



April 16, 2010

Dennis Cooley, Deputy Minister
Department of Justice
Government of Yukon J-1

Dear Mr. Cooley:

**Re: Bill No. 81 - *Victims of Crime Act*
Our File ATP10-006AC**

I confirm receipt of your letter of April 6, 2010 in response to my comments. I note that the First Reading of Bill No. 81 was on March 29, 2010 – a week prior to your letter. I thank you for your invitation to meet with me should I have further comments. However, I am not satisfied that my comments to a sponsoring department would be effective once a Bill has already been introduced to the Legislature.

My February 15, 2010 letter makes reference to the Department's lack of timely consultation with this office where implications for access to information or for protection of privacy clearly existed in the proposed legislation. Although some sponsoring departments are more proactive in such consultations, I expect a more consistent approach. Since you have not responded on that point, can you please advise me of the process for legislative drafting, so that I can be more specific in my request for consultation at an earlier stage in the future.

For your convenience I will recap my recommendations from my February 15, 2010 letter to you:

[A.] It is my recommendation that 'cooperating bodies' and 'service providers' identified by the Victims' Rights Regulation be designated as public bodies and added to the list under the ATIPP Act and that the *Victims of Crime Act* specifically state that personal information in the custody or control of cooperating bodies and service providers be collected, used, disclosed and otherwise protected in accordance with the ATIPP Act.

[B.] I recommend that the collection of personal information by cooperating bodies and service providers be through direct consent or specifically authorized in the *Victims of Crime Act*.

[C.] ...I recommend that the *Victims of Crime Act* include such provisions so that future agreements and regulations cannot allow disclosure of victims' personal information from public bodies to other organizations that are not subject to privacy protection legislation.

You responded to these recommendations by including a provision authorizing a public body's collection, in any manner, of a victim's name and contact information and information regarding the offence and authorization to provide that same information to any other person. I recognize that this provision provides the necessary authorization as well as limiting the personal information that can be freely collected and disclosed.

Your letter comments on my lack of appreciation for the benefit of this legislation. As Yukon's Information and Privacy Commissioner, it is within my mandate to comment on public policy decisions only as they relate to the administration of the ATIPP Act or those which have implications for access to information or protection of privacy or where there is improper administration of the management or safekeeping of a record or information by public bodies.

You did not address my recommendation as relates to protecting victims' personal information where it is in the custody or under the control of bodies or individuals that are not currently within the scope of the ATIPP Act or the *Privacy Act*. You also did not address my recommendation to place limits on future agreements or regulations under the *Victims of Crime Act* which could erode victims' privacy protections. I would appreciate receiving your explanation of how you have addressed these concerns.

Yours sincerely,

Original signed by

Tracy-Anne McPhee
Ombudsman
Information and Privacy Commissioner

TAM/cbl

Enc.

cc: Carole Williams, Policy Development Officer, Department of Justice
Dan Cable, Department of Justice, ATIPP Coordinator

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