

**ANNUAL REPORT**

**2011**

**OFFICE OF THE  
INFORMATION AND PRIVACY  
COMMISSIONER**

**PROVINCE OF PRINCE EDWARD ISLAND**





**REPORT OF THE  
INFORMATION AND PRIVACY COMMISSIONER  
FOR THE  
PROVINCE OF PRINCE EDWARD ISLAND**

**2011**



Prince Edward Island Île-du-Prince-Édouard

Legislative Assembly

Assemblée législative

Information and  
Privacy Commissioner  
PO Box 2000, Charlottetown PE  
Canada C1A 7N8

Commissaire à l'information et  
à la protection de la vie privée  
C.P. 2000, Charlottetown PE  
Canada C1A 7N8

December 19, 2012

The Honourable Carolyn Bertram, MLA  
Speaker of the Legislative Assembly  
Province of Prince Edward Island  
P.O. Box 2000  
Charlottetown, PE  
C1A 7N8

Dear Honourable Madam Bertram:

I am pleased to present to you my third annual report. The enclosed 2011 Annual Report of the Office of the Information and Privacy Commissioner, for the period January 1, 2011 to December 31, 2011, is the ninth report from this office and is submitted to you pursuant to subsection 59(1) of the *Freedom of Information and Protection of Privacy Act*.

Respectfully,

Maria C. MacDonald  
Information and Privacy Commissioner

enclosure

MCM/ms

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## OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

### Commissioner's Message:

A quality annual report must be objective, fair and accurate in order to provide the reader with the detail required to make sound judgment on the reporting body. In support of the principles of accountability and quality information, it is my intention that this year's annual report opens the door of the Office of the Information and Privacy Commissioner ("OIPC") to allow the reader a picture of the activities carried out throughout the 2011 year. I have included summaries of orders of the office and some detail on the work involved in handling an inquiry, completing an order and participating in a judicial review.

Citizens of Prince Edward Island have the right to access public records and to have their personal information protected. As Information and Privacy Commissioner for the Province of Prince Edward Island, I am responsible for overseeing this office and ensuring that the provincial government is following the provisions and intent of the *Freedom of Information and Protection of Privacy Act* ("FOIPP Act"). The main way to monitor how effectively employees of the provincial government are administering the FOIPP Act in their day-to-day activities is by reviewing their decisions, acts and failures to act. To ensure fairness, I often have to help parties, but I remain an impartial decision-maker. I am not an ally or supporter for the province or the applicant; I interpret and adjudicate the FOIPP Act.

I strive to educate the provincial government and the public about the intent and content of the FOIPP Act. The most formal tool is orders. By way of detailed analysis, I share interpretations of the provisions of the FOIPP Act that one can rely on for direction. My goal is to issue decisions that reflect a clear understanding of the FOIPP Act's intent and that assist with compliance. I also want my orders to provide an awareness of what one can expect from the province when requesting access to information and for protecting one's privacy.

The three orders issued during 2011 offer beneficial instruction on how the provincial government can honour our rights as citizens of Prince Edward Island under the FOIPP Act. Supernumerary Commissioner Karen A. Rose issued two decisions on access to information and I issued a decision on protection of privacy.

It is critical to the credibility of the OIPC that the decision-maker be objective and perceived as unbiased. At the time of my appointment, previous Acting Commissioner Judy Haldemann had nearly completed two related investigations. There was the potential that I may appear to have a bias with these investigations, as some of the records at issue contained my name. Karen A. Rose agreed to complete the investigations, provide deliberation and issue the final orders. I thank Karen Rose for her continued support. The province has once again benefitted from her knowledge and experience, having been the first Information and Privacy Commissioner of

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Prince Edward Island and having returned as Acting Information and Privacy Commissioner for an additional period.

