keenan Bengts. Just to go over a little bit, Mr. Savikataaq's question, I'm sure we'll appreciate the response. I believe he was talking about breached notification where a public body notifies you that a privacy breach has occurred. With his previous question, if you could describe the circumstances of that incident that was reported in your 2013-14 annual report. There was one breach notification listed. I'm assuming it was a government body that notified you that there was breach of privacy that had occurred prior to any public requests or notifications. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. I'm trying to remember the circumstances of that particular case. If I'm remembering it correctly and I could be wrong because I don't have it with me here obviously. It was an internal problem with a computer. Something was

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 saved on the wrong drive or some such thing and the public body had discovered it immediately and fixed it and at that point my comment was good on you. Good work. Thank you for letting me know.

It wasn't what I would have considered a material breach as defined in the Act, most particularly because it was internal, if I'm recalling the circumstances correctly.

Chairman: Thank you. Maybe just for the ease of the person controlling the microphones, just acknowledge the Chair when you're done, when you complete your answer. Mr. Savikataaq

Mr. Savikataaq: Thank you, Mr. Chairman. I'm just about done. The Government of Nunavut's Department of Executive and Intergovernmental Affairs has produced a new privacy breach and incident policy. Were you conculted in development of this policy? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. Ms. Bell and I, Ms. Bell is the manager of ATTIP for Government of Nunavut and I discuss a lot things informally. We talked about this, we've talked about many things. I don't believe that I gave any written submissions to her, it could be, I don't think I did. But I do know we talked about it so the short answer is yes and no.

Chairman: Thank you. Mr. Savikataaq

Mr. Savikataaq: Thank you, Mr. Chairman. Since you talked about policy

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a bit I assumed that you've read it, so you think it's adequate? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. I'm never satisfied, that's just who I am, I always see ways to, you know, things can be improved, if it can start, sure, it's a really good start.

It's brand new though and I'm sure we're going to find things along the way that should be changed, amended, varied. But it's really a good start. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Savikataaq

Mr. Savikataaq: Thank you, Mr. Chairman. No more questions, I just want to thank you for answering all my questions and since I'm new here, my questions might seem like he should've known that, but I want to know. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Savikataaq. Before I next name on my list, you've mentioned couple of times since we started this, but you mentioned the way you met earlier today with Nunavut Housing Corporation and discussing some of LHO access to information and privacy issues and concerns, and again you just mentioned one of Savikataaq's responses. I was wonder if you could enlighten us to how some of those discussions have been ongoing? What kind of feedback you're getting from Nunavut Housing Corporation and heads of the local housing organizations? Ms. Keenan Bengts.

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That's kind of where we left this morning is working towards. I think the Nunavut Housing Corporation would like to see the LHOs, it's in the contract between the Nunavut Housing Corporation and the LHOs. But the LHOs don't always have the resources or the expertise within their organizations to ensure that the provisions of the Act are respected in the way that they should be, or the way I think it should be.

And part of it is a capacity issue, so you know but the Nunavut Housing Corporation is very supportive and is willing to work with the LHOs to figure out a way to make them responsible under the Act contractually. They have promised to follow through and do some training and that sort of thing.

There were some suggestions made this morning and again, that's out of my hands, about creating another category of organizations that aren't called public bodies subject to the Act. Thank you.

Chairman: Thank you for that response. I wonder if you can just elaborate a little bit on what some of the information and privacy concerns are that would involve LHOs, just for Members of the Committee as well as the viewing

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audience, that maybe we can assist them in some manner. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. Some of the LHOs, as I understand, the associations, and I learned this morning that there are five authorities whose members are appointed by the Minister. The rest of the LHOs are associations which are incorporated as independent organizations under the *Societies Act*.

That said, they all receive 100 percent of their funding from the Nunavut Housing Corporation, which is a public body, and are directed, for the most part, as to how they can use those monies. As with any other public procurement, people are interested in how the money is being used. They should have the ability to access that information and right now, they don't really have that ability unless they do it through the Nunavut Housing Corporation as opposed to getting it directly from the LHO.

Perhaps more importantly for me is the privacy side of things. The LHOs collect a lot of personal information about individuals in the communities. There was an incident just not too long ago where an employee of one of the LHOs got a little drunk one night and posted some information about another resident that he knew only as a result of his employment with the LHO and he posted it on Facebook. So that is a privacy issue, clearly that's a privacy issue and LHOs need to know that they can't be doing that sort of thing. It's public monies. They're really organizations that have a lot of public monies in them. They should be responsible as public bodies, in my mind.

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Those are the sorts of things that have come up. The interesting thing for me is that, I think, probably in the last 15 years until the last six months or the last probably 12 months, I maybe had one concern raised with my office about an LHO, and then all of a sudden in the last 12 months, there have been three. It tells me that the LHOs are starting to play a more important role where people are having more issues with them, so that's why this came up at this point in time.

I'm not sure if I answered your questions adequately, Mr. Chairman.

Chairman: Thank you, Ms. Keenan Bengts. I may have another question or two later on, but out of respect for my Committee Members, I'll go to the next name on my list, Ms. Angnakak.

Ms. Angnakak: Thank you, Mr. Chairman. Welcome to the Chamber. I have a few questions. I would like to start off with some of the comments that I have heard you say in answering to my colleague here.

