

ATP15-053AI Summary

The Information and Privacy Commissioner (IPC) investigated two complaints that claimed Whitehorse Correctional Centre (WCC) violated the *Access to Information and Protection of Privacy Act* (ATIPP Act). The complainant alleged that WCC violated the ATIPP Act when it used an internal, informal process to manage his request for access to information written on an ATIPP Request form rather than the formal process set out in the ATIPP Act. The records he requested contained his own personal information, third party personal information, and non-personal information. The complainant also alleged that WCC conducted an inadequate search for the photographs he requested. On the issue of adequate search, the IPC found that the search conducted by WCC for the photographs was adequate. On the first issue, the IPC found that WCC acted contrary to the ATIPP Act when it subverted the complainant's formal ATIPP request to its internal process for management, based on its internal policy. The IPC identified that the ATIPP Act is a complete legislative scheme for accessing records and protecting privacy and, therefore, a public body cannot divert a formal access request it receives elsewhere. In her reasons she noted that the policy developed by WCC appeared to authorize disclosures of personal information contrary to Part 3. From this and other evidence she concluded that WCC employees do not fully understand their responsibilities under the ATIPP including the differences between Part 2 (Access to Information) and Part 3 (Protection of Privacy).

The IPC made four recommendations to the Department of Justice (Justice) to remedy the non-compliance. Three out of the four recommendations were accepted. Justice refused the IPC's recommendation to institute a comprehensive ATIPP Act training program for its employees. Justice provided the following for this refusal.

...The Department of Justice accepts recommendations 1-3 but does not agree with recommendation number 4. The Department agrees that Whitehorse Correctional Centre staff should be aware of their obligations under the legislation and this will be done via a new Standing Order. The Department does not agree that the findings of the report require comprehensive training for all staff in the Access to Information and [sic] Privacy Act. However, ATIPP training has been incorporated into Corrections Officer Basic Training...