The highlight of my year was the opportunity to participate in the 7th Annual International Conference of Information Commissioners held in Ottawa, ON, October 3-5, 2011. The conference, entitled “*Access to Information: A Pillar of Democracy*”, was attended by Information Commissioners from 23 countries. Hearing the perspectives from other countries that are new to democracy and struggle with corruption and human rights problems renewed my conviction that access to information is vital to good government. At the conclusion of the conference, the participating countries, including Canada, endorsed a resolution calling on governments to enshrine the right to information in national laws and to put in place effective appeal mechanisms.

In last year’s report, I estimated that there was a two-year backlog of files, not including two ongoing judicial reviews. Had my workload been limited to these orders alone, I would be well on the way to reducing this backlog; however, my workload also included participation in two judicial reviews, investigating nine new files opened in 2010 and an additional 20 new files opened in 2011. I underestimated the amount of work involved with these judicial reviews and new investigations and inquiries, even with the assistance of a full-time employee, whom I thank for her continued dedication to the office.

This report provides examples of the work involved in carrying out my duties, including investigations, research, deliberation and order writing. I have also provided detail on the work that was involved with the judicial reviews. Another year is under my belt and I now have a greater understanding of the challenges we face. I am proud of what my office achieved in advancing transparency within our provincial government and I know that the OIPC plays a critical role in modern democracy. I have taken off my rose-colored glasses, rolled up my sleeves and look forward to continuing my work with determination.

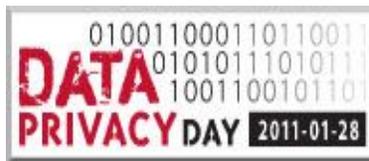
Maria C. MacDonald,  
Information and Privacy Commissioner

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## Overview of Activities of the Office of the Information and Privacy Commissioner:

**Data Privacy Day:** Data Privacy Day is a day set to commemorate the 1981 signing of Convention 108, an international treaty dealing with privacy and data protection. Our use of the internet and related technology is increasing daily, so this annual international celebration helps to promote awareness about privacy rights, especially now, when vast amounts of personal information is being collected, stored, used and shared online.

The theme for Data Privacy Day 2011 was “*The Net never forgets. Remember to protect your Personal data.*” The federal Office of the Privacy Commissioner generously provided much appreciated resources to this office, including logo-bearing stickers, posters, mobile device screen wipes, calendars featuring humorous cartoons with tips about topical privacy issues, an encrypted flash drive and five Data Privacy Day travel mugs. Many of the resources were distributed to UPEI, Holland College, the Legislative Assembly, throughout the provincial government and offered on our website. The encrypted flash drive and three of the travel mugs were given as door prizes at three separate speaking engagements. The federal office also supplied us button and banner web graphics and fact sheets for use on our newly created Data Privacy Day web page.



**Federal Bill C-52:** In March of 2011, I joined my federal, provincial and territorial counterparts in signing and sending a letter to the Deputy Minister of Public Safety Canada. We all shared privacy concerns with Bill C-52, a federal government initiative to amend the law that governs electronic search, seizure and surveillance by the state. The proposed lawful access initiative (“*Investigating and Preventing Criminal Electronic Communications Act*”) required telecommunication companies to collect personal information about its clients and allow access by police to this information without a warrant. Members of the House of Commons Standing Committee on Public Safety and National Security and its Committee on Justice and Human Rights also received a copy of this letter. Bill C-52 incorporated an oversight provision whereby the “public officer for [a] province whose duties include investigations relating to the protection of privacy” would oversee questionable practices of its users; however, no one fits this description on PEI. The new bill presented legislative gaps in oversight for Prince Edward Island, as our provincial university, college and municipal police forces are not within my jurisdiction, nor within the jurisdiction the federal Privacy Commissioner. I sent an additional letter to the Deputy Minister of Public Safety Canada outlining concerns specific to Prince Edward Island. Bill C-52 died on the Order Paper after the calling of a federal election on March 25, 2011.