One of the things that come to mind right away is I would like to know how informed you feel Nunavummiut are in regard to their right to access information from public bodies. If you would think about maybe somebody local in a community who is not a government worker but has dealt with government services or relies on them, what's your opinion on that? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. If I give an honest answer I

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think there is a lot of education that could be done. In my experience and I don't want to suggest that I am an expert in any way on Inuit culture. But in my experience, especially in the small communities, privacy in particular has a very different connotation and perhaps that is why I'm not hearing from the communities so much.

I get lots of requests for review from the larger communities and fewer from the smaller communities. I don't think it's because they don't have the same problems. I do think that it has a different importance in their day to day existence than it does for some of the rest of us. Thank you, Mr. Chairman.

Chairman: Thank you for that response. Ms. Angnakak.

Ms. Angnakak: Thank you, Mr. Chairman. To go on, you stated that you wanted to have more input and provide more advice when it comes to some of the government projects that may affect private information. Can you elaborate a little more on that, please? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. Where to start? Health information and how health information is being used, digitized, transferred, that's probably the biggest area. I know there are lots of projects going on in the Department of Health with respect to how records are being used or should I say collected, used, stored, that sort of thing.

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component into a project at the beginning than it is to try and fit it in at the end.

There are all sorts of other projects that are going on and everything seems to be going 'online' these days. From motor vehicles registries to the children's health initiative. That's one I would have really liked to be in on at the beginning rather than at the end, to raise some of the concerns that I had about the privacy aspects of that program.

There are all sorts of things, programs, new initiatives that are coming on every day. I don't know about them all. I'm an outsider. I don't get to know about them unless you tell me about them. Whether it's the government asking me for the information. I don't find out about them until the rest of the public finds out about them most of the time.

I would really like to be able to develop a system where if there's any privacy or access to information issues that I get a 'hello' first at the beginning and say hey what do you think of this? At that point maybe I can give some suggestions that maybe no one has thought of.

Let's face it, not everyone thinks about access and privacy issues because they are all exciting new initiatives. The last thing they are thinking about is the privacy implications of that.

If there were a way that public bodies could be required to at least send me a head's up when they are doing these initiatives that would be great. There are all sorts of projects that are out there that really could use some eyeballing in terms of how they might impact privacy. Thank you, Mr. Chairman.

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Chairman: Thank you. Ms. Angnakak.

Ms. Angnakak: Thank you, Mr. Chairman. Thank you for your answer. It leads me to my next one. Have you asked the government to be involved? Do they know of your interest? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. I think so. I come here every year and I say the same thing every year. Although that said, I'm speaking to the ministers who have the initiative to create new programs, I suppose. I certainly have not been quiet about the fact that I would really like to get involved more at that stage. I'm a straight shooter, I don't mince words a whole lot. I say what I think, that sometimes gets me in trouble.

I have said that a number of times I would like to have more input and probably over the last six or seven years than I did previously. It comes to a point sometimes where something comes across my desk and it has huge implications for privacy and no one has even considered privacy implications, because as I say, that's not what's in the forefront of your mind. It's a project, and how it's going to work and how it will improve everything. Most of the time it will improve things, but there are also other aspects that just aren't taken care of. Do they know? I think so. Could I do more to make myself heard? Probably. Thank you.

Chairman: Thank you. Ms. Angnakak.

Ms. Angnakak: Thank you, Mr. Chairman. It kind of leads me to my next

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question. You also mentioned about doing privacy audits on GN departments. I wonder if you could elaborate a little bit about what that would actually entail and has that been done already and what would the timeline be like to do an audit on that, let's say Health. Thank you, Mr. Chairman.

Chairman: Good question. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. I wouldn't even think of doing a privacy audit on the entire Department of Health all at once. One of the first ones that I foresee doing would be to go into the hospital and look around and see how things are done and sit around and listen for a while. I hear anecdotal stories about people who have gone to the doctor and hear all about their neighbours' problems because they are talking too loud and things like that. From Nunavut in particular I've had very few complaints about privacy issues from the Department of Health within either nursing stations or the hospital and I'm naïve enough to think that privacy breaches don't occur here, because they occur everywhere else. People just don't think to complain about them here. Again, I think that probably that has something to do with the culture. That may have something to do with the fact that people don't want to be known as a complainer. That said, breaches occur in a health industry wherever you are. Most of the time they are inadvertent, most of the time people aren't even thinking about privacy when they happen. I know they happen. I think that probably if I walked into the hospital and just sitting around and listening for a few days and then sitting down with the administrators for a couple of hours we could address a lot of things. To me,

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that's what a privacy audit looks like. Has one ever been done? No. I've just received that authorization. Do I really know what it looks like? I'd have to do some work before I started one, obviously. I haven't done one. That said I have a lot resources in my colleagues from across the country who have done audits and I would probably sit down with them first and figure out how it would work here. So that's probably not the answer, but for now that's the best answer I could give you. Thank you.

Chairman: Thank you. Ms. Angnakak.

Ms. Angnakak: Thank you, Mr. Chairman. Thank you for your answer. That gives us a bit more insight. In your 2013-14 annual report to the Legislative Assembly, you indicated that Nunavut is now the only Canadian jurisdiction without health specific privacy legislation. The Government of Nunavut has publicly indicated that the Department of Health will be reviewing this privacy legislation in other jurisdictions.

Earlier this year a new health information act was passed in the NWT. During the Legislative Assembly consideration, the minister publicly stated that you support the bill as a way to ensure that patients' information is being properly protected.

In your view, would the NWT's new legislation be an appropriate model for Nunavut? Thank you, Mr. Chairman.

