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NEWS RELEASE

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IPC issues recommendation to Justice after investigation into request for SCAN information

WHITEHORSE – The Office of the Yukon Information and Privacy Commissioner (IPC) has completed an investigation report into a complaint against the Department of Justice in regard to an access request for records obtained by the department under the *Safer Communities and Neighbourhoods Act (SCAN)*. The complaint was made under the *Access to Information and Protection of Privacy Act (ATIPPA)*.

In April 2021, the complainant made a request to the Department of Justice for all records from January 1 through June 3 of 2019, in regard to a SCAN investigation into the complainant. The department provided the complainant with access to 19 records but refused portions of 18 of the 19 records, saying it was authorized to withhold this information by several subsections of ATIPPA. These included subsections that authorize withholding records if the information could interfere with law enforcement and investigation, or could endanger the life or threaten the safety of a law enforcement officer. The department also cited section 70 of ATIPPA, which requires a public body to withhold personal information they determine would be an unreasonable invasion of a third party's privacy.

In June, the complainant brought the matter to the IPC, saying that greater disclosure could have been provided while still complying with ATIPPA's prohibitions and mandatory exceptions to disclosure.

"One of the first challenges our office had with this case was that the department refused to provide us with the information we needed in the early stages of our work," said IPC Diane McLeod-McKay.

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McLeod-McKay added “As with most of our cases, we work to resolve the complaint informally first, and only move to a formal investigation if the informal process fails. The informal process serves the public interest because it often takes less time and requires fewer resources to resolve the complaint. However, in this case, the department would not provide us with unredacted records during our informal process. I had no choice but to conduct a full investigation in order to view the information redacted from the relevant records by the department.”

The investigation report, which can be viewed [here](#), analyzed this problem and concluded that ATIPPA clearly authorizes the IPC to receive all the information required to resolve the complaint, both during the informal and formal processes.

In regard to the complaint itself, based on the evidence provided by the department, which amounted to little more than mere assertions that the cited exceptions applied, the adjudicator assigned to the case by the IPC concluded that disclosing the requested records would not interfere with law enforcement or threaten the safety or lives of law enforcement officers. The adjudicator recommended that the department provide all the information to the complainant, except for the personal information of third parties, on the basis that disclosing this information to the complainant would be an unreasonable invasion of their privacy, as set out in Section 70 of ATIPPA.

The Department of Justice partially accepted the recommendation. It refused to provide access to certain specific information in just a few records, namely, information about a specific recording device that is identified in one record, cell phone numbers of SCAN investigators identified in two records, and parts of two records because they include information about an ongoing SCAN investigation.

The Ombudsman, Information and Privacy Commissioner, and Public Interest Disclosure Commissioner is an independent officer of the Yukon Legislative Assembly. For more information, please go to www.yukonombudsman.ca.

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