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**Records Information Management:** Previous orders issued from this office speak to the importance of records information management and the responsibility of government to maintain an organized and efficient records storage and retrieval system. It is appropriate that the OIPC meet the level of standards noted in these orders. Although the OIPC is not subject to the *Archives and Records Act*, staff of the office attended a three-day records information management course offered by the Provincial Records Manager. This course is extremely beneficial in an organizational sense, and the OIPC is currently undertaking the task of implementing the provincial government’s file classification plan to its existing files. The files that the OIPC holds is considerably few in number compared to those within the provincial government departments, and I now recognize the magnitude of the job that faces each record management officer in completing their respective file classification plan. There is a natural inter-relationship between records information management and access to information and protection of privacy. The OIPC thanks Ann Marie MacIsaac, Provincial Records Manager, for promoting and educating employees on records information management responsibilities.

**Request for Access to Information:**

The OIPC has answered informal inquiries in the past, but it received its first formal request for access to information in 2011. Although the offices of the Speaker and the MLA’s are not subject to the *FOIPP Act*, it is a common misinterpretation that none of the offices of the Legislative Assembly is subject to the *FOIPP Act*. The OIPC is indeed subject to the *FOIPP Act*, as are some of the other offices of the Legislative Assembly; however, before you start whipping out your access to information requests, the *FOIPP Act* does not apply to records that relate to the exercise of the statutory functions of an officer of the Legislative Assembly. As described, that represents most of the records in these offices. There is nothing preventing them from supplying the public with information, providing that they still comply with the provisions of the *FOIPP Act*, including protecting personal information from unreasonable invasion of privacy.

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| <p>1. In this Act,</p> <p>(h) “officer of the Legislative Assembly” means the Auditor General, the Clerk, Clerk Assistant and Sergeant-at-Arms, Chief Electoral Officer, the Information and Privacy Commissioner or the Conflict of Interest Commissioner;</p> <p>(k) “public body” means</p> <p>(iv) the office of an officer of the Legislative Assembly . . .</p> <p>but does not include</p> <p>(v) the office of the Speaker of the Legislative Assembly and the office of a Member of the Legislative Assembly</p> <p>. . .</p> <p>4. (1) This Act applies to all records in the custody or under the control of a public body, including court administration records, but does not apply to the following:</p> <p>(c) a record that is created by or for or is in the custody or under the control of an officer of the Legislative Assembly and relates to the exercise of that officer’s functions under an enactment;</p> |
|---|

**Right to Know Week:** Right to Know Week is celebrated internationally during the third week of September, which, in 2011, was September 26 to 30. Right to Know Week 2011 fell during our provincial election. PEI was not alone; voters in the Northwest Territories, Manitoba, Ontario, Newfoundland and Labrador and Saskatchewan were all gearing up for their respective polls. Recognizing how important it is that Islanders participate in the democratic process of choosing their representative government, we gladly took the back seat. A Right to Know editorial was published in the *Eastern Graphic* and *West Prince Graphic*, and our website provided information from other jurisdictions across Canada.



**FOIPP Quote:** *“Adopting the law was the first step, but citizens play a major role in changing the mind-set of the government by exercising the right to access information to ensure accountable government. Strong leadership from the top and consistent utilization of the Act by the public will pull us ever closer to the objectives of an open and transparent government.”* Maria C. MacDonald, Information and Privacy Commissioner, PEI

**Travel:** I travelled to Quebec City, Quebec, to attend the 2011 Federal/Provincial/Territorial Commissioners Summit. This annual conference is very important to the office, in that it provides an opportunity to share experiences, best practices and procedures. As one of the smallest offices in Canada, I cannot begin to measure the benefits I receive by attending. Our individual provincial laws are slightly different, but the issues each jurisdiction is addressing are the same.

My assistant and I both attended the 7<sup>th</sup> Annual International Conference of Information Commissioners in Ottawa, Ontario on October 4-6, 2011. We often draw on the presentations shared by delegates worldwide. The conference gave us a world picture of how the right of access is influencing other countries.