Chairman: All 110 pages of it, Ms. Keenan Bengts?

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Ms. Keenan Bengts: Thank you, Mr.

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Chairman. I'm trying to think of a way to be as diplomatic as I can with this answer. I am very pleased that the Government of the Northwest Territories has finally passed health privacy legislation. It's necessary in today's day and age. It just is.

To even begin to describe how health information is used and exchanged; it is a mind boggling maze is what it is. That said, I'm not terribly happy and I have told them this, with the legislation that was actually passed. It's a very, very difficult piece of legislation to read, to understand, to follow.

In my opinion, and of course this is where I come from and my perspective. My perspective is that the patient, you and I, should be able to maintain control to a degree over how our own personal health information is collected, used, and disclosed. Particularly personal health information because it is so personal.

I think the approach taken by the Government of the Northwest Territories was drafted more to address the issues that health providers have and is drafted in a way which I think gives health providers, custodians, far more power than I think they should have over health information.

So, if you're asking me whether modeling health information in Nunavut on health information in the Northwest Territories? To be honest, it hasn't come into effect yet so we don't know how it's going to work but I have serious concerns about not only difficult and complicated it is. I don't think it has to be that difficult and complicated. Also, the approach that was taken to it.

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Like I say, the most diplomatic answer I could give at this point. Thank you, Mr. Chairman.

Chairman: Maybe our Department of Health will look at other legislation across the country to begin their discussions. Ms. Angnakak.

Ms. Angnakak: That might be a good point. Thank you, Chairman. Talking about health and private information, the Government of Nunavut's Protocol for Public Health Investigation Management and Reporting of Communicable Diseases and Outbreaks in Nunavut was tabled in the Legislative Assembly in September, a year ago almost to the day.

In your view, does the government's protocol establish a reasonable balance between the public's right to know about cases about communicable disease and the need to protect individual privacy rights? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. I'm going to be completely honest with you and tell you that I don't think I have read that piece of legislation. Was it legislation? I would be happy to look at it and send you a letter and tell you what I thought if you're interested. Thank you, Mr. Chairman.

Chairman: Thank you. It's the protocol for public health investigation, management, and reporting of communicable diseases and outbreaks in Nunavut. Maybe you have it somewhere in your documents. Ms. Angnakak, you can go to your next question.

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Ms. Angnakak: Thank you, Mr. Chairman. You made reference to this earlier in some of your comments, but in your 2012-13 annual report to the Legislative Assembly, you had indicated that you had been working with a group implementing the Nutaggavut "Our Children" Health Information System with a view to making the program as respectful of individual privacy as possible. This initiative is a standardized way for health care professionals to collect health data from pregnant women, new mothers, and young children throughout Nunavut. Can you describe what work you and your colleagues have accomplished with respect to this initiative? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. My concern about that project from the beginning was that this is a lot of personal information that's being collected. It's not just health information; it's sociological information, information about lifestyles, information about things like alcohol consumption. My concern was that this information doesn't necessarily need to be about identifiable individuals in order to be useful.

What I have been working on with the Department of Health on that is ways to collect that information that's necessary, be able in some way to be able to identify if necessary. The point of the collection of this information is to follow children and mothers for an extended period of time. There has to be a way to identify which person you're talking about and to add to that information over the years, but there's no need for anybody to have the information that can directly link that

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name to that chart, if I'm making any sense.

Essentially where my comments and my focus has been when working with them is how to allow that information to be collected, which is important, without risking that that information can identify individuals in a community who have to deal with certain social issues or addictions or whatever. It's really personal information. It's really sensitive and it could have impacts on the individual long term.

I know that my comments were accepted in good faith and that there were some suggestions that were made so that, although there will be identifiers on the information, it will be very difficult, except for a very few number of people, to identify the individuals from that number. Thank you, Mr. Chairman.

Chairman: Thank you for that response. Ms. Angnakak.

Ms. Angnakak: Thank you, Mr. Chairman. Just about health records and with that in mind, the government has indicated that it has produced nine formal privacy and security directives concerning electronic health records. Have you been asked to comment on these directives and, if so, what feedback did you provide to the government? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. The short answer is no I was not consulted on those. Thank you, Mr. Chairman.

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Ms. Angnakak: Thank you, Mr. Chairman. That's interesting to note. I'd like to go on to the issue around *Access* to Information and Protection of Privacy Act to municipalities. I think there has been much discussion about that and in your annual report of 2011-12, you stated that although you have previously advocated that municipalities, including the public bodies, under the Access to *Information and Protection of Privacy* Act, that it may be something to aspire to rather than what is possible today, in your words. In your 2013-14 annual report, you also state that some progress has been made but it's slow. What do you think is the realistic timeframe to bring municipal governments under this legislation, if at all. Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. Let's divide it up between the access to information provisions and the privacy provisions. In my opinion, most of the larger municipalities should be able to implement almost immediately, privacy policies or even be brought under the Access to Information and Protection of Privacy Act insofar as the privacy provisions are concerned. That's a prospective thing, we can protect your privacy on a go-forward basis. The access to information bit, to be honest with you, from what I've learned from my discussions, with in particular the City of Igaluit. I don't think that on a historical basis the public bodies are going to be able to meet... if I were to ask for a historical document, they wouldn't be able to find it, I'm fairly certain of that.

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Their information management system is just not up to par. I understand they are working on it and realistically speaking, if and when the municipalities... and I'm figuring that if Iqaluit's system is that bad that all of the other municipalities are as bad or worse. I'm just guessing. So realistically speaking I would say that access to information, if or when the municipalities become subject to ATIPP, it may have to be that historical searches start at a certain point and that access to information and the right to access to information is effective for records created after January 1, 2015.

Because realistically speaking I doubt very much that there is either the will or the manpower to organize all of those historical files in such a way that they could be accessed. That said, if we were to do it on an 'effective this date' basis. the issue then becomes manpower within each of the municipalities. The small municipalities, some of them probably will never have the manpower to do it but the larger municipalities should be able to manage. Like I say, most ATIPP coordinators in the Government of Nunavut right now do it off the side of their desks as an extra add-on responsibility. There is no reason why the municipalities wouldn't do it the same way. Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Angnakak.

Ms. Angnakak: Thank you, Mr. Chairman. I know that you've had some discussions with some municipalities and I know that there was a training session that was held that you participated in. I think that was in 2012. Three municipalities took part in that. Can you tell us which communities participated

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and why only three? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. My understanding is that all of the municipalities were invited. The three that participated, and it was a really good discussion I must say, were, if I'm not mistaken, Repulse Bay, Kimmirut, and Iqaluit. Those who were there were very interested and engaged in discussions. This is the training in which I kind of changed my view of the possibilities. Before that, there really had been no discussion at all.

I had made a couple of presentations to the City of Iqaluit, but they weren't interested. I think that the city here is very interested at this point and are moving forward. I do think that some of the other larger municipalities really are not that interested and I would have liked to see, for example, Cambridge Bay and Rankin Inlet at the table, but they didn't send anybody. Thank you.

Chairman: Thank you. Ms. Angnakak.

Ms. Angnakak: Thank you, Mr. Chairman. Thank you for that answer. It leads me to my next one. I'm just kind of interested that if I were in Repulse Bay, one of our Members is from Repulse Bay, what kind of information would he be seeking from the hamlet, do you think, under this Act? I know that in government, you want to ask about health things or more of service, but with the municipality, they deliver water and they do sewage and stuff like that. What kinds of things would they be asking the hamlet for, do you think in your mind? Thank

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you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. Things like why did the mayor's brother get the contract to do the water? What other applicants were there? What did those applications look like? What did those submissions or RFPs look like? Why is it that I can't seem to get a job with the municipality and the mayor's sister-in-law can? It's those kinds of things, kind of the questions that we all kind of have in our heads sometimes. It's the kinds of questions that keep governments accountable.

It may well be that in the small communities, everyone knows everything anyways, but to have the ability to ask formally for the records that show that is just part of the democratic process. Would access to information provisions be used extensively in the smaller communities? Probably not. Is it a good idea, nonetheless, to have that legislated? I would say yes. It's only because it's part of the democratic process. Thank you, Mr. Chairman.

Chairman: Thank you, Ms. Keenan Bengts. I can think of a couple of other examples too. Is the water licence current? How much land is being purchased or repurchased by a municipality? Environmental; I can think of numerous concerns. Ms. Angnakak.

Ms. Angnakak: Thank you, Mr. Chairman. Thank you for that information. If we say that municipalities have to be listed as a public body under the Act and then we find out that the municipality does not have the capacity

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to do it, maybe staff or maybe just there's really nobody to do it, nobody dedicated, and somebody wants to access that information, but they can't because of those reasons are we forcing them to be in a situation where they really can't meet the requirements under the Act? Thank you, Mr. Chairman.

Chairman: Thank you, Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. Yes. I get where you're coming from. Some of the very small communities. Maybe what's best for the very small communities would be to work with them to create some sort of expertise around the area within the municipality.

For example, make sure they get training, offer them training, and get them training. Create policies; create the policies that they can follow. The communities don't even have policies about these things. That would be a start. Even if they are not under the legislation, helping them to create policies.

The Government of Nunavut can only go so far in doing that without stepping on toes and crossing over jurisdictional lines and I get that. But I think there is support from the ATIPP manager's office to help the communities get processes and policies in place. That would be a start.

Is it realistic to expect that every small community would be subject to the Act? Maybe not. Is it realistic to expect the largest communities to comply with the responsibilities the Government of Nunavut has to comply with in terms of access and privacy? Absolutely. Maybe there is a happy medium there someplace.

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Maybe we add them one at a time as they become able. There are all sorts of options there.

I do think, in particular, the larger communities really should be heading down that road now. Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Angnakak.

Ms. Angnakak: Thank you, Mr. Chairman. Thank you for that. That's good information. I'm wondering; have you ever had the opportunity to meet with the Nunavut Association of Municipalities or even with government to talk about this area? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. Ms. Bell and I discuss this particular issue a lot. She keeps me up to date on what's going on in communities. I know her office is working on these things and perhaps tomorrow she can fill you in a little bit more when she appears in front of you.

The Nunavut Association of Municipalities, I arranged to meet with them once several years ago and for some reason the meeting was cancelled. They haven't asked to meet with me since that point. I believe I asked them once since then whether they would like to meet with me and I didn't get a response. I'd be happy to meet with them. But again, they're not within my jurisdiction. How much I can do for them at this point other than talk to them about why it's important. It's kind of limited. Thank you, Mr. Chairman.

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ΦΦΡΙΓ ΦΦΕ Ο ΡΥΡΕΡΙΑΝ ΕΝΕΡΕΡΙΑΝ rman: Thank you. Ms. Angnakak.