**FOIPP FACT:** In 2011, students of Yale University reported on an experiment carried out in a Delhi slum in India. Four experimental groups made up of poor slum dwellers applied for a ration card:

- The first group submitted the application, but did nothing more;
- The second group attached a letter of recommendation from a non-government organization to its application;
- The third group paid a bribe after submitting its application; and
- The fourth group enquired about the status of its application through a right to information request shortly after submitting its application.

The group that paid the bribe had its application processed fastest, but the group that made a right to information request was almost as successful! See: [http://articles.timesofindia.indiatimes.com/2011-05-02/india/29495522\\_1\\_ration-card-rti-request-rti-application](http://articles.timesofindia.indiatimes.com/2011-05-02/india/29495522_1_ration-card-rti-request-rti-application)

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Participating at this conference has renewed my commitment to the purpose of the *FOIPP Act*, the OIPC and its impact on human rights and democracy.

In November, 2011, I joined other Commissioners and representatives from provincial health ministries to attend a two-day meeting hosted by Canada Health Infoway, an organization established and funded by the federal government to assist in aligning compatibility to provincial, territorial and federal electronic health information systems.

Details of the cost of travel is posted on the OIPC website under the heading “*Proactive Disclosure*”.

**Speaking Engagements:** I was happy to participate in various public speaking events during 2011. I spoke to provincial FOIPP coordinators at a couple of meetings organized by Kathryn Dickson, Provincial Manager of Access and Privacy Services. I also had the opportunity to join Howard Beattie of Holland College and speak at a public presentation at the Confederation Centre Public Library called “*A Very Important Privacy Event*” organized by ARMA PEI (Association for Information Management Professionals) and CAPAPA (Canadian Association of Professional Access and Privacy Administrators). In addition, I made a presentation to the Women’s Probus Club of PEI and, as previously noted, I was one of the moderators at the 7<sup>th</sup> Annual International Commissioners Conference.

**Budget:** This annual report covers activities of the OIPC during the calendar year of 2011 in all respects except the budget. The reporting period of the budget is from April 1, 2011, to March 31, 2012.

	<b>2011-2012 Budget Forecast</b>	<b>2011-2012 Budget Estimate</b>
Administration	4,900.00	4,900.00
Materials, Supplies and Services	1,600.00	1,600.00
Professional and Contract Services	1,000.00	1,000.00
Salaries, benefits and contributions	96,900.00	95,800.00
Travel and Training	<u>5,000.00</u>	<u>5,000.00</u>
<b>Total</b>	109,400.00	108,300.00

The OIPC budget does not give the whole picture of the operating expenses of the office, because the costs of some of the supplies and services the office receives is absorbed by other departments of the provincial government and the Legislative Assembly (e.g. office space and utilities, photocopy paper, accounting services, printing services, IT support and personnel services). The salaries for employees of the provincial government and Legislative Assembly increased in 2011. This mandatory basic increase is included in the OIPC budget for the 2011/12

year<sup>1</sup>. The office is always very mindful of its spending activities and attempts every year to stay within the allocations; however, certain expenses fall outside of its control.

The OIPC was under budget in all but one of its accounts. The professional and contract services account for the OIPC has a budgeted amount of \$1,000.00. As noted earlier, because of the possible perception of bias, the office contracted the services of Karen A. Rose to act as Supernumerary Commissioner on two review files. The OIPC was also involved in judicial reviews of two of its orders that required legal counsel. According to in-house financial records, the total expense for legal services for the office in 2011 was approximately \$65,000.00. The involvement of the OIPC in a judicial review is not to defend its order, as the words of the decision speak for themselves. The OIPC's role in a judicial review is to provide and clarify the records that the Commissioner considered to make the decision, to assist the Court with the OIPC home legislation and procedures and to make submissions to the Court on its standard of review.

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<sup>1</sup> This information is taken from page 159 of the *Prince Edward Island Estimates 2011-2012*, as found at: <http://www.gov.pe.ca/budget/2011/estimates.pdf> ; and page 157 of the *Prince Edward Island Estimates 2012-2013*, as found at: [http://www.gov.pe.ca/photos/original/fema\\_bdgtestim.pdf](http://www.gov.pe.ca/photos/original/fema_bdgtestim.pdf) .

## Update to 2010 Annual Report:

**Grace P  pin Award:** The Office of the Information Commissioner of Canada introduced the Grace-P  pin Access to Information Award during Right to Know Week 2010. It recognizes the efforts of an individual, group or organization, contributing in a significant way to promoting and supporting the principles of transparency, accountability and the right of access to information held by public institutions.

The University of Alberta’s Information Access and Protection of Privacy Certificate Program received the inaugural award during the 7<sup>th</sup> Annual International Conference of Information Commissioners. This is a comprehensive, on-line, post-secondary level education program for access and privacy administrators. When presenting the award, the federal Information Commissioner, Suzanne Legault, noted, “The IAPP Program has clearly made an exceptional contribution to the promotion and support of the principles of transparency, accountability and the public’s right to access information held by public institutions.”



**Judicial Review of Order No. FI-10-007:** The Department of Innovation and Advanced Learning (“I&AL”) refused several requests for access to records of the Island Investment Development Inc. about the Provincial Nominee Program (“PNP”) and its participants. Four of those applicants asked the OIPC for a review of the decision each received. Acting Information and Privacy Commissioner Judy Haldemann upheld the decisions of I&AL in Order No. FI-10-007. Subsequently, one of the four applicants asked the Supreme Court of PEI for a judicial review of Order No. FI-10-007, claiming the Commissioner erred in fact and law.

The role of the OIPC during the judicial review was not to defend the order, but to provide the records the Acting Commissioner considered when making her decision, to explain the *FOIPP Act* and procedures of the office and to provide submission to the Court on its standard of review.

Proceedings for the judicial review required the OIPC to provide all related documents to the Court. Access to the identifying information contained in the records the Acting Commissioner considered when making her decision was the subject of the order: the names of the PNP participants and number of units each received. If the OIPC filed these records with the Court, as required, the records would then be available to the public, thereby undermining the entire FOIPP process. As such, in January 2011, the OIPC asked the Court to seal that portion of the records containing the identifying information, which, in effect, would limit access of the records to the Court alone. The Court ordered the OIPC to redact the documents and purge them of all

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third party identifying information. The hearing of the judicial review came before the Honourable Justice Wayne D. Cheverie of the Supreme Court of PEI on March 26, 2012.

**Judicial Review of Order No. PP-10-001:** An individual who was a party to a decision of the Island Regulatory and Appeals Commission (“IRAC”) submitted a privacy complaint to the OIPC. His complaint was that IRAC improperly disclosed his personal information when it published his name in an IRAC order. Although Acting Commissioner Judy Haldemann dismissed the privacy complaint, her decision included an order that IRAC not publish names of non-party witnesses in its published orders. IRAC asked the Supreme Court of PEI for a judicial review of Order No. PP-10-001. IRAC claimed that the Commissioner erred in considering an issue that was not part of the complaint before her and in rendering a decision without requesting submissions from the parties, thereby erring in law.

The Prince Edward Island Human Rights Commission, another administrative tribunal that issues orders, held an interest in the application. Upon application, the Court allowed it to be included as an intervening party.

The role of the OIPC during the judicial review was not to defend its order, but to provide the records the Acting Commissioner considered when making her decision, to explain the *FOIPP Act* and the procedures of the office and to provide submission to the Court on its standard of review.

In March, 2011, the OIPC asked the Court to redact personal information of named individuals contained in the evidence to be filed with the Court who are not directly involved in the judicial review proceeding. The Court dismissed the OIPC motion, ordering the evidence be filed with the Court in its complete state. The hearing of the judicial review came before the Honourable Justice Benjamin B. Taylor of the Supreme Court of PEI on February 21, 2012.