Ms. Angnakak: Thank you, Mr. Chairman. My last question. I know that the Inuit organizations are not under your jurisdiction either. But I know that and in speaking with family services there is a lot of information that is shared with the regional Inuit associations on government files, like the services and responsibilities. I'm wondering if you have ever met with Inuit organizations just to talk about the importance of confidentiality and the process that you know of that we should all be working under just to protect the people that we're serving as a government. Have you ever met with them? Have you ever been asked? Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. To be honest, I never considered approaching the Inuit organizations. I have, however, had these kinds of discussions with a manager at the ATIPP office. Discussions with the Department of Health, in particular. Not social services recently about the sharing of information. I know that there is a lot of information shared between the adoptions and child welfare information, in particular. That's allowed for in the key pieces of legislation.

I would like to see, and I have spoken with the departments about this, some sort of controls over how that information contractually, perhaps, how that information is further used to disclose by those organizations who receive it. Protocols with respect to retention of that information, how long it's retained. How

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it is secured, that sort of thing. I would really see those types of protocols in place because I don't truly know what the relationship is between the various government departments and the Inuit organizations.

In my little perfect world, because I don't know any better, I would say yes there should be contractual obligations going out. Whenever information is shared there should be a contractual obligation of those receiving it to protect the information and to make sure that all of those other protocols are in place. Realistically speaking, I don't know whether that's an option. I hope that is a satisfactory answer. Thank you, Mr. Chairman.

Chairman: Thank you, Ms. Keenan Bengts. I just want to confirm something in your response. With the GN's response from your 2011-12 annual report, the Department of Family Services committed "a consultation with the Information and Privacy Commissioner to assess current practice and to determine if additional safeguards are required will also take place." So you're saying those consultations did not take place. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. Not as of yet. No.

Chairman: Thank you. I'm sure members may have some questions for the government tomorrow regarding that. We'll take a 15-minute recess and we'll return to that. Thank you.

>>Committee recessed at 14:58 and resumed at 15:18

Mr. Chairman: Welcome back

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everybody. We are going to proceed directly to the next name on my list, Mr. Enook.

Mr. Enook (interpretation): Thank you, Mr. Chairman, and good afternoon. Following with the report of the information privacy commissioner, I would like to ask a question and see further information on the contract procedures of the government.

In your opening comments you indicated that it took approximately an hour to look into some information regarding contracting and that here is a lack of information on who the contract was awarded to, what the cost estimate would be, and so on.

That is about the only information that is made available to the public. It just indicates how much the contractors are worth and all the information is very important and in your 2013-14 annual report, you indicated that the government does very behind giving the information regarding the contracts and the large one in general.

And, you also indicated that there should be more information available. But, the more of this information that can be made proactively available, the less room there is for some suggestion of favouritism and nepotism, fraud and other allegations of improper consideration.

If you have the discretion, what specific types of information would you recommend the government to make available to the public concerning its contracting practices? Thank you, Mr. Chairman.

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Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. This is one of those things where because Nunavut is such a small jurisdiction. Sometimes it is difficult to give enough information without affecting the third party organizations, the contractors and their ability to compete effectively within the jurisdiction.

I know that for example in many of the southern jurisdictions with larger populations and more companies doing the same kind of work the contracts are themselves are posted online and available to the public to look at.

I understand and I realize that in Nunavut that might create, for the private sector, difficulty in terms of competing with one another. I mean if one of two possible contractors knows exactly what the details are of the contract, they're going to know what to bid on next time. So to speak, there is going to be a happy medium here, I do think that more of the contracts themselves can and should be posted.

Maybe not the nitty-gritty details but I think there are some contracts themselves should be posted. When we are talking and the example that I use in my annual report was the sealift services for \$71.5 million. That is an awful lot of money.

And, I think that the public is entitled to know more than just those five pieces of very basic information that is actually posted. You know, for example what are the obligations that sealift services, the successful "tenderer" now has under the contract. What is it that they are supposed **Δ°/«ΡCς»** (Ͻʹ,λησς) ͼͿϧͼͺϼͺϔϧͺ Γ^ͺ ;ϸͺϼͼͺ-<Δ_°ϧͺ

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 be doing, what is it that they are getting that \$71.5 million to do, that sort of thing. There is no reason it shouldn't be posted.

What they're paid per hour, that is proprietary information but what they're expected to do under the contract shouldn't be, shouldn't be private, it should be public information. So, things like that. We're going, you're going to have to step kind "spritely" around these things because of the nature of business in this jurisdiction. But, I think that there can be more that can be put out there if you put your minds to it, than what is actually out there to date.

I hope that answers your question. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Enook.

Mr. Enook (interpretation): Thank you, Mr. Chairman. In some parts you did respond to my question. There are a lot of us in Nunavut who think that there are particular companies that are awarded these large contracts. Even here in the Legislative Assembly, and we have had concerns about large contracts being awarded to particular companies.

In your view, would you consider being more transparent with respect to publicly releasing information concerning government contracts? Thank you, Mr. Chairman.

Mr. Chairman: Thank you for that question, Mr. Enook. Ms. Keenan Bengts?

Ms. Keenan Bengts: Thank you, Mr. Chairman. My go-to answer is always going to be for that 'yes'. The more

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information that's out there, the better, as far as I'm concerned.

That said, as I said, I'm realistic enough to understand that there is certain business realities in Nunavut that may or may not exist in other jurisdictions that make it more difficult to disclose more information without creating difficulties in negotiating contracts in the future. Be it with the same company or another company.