**FOIPP Quote:** *“In the first instance, much of the exercise of balancing falls to the parties involved and the Commissioners. Courts, when called on, may give guidance in the balancing. What results is a multi-layered dialogue within government agencies, in the offices of the Information and Privacy Commissioners, and in courtrooms. From their different vantage points, the institutional actors on the information and privacy stage play their parts in maintaining a viable balance between government accountability and conflicting rights and interests, for the greater benefit of Canadian democracy.”*  
Remarks of the Right Honourable Beverley McLachlin, P.C. Chief Justice of Canada, “Access to Information and Protection of Privacy in a Democracy”, May 5, 2009

## Commissioner's Focus:

One of the reporting provisions of section 59 of the *FOIPP Act* is to report to the Speaker of the Legislative Assembly on any complaints resulting from the Information and Privacy Commissioners decisions, acts or failures to act as head of a public body. The OIPC received no formal complaints of this nature, but there have been concerns expressed about the delay in issuing decisions on reviews. I am aware that access delayed is access denied, and I fear that these delays reduce the credibility of the OIPC. This Commissioners Focus provides some detailed examples of the work of the OIPC during 2011, giving some insight into the time involved in a review process, an order and a judicial review.

**Investigations:** In five reviews received by the OIPC during 2011, the government entity ("public body") of each file refused to provide the records at issue to the Information and Privacy Commissioner, claiming the records were subject to solicitor-client privilege and relying on a Supreme Court of Canada decision to support its refusal - *Canada (Privacy Commissioner) v. Blood Tribe Department of Health*, 2008 SCC 44]. In that case, the Court held that the Privacy Commissioner of Canada did not have the authority under the *Personal Information Protection and Electronic Documents Act* to compel the production of records subject to solicitor-client privilege.

Unlike the federal Privacy Commissioner, the Information and Privacy Commissioner of PEI has the authority under the *Freedom of Information and Protection of Privacy Act* to order the production of all records from a public body for the purposes of a review. Although not required to do so, but being mindful of the importance of solicitor-client privilege, I agreed to adopt a protocol of the Office of the Information and Privacy Commissioner of Alberta, whose province has a substantially similar solicitor-client privilege exception to disclosure in its law.

The Solicitor-Client Privilege Adjudication Protocol provides a public body with the options of:

- (i) voluntarily producing the records requested by the Commissioner for review; or
- (ii) submitting evidence that would establish solicitor-client privilege without revealing the content of the privileged information to the Commissioner.

53. (1) In conducting an investigation under clause 50(1)(a) or an inquiry under section 64 or in giving advice and recommendations under section 51, the Commissioner has all the powers, privileges and immunities of a commissioner under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31 and the powers given by subsection (2).

(2) The Commissioner may require any record to be produced to the Commissioner and may examine any information in a record, including personal information whether or not the record is subject to the provisions of this Act.

(3) Despite any other enactment or any privilege of the law of evidence, a public body shall produce to the Commissioner within 10 days any record or a copy of any record required under subsection (1) or (2).

The evidence referred to in option (ii) needs to show that the record meets three criteria of solicitor-client privilege:

- (a) there is a communication between a lawyer and the lawyer’s client; and
- (b) the communication entails the giving or seeking of legal advice; and
- (c) the communication was intended to be confidential.

If the evidence supports all three criteria, the Commissioner will accept the record as solicitor-client privileged, and the public body will not be required to produce it; however, if the evidence is lacking, the Commissioner will order its production to fairly determine whether the public body properly claimed solicitor-client privilege.

The following case study illustrates the progression of one of the reviews involving a claim of solicitor-client privilege on multiple records. It takes us to day 248 of the review: the public body has provided evidence on its claim that the records are subject to solicitor-client privilege and the Commissioner must now assess whether the evidence is sufficient to meet the three criteria.

<b>Case Study of Review Process</b>	<i>“PB” refers to Public Body “OIPC” refers to Office of the Information and Privacy Commissioner</i>
<b>Day 1</b>	OIPC receives request for review. OIPC meets with Applicant about review.
<b>Day 6</b>	OIPC, by email, advises PB of request for review.
<b>Day 14</b>	OIPC, by letter to PB, gives a copy of request for review and explains review procedure. Commissioner asks PB to provide all related documents by day 31. OIPC, by letter to Applicant, explains review procedure.
<b>Day 21</b>	PB, by email to OIPC, requests a 30-day extension, to day 61.
<b>Day 23</b>	OIPC, by email and letter to PB, grants PB a 7-day extension to day 38.
<b>Day 38</b>	PB, by letter to OIPC, refuses to provide OIPC with records at issue, claims solicitor-client privilege over the records and suggests applying the solicitor-client privilege protocol from Alberta.
<b>Day 41</b>	OIPC, by letter to PB, commences a formal inquiry; PB to provide OIPC with evidence and submissions on solicitor-client privilege by day 57.
<b>Day 45</b>	PB, by letter to OIPC, requests a 27-day extension to day 84.
<b>Day 49</b>	OIPC, by email to Applicant, gives Applicant information about solicitor-client privilege protocol. OIPC, by letter to PB, grants PB a 23-day extension to day 80.

<b>Day 80</b>	PB, by letter to OIPC, provides OIPC with submissions on solicitor-client privilege, a 175-page book of authorities, supporting affidavit evidence and 26 uncompleted protocol record forms. PB advises it located additional responsive records and will process them.
<b>Day 132</b>	OIPC, by letter to PB, asks PB for completed record forms and evidence of solicitor-client privilege by day 139.
<b>Day 134</b>	PB, by telephone, requests a 4-day extension to day 143.
<b>Day 139</b>	OIPC, by letter to the PB, grants PB a 4-day extension to day 143 and notifies PB that time for completing investigation has to be set outside the 90-day limit.
<b>Day 143</b>	PB, by letter to OIPC, provides additional preliminary evidence under protest and without prejudice, including affidavit evidence and 65 pages of authorities. PB asks Commissioner for direction on what to do with additional responsive records noted at day 80.
<b>Day 148</b>	OIPC, by letter to Applicant, provides Applicant with PB's first set of submissions on PB claim of privilege over producing records to the OIPC and offers Applicant an opportunity to respond.
<b>Day 154</b>	OIPC, by letter to PB, advises PB to process additional responsive records, clarifies the PB's burden of proof, provides PB with information about solicitor-client privilege protocol and speaks to issue of PB submissions being on a without prejudice basis.
<b>Day 155</b>	OIPC, by letter to Applicant, speaks to the issue of Applicant's submissions being on a without prejudice basis.
<b>Day 161</b>	Applicant, by letter to OIPC, confirms the without prejudice basis on the request for review.
<b>Day 171</b>	PB, by letter to OIPC, removes the without prejudice condition on PB submissions and attaches a 17-page authority.
<b>Day 188</b>	OIPC, by letter to PB, acknowledges receipt of additional submissions. OIPC, by letter to Applicant, forwards PB submissions and asks for response by day 199.
<b>Day 210</b>	Applicant, by letter to OIPC, provides response submissions. OIPC receives copy of PB decision letter to Applicant re additional responsive records.
<b>Day 220</b>	Applicant, by letter to OIPC, provides copy of PB decision letter on additional responsive records noted at day 80 and asks that a review of the decision be added to present review.
<b>Day 224</b>	OIPC, by letter to PB, gives a copy of second request for review and explains the review procedure. OIPC asks PB to provide all related documents by day 239.
<b>Day 233</b>	OIPC, by letter to Applicant, asks Applicant for evidence of solicitor-client privilege by day 248.
<b>Day 234</b>	PB, by email to OIPC, seeks guidance on submissions and a 2-day extension to day 241. OIPC, by email to PB, confirms guidance and extension to day 241.