Truly, I do believe that more information than what is being put out right now should be put out. Not only that, it has to be easier to find. I'm pretty good with the computer, I can find things fairly easily, and it took me a long time to dig down until I could finally find it.

If you don't know where you're looking, if you don't know how to find this information, it's difficult to find. It should be more visible. What there is out there is hard to find, so it should be more visible.

I really do think that more information could be disclosed. To disclose all of every contract probably is not realistic, to disclose some parts of the contracts that are granted is absolutely realistic, and in my mind should be done. Thank you, Mr. Chairman.

Mr. Chairman: Thank you for that response. Mr. Enook?

Mr. Enook: Thank you, Mr. Chairman. Ms. Bengts, in your experience, and I don't know if you will be able to answer this question, but in your experience, which Canadian jurisdiction has the most transparent, or is the most transparent, with respect to publicly releasing

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information concerning government contracts? Thank you, Mr. Chairman.

Mr. Chairman: Ms. Keenan Bengts?

Ms. Keenan Bengts: Thank you, Mr. Chairman. From what I know, my guess would be British Columbia. Thank you, Mr. Chairman.

Mr. Chairman: Thank you, could you elaborate a little on why Ms. Keenan Bengts?

Ms. Keenan Bengts: Thank you, Mr. Chairman. My understanding is that the Government of British Columbia has done a lot of work on proactive disclosure.

They were the first to go in the direction of putting more rather than less online. They have an open government policy. Like I say, I don't have time to study, and I don't study, what every other jurisdiction does.

What information I do have comes from my meetings with the other Information and Privacy Commissioners throughout the country, and I am forever hearing from British Columbia about their open government policies.

It may be because one of their senior bureaucrats at one point was the former Information and Privacy Commissioner of British Columbia. I know David Loukidelis, and I know that he did a lot of work while he was there to open up communications and open up government in B.C.

I do know that they got a lot of initiatives that are ongoing to make proactive disclosure the rule in most things.

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Unfortunately, that's the best I can do at this point. It's just my feeling from my discussions with other Information and Privacy Commissioners. Thank you, Mr. Chairman.

Chairman: I appreciate your candour. Mr. Enook.

Mr. Enook: Thank you, Mr. Chairman. On the same issue of contracting for information, in your experience, are companies or individuals in Nunavut using the *Access to Information and Protection of Privacy Act* for the purposes of obtaining information that might give them an advantage over their competitors and, if so, is this used consistent with the purpose of the legislation? (interpretation) Thank you, Mr. Chairman.

Chairman: Good question, Mr. Enook. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. Actually no. What they are doing is looking for information about why didn't get the contract, in most cases, not to give them an advantage, but to find out what it is the successful candidate did that they didn't do so that next time the contract comes around, they can fix it, right? To me, that's not an unfair advantage. To me, that's just business and they use it a lot for that. Thank you, Mr. Chairman.

Chairman: Thank you, Ms. Keenan Bengts. I have no more other names on my list. Mr. Joanasie.

Mr. Joanasie (interpretation): Thank you, Mr. Chairman. I wish to ask a couple of questions, not a whole bunch.

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First of all, welcome to the Gallery along with the audience listening in. I send greetings to my constituents and the listening public. As I listened to the opening comments and the responses of the Information and Privacy Commissioner, I heard one of the statements about culture in Nunavut. although she stated she isn't an expert on it. My question is how her office conducts investigations about the culture of Nunavummiut? Especially in trying to understand the issues faced by Nunavut as many of her duties are specifically for Nunavummiut. I would like to first get that clarified. Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. I think I understand your question. I have lived in the north most of my life, not in Nunavut but in the Northwest Territories and before we were divided, in Nunavut and the Northwest Territories. I have practised law in both jurisdictions for 30-some years. I have learned a lot about the different cultures just from the work I deal with on a day-to-day basis.

I'm guessing, like I say, I'm certainly not an expert on Inuit culture, but I'm a keen observer of people. I have spent a lot of time working with people in my legal life and when you're dealing with families, which is what I do, family law. You learn a lot about lifestyles and how people work and how they think and how they travel and that sort of thing.

I'm not sure if I have answered your question, but my experience in the north is.... Although I'm not native to the north, it's certainly my home and I do my

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best to know about whatever there is here to know about. Thank you.

Chairman: Thank you. Mr. Joanasie.

Mr. Joanasie (interpretation): Thank you, Mr. Chairman. The primary reason for asking that question is because the legislative mandate she implements also deals with Inuit privacy issues. She spoke about the privacy issues that she faces as it endears different perspectives and understanding. As an example, in the smaller communities, there are different levels of understanding of the public related to privacy issues. I am just commenting on this to portray this from the perspective of Nunavummiut related to legislation.

That is what I was trying to get at, however, I understood her response and that she had noted the differences as she undertakes her duties, and since she is a long-term northerner which I am quite proud of. I further encourage her to deal with Nunavut-specific issues as people in Nunavut also want their views understood based on their understanding.

Nonetheless, with respect to the education observations that were spoken to earlier, that a meeting was held in 2012 where three communities partook in the training workshop related to information and privacy issues. Did the SAO's or various municipal employees attend that workshop from the communities? I would like her to respond to that first. Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. It may be that tomorrow's

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witnesses may be able to give you a better idea because it was the ATIPP manager's office who arranged that training. I participated, so I'm not sure what their roles in the communities were. As I said, I think that every community was invited. Three communities, including Iqaluit, participated. That's not to say that all of the rest of the communities didn't want to participate. It costs a lot of money to travel in Nunavut and it may well be that the communities didn't think that it was money well spent to send somebody to Iqaluit for a week to participate in the training.

Although I appreciate that there are cultural differences between the way Inuit approach privacy issues and the way a southerner, myself, might approach privacy issues is different. That being said, we all live in today's world and there are certain aspects of privacy that we all have to be aware of. I have heard stories of elders, in particular, who have been taken advantage of financially because they didn't understand their privacy rights and because they were too trusting. That concerns me. Most of that is probably outside of my jurisdiction because that sort of thing happens from the private sector: from those who are looking for a quick buck sometimes.

There is only a limited amount that we can do and the Access to Information and the Protection of Privacy Act certainly doesn't apply to those things. That said, I think it's important for all of us to be cognizant of the privacy and the impact that breaches of privacy can have in today's world. It doesn't matter whether you live in a small community in Nunavut, or Toronto, Ontario. Some of those privacy issues will impact on you, no matter whether if you live in a small

community in Nunavut or in Toronto, Ontario. Some of those privacy issues will impact on you where ever you live. I hope that addresses your question. Thank you, Mr. Chairman.

Chairman: Thank you, Ms. Keenan Bengts. Mr. Joanasie.

Mr. Joanasie (interpretation): Thank you, Mr. Chairman and I thank the privacy commissioner for your answer. In relation to one of the employees, I will ask the question to one of the specific government people who will be appearing eventually.

She also mention in relation what she elaborated on is of major concern because for example the elders. There has been elders could be taken advantages of by very smart people out there in the world. Where they are to know certain things, so, people we need to know how we could prevent others from encroaching on our private lives. I'll stop there for now. Thank you, Mr. Chairman.

Chairman: Thank you, Mr. Joanasie. Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. Yeah, it's not only elders in Nunavut who are taken being advantage of by those who are, let's put it bluntly, criminals. But, it is important and for those are not electronically connected perhaps it is not as big an issue, but we all live in today's world and I know that we are all becoming more and more dependent on the Internet.

Communications is expected these days to have instantaneous communication on who ever it is you're dealing with. And that ability is there and it doesn't matter where you are in the world.

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So, it is important for us to be cognizant of the fact that there are people out there who will take advantage of people and we use personal information. There are instances and it is not just elders. There are instances out there where people have stolen the identity of two and three-year-olds. So, we are talking about the next generation who are technically savvy. I mean my two year old grandson plays knows more about the iPad than I do.

And, that's the same no matter where you live. Kids these days are technically savvy. And, I seen and heard of there are there is a lot stories about for example children. Three year old whose identities have been stolen and because they're babies and they really don't have a lot of things that they need to use to their identities or don't discover that until they go to the bank when they are 18 years old to get a loan to go to school and find out that somebody has used their information for years and years. And that they are in debt to their eyeballs as a result of it.

It happens and we have to be able to educate the people of Nunavut just as the people of you know the Northwest Territories and Ontario and everywhere else. Because you're personal information is valuable and we have to learn how to protect that. Thank you, Mr. Chairman.

Chairman: Thank you, Ms. Keenan Bengts. Also, I guess along those lines some of the private sector privacy concerns fall under federal legislation. Are you in discussion with your federal counterparts on some of the issues that go on in Nunavut and maybe could you give us some little bit of background information on that. Thank you. Ms.

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Ms. Keenan Bengts: Thank you, Mr. Chairman. I actually am unaware of any complaints that have been made to the Federal Privacy Commissioner from Nunavut. I am fairly certain that they would tell me. If they were doing an investigation, one of the problems with PIPEDA which is the and let me see if I can remember on what it means.

Personal Information Protection and Electronic Documents Act, which is the Act that applies to protect privacy. It applies to private sector organizations and requires certain privacy obligations from anyone who undertakes a commercial enterprise in Canada. Those enterprises have to protect the personal information that they collect in the process of doing business.

If I were to file a complaint with the federal privacy commissioner about the local grocer who took my information and misused it, that's not going to attract the attention of the Privacy Commissioner of Canada. The Privacy Commissioner of Canada is dealing with things like Home Depot breaches, and Target. They're only dealing with the big tickets, because they couldn't possibly deal with every complaint that comes through their door from throughout Canada for any commercial activity.

I've said it in the past, but I've kind of backed off it a little bit, but I've said it in the past and happy to say it again, is that I think there's room in Nunavut, in the Northwest Territories, and every jurisdiction for private sector privacy legislation that's localized so that it can be dealt with in a case by case basis. The federal privacy commissioner is never

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going to deal with the mom and pop type store. Those are the kinds of complaints that mean something to us, close to home. Thank you, Mr. Chairman.

Chairman: Thank you, Ms. Keenan Bengts. Along those same lines, one of the obligations or responsibilities of your office is public education, as Mr. Joanasie talked to and you responded to some questions regarding that. To stay with the federal privacy commissioner, is there assistance provided to you to assist with education? Or are there discussions between his or her office and yourself on maybe targeted education campaigns with some of the issues that are ongoing in Nunavut, or the Northwest Territories, which also falls under your round? Ms. Keenan Bengts?

Ms. Keenan Bengts: Thank you, Mr. Chairman. A few years ago, I can't remember what year in particular, I had somebody from the privacy commissioner's office here in Iqaluit and we met with some schools and talk to some students, who were very engaged, they were really interested in this stuff.

They are always offering assistance. They've never really addressed any of the issues that have arisen. We don't talk specifically about things that have come up in Nunavut or the Northwest Territories, or what their working on, in terms of the larger picture. At one point they were considering doing regional offices, one on the east coast, one on the west coast, and one some place in central Canada. At that point, I was engaging them in trying to remind them that we're up here too, and trying to suggest that they do a northern office, but they weren't too interested in that. It's all a matter of scale. Right? In the North,

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Chairman: Thank you. I appreciate that response. On the local radio here in town we often hear public services announcements from the RCMP talking about what type of information you put online, dating sites, blogs, that type of things where people become susceptible to fraudulent activity.

Does your office do any types of those campaigns to assist people with recognizing how much of an impact providing information and to be a little bit more wary, again with departments like health, or education, or any other number of government departments just to be a little bit more cautious of what type of information they are asked and what they provide? Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. Although I'd love to be able to tell you, yes I do all of that stuff, again the reality of the way I work and how much time I have to do this means that I have to address the requests that come in my door first and there's little time left over for other stuff. Is it something I would like to do? Sure. When I have more time to do it soon enough, I would love to be able to do more of that stuff. I have started work on brochures probably half a dozen times that have never been completed simply because by the time I get them done, they're out of date.

I was going to say, "I will commit to," but maybe the better thing to say is that I will certainly try to do better in the future without committing at this point to anything and keeping in mind that my current appointment, although I am

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hoping for a reappointment and I'll put that out there, but my current appointment ends in the spring. Thank you, Mr. Chairman.

Chairman: Thank you for that response. I understand that I might have stepped on a bit of a toe by keeping along my line of questioning ahead of some of my Committee Members and I apologize for that. Are there any other questions from any other Members of the Committee? I have no more names on my list.

I do have a couple of questions, as I alluded to earlier when we were talking about LHOs. One of the concerns that have been brought to my attention and it has got some relevancy here in Iqaluit but also in smaller communities regarding waiting lists and housing allocations, have those topics come up?

Like scoring, for example, how does Mr. X get a unit ahead of me when I know I was at the top of the list and I've got a bigger need and I don't think Mr. X fit all the criteria the way I do? Why did he get a unit? Is that one of the topics that came up in your discussions with NHC regarding LHOs? Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. It didn't come up, but that's exactly the kind of information that people would want, right? That's why LHOs should be subject to the Act because they should be accountable to the public for the decisions they make and the public money they spend and the decisions they make using public money. Did that particular issue come up in our discussions this morning? No. Is it one of the reasons that ATIPP should apply? Absolutely. Thank you, Mr. Chairman.

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Chairman: Thank you for that response. Just one final question. The government has talked about the last couple of years, I believe, and it was brought up again in a response last year regarding the Privacy Management Manual, were you involved in the production of that manual? Ms. Keenan Bengts.

Ms. Keenan Bengts: Thank you, Mr. Chairman. No, I don't think I was. I'm trying to remember. Unfortunately, part of the problem with doing this job in two jurisdictions is that sometimes I get mixed up in what I have done in which jurisdiction. I do not recall having been involved in that particular project in Nunavut.

That said, I believe that you have your own experts within Nunavut, within the government in Nunavut, and that is Jessica Bell, who is very well acquainted with the Act and understands and in fact, her and I think a lot alike in terms of how the Act should apply and what the Act means. I would imagine that she had a lot to do with that and perhaps again, tomorrow when she is appearing before you, you can ask her questions about that. Thank you, Mr. Chairman.

Chairman: Thank you, Ms. Keenan Bengts. I'm sure there will be a lot of questions regarding that manual that was committed to have been tabled over a year and we get to see a copy of it as legislators in this Assembly.

Does anyone else have any questions? With that, I would like to invite Ms. Keenan Bengts for closing comments.

Ms. Keenan Bengts: Thank you, Mr. Chairman. I just wanted to thank you for listening. I get very excited about this

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stuff. It fascinates me. It engages me. I realize that not everybody else is so engaged or fascinated about these issues, so I thank you for your attention and I thank you for your interest.

I just wanted to let you know that if there are ever any questions, I'm happy to engage in discussions with anybody anytime. Give me a chance to talk about this stuff and I enjoy it.

I thank you for having me here when it's still nice out. In particular, I'm usually here in the middle of winter, so I appreciate being here in the summer and I look forward to meeting you again next year. Thank you, Mr. Chairman.

Chairman: Thank you, Ms. Keenan Bengts. My closing comments will be quite short.

I appreciate the time and the length of time that you have been serving Nunavut and Nunavummiut. I know, speaking from my personal experience in previous lives and my involvement with ATIPP, although I made maybe a couple of disparaging hints or hints of remarks of some of the work that's entailed with it, I do understand the value of it.

I have a lot of respect for your office, but I have a lot of respect for all ATIPP workers within the Government of Nunavut. Like you said, it's usually an add-on to the responsibilities and there are very few direct ATIPP coordinators who have that sole responsibility in the Government of Nunavut.

With that in mind, again like I said, I wanted to thank you for your time regarding your commitment of closing your law practice with family law and

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committing yourself wholeheartedly to the commissioner's role. I would like to thank you for one and hopefully we can look forward to working together in the future.

I would like to thank everyone for their participation and a lot of great questions today and a lot of good responses. I appreciate your candour. I'm sure you will be looking forward to tomorrow's proceedings when we have the government sitting in your chair. I thank everyone. Have a nice evening. See you tomorrow at 9:00 a.m.

>>Committee adjourned at 15:57

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