<b>Day 240</b>	PB, by email to OIPC, requests a 7-day extension to day 246. PB, by telephone to OIPC, requests a 9-day extension to day 248. OIPC, by email to PB, grants PB a 9-extension to day 248.
<b>Day 241</b>	PB, by email to OIPC, asks that evidence be submitted in camera. OIPC, by email to PB, confirms evidence (not the records at issue) will be provided to Applicant.
<b>Day 248</b>	Applicant, by letter to OIPC, provides response submissions with over 100 pages of authorities. PB, by letter to OIPC, provides OIPC with supplementary submissions on solicitor-client privilege, supporting affidavit evidence and 36 additional completed record forms as noted on day 80.

In this example, the review is well past the 90-day legislated time period given the Commissioner to complete the inquiry. The Commissioner has received the public body's evidence on its claim of solicitor-client privilege over the records, but not the records themselves. The parties still have evidence to submit to the Commissioner to support their respective positions on the decision of the access to information request, and the Commissioner still has to review the evidence, conduct research into the issues, deliberate on the facts. If the claim of solicitor-client privilege is not applicable, the public body has also relied on alternative claims of exceptions to disclosure. This example is not representative of how all the public bodies approach a review, or the solicitor-client exception to disclosure, but it is an example of a compound file.

A review often includes multiple exceptions of the *FOIPP Act* to multiple types of information within multiple records; as such, the review process is frequently multi-layered and requires thorough examination of both the *FOIPP Act* and the content of the records at issue.

**64.** (6) An inquiry under this section shall be completed within 90 days after receiving the request for the review unless the Commissioner

(a) notifies the person who asked for the review, the head of the public body concerned and any other person given a copy of the request for the review that the Commissioner is extending that period; and

(b) provides an anticipated date for the completion of the review.

**Research, Deliberation and Writing an Order:** A quality decision requires sufficient time to gain a solid understanding of all of the relevant factors surrounding each issue, whether it is about the intricate legislation, policies and procedures of a workers compensation program, or the required duties of a provincial animal welfare inspector. I have the power to issue a binding order that public bodies have to follow. There is a right to judicial review and although I believe it is a valuable exercise, it is an expensive and time-consuming process. The orders issued out of the OIPC become an important influence on its future decisions and potentially on decisions of other jurisdictions or the courts – I need to get it right the first time.

The investigation of a privacy complaint resulting in Order PP-11-001 is an example of a complex file involving two public bodies: the Workers Compensation Board (WCB) and the

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Workers Compensation Appeals Tribunal (WCAT). The issues were complicated and the analysis included several sections of the *FOIPP Act*. To make a sound decision, it was necessary to gain a solid understanding of the operations of the two public bodies to be able to understand the context of the complaint. It required months of immersion into the operations of the workers compensation regime, including workers compensation statutes, regulations, policies, procedures and case law. Much of the case law submitted was from other jurisdictions, so I needed to look at the legislation of the other jurisdictions, as well.

In 2011, the OIPC contracted the services of Karen A. Rose to act as Supernumerary Commissioner and issue orders on two separate but related review files. When the OIPC retained Ms. Rose, the investigation of the first file was complete and the second file, although different in issue, involved the same public body, the same applicant and the same records. The duties of Ms. Rose were limited to research, deliberation and writing the two orders; they did not include any other duties of the OIPC. Receiving only some assistance from the OIPC with administrative services, Supernumerary Commissioner Rose spent 294 hours (or the equivalent of a little more than 13 weeks for a part time Commissioner) to complete her decisions.

I report on these examples to illustrate that researching, deliberating and writing an order on any review is a complex endeavour. Although one cannot extrapolate to create a general standard for how long it should take to write an order, I find it reassuring to see the time it took Ms. Rose to write a solid decision, being someone with almost 5 years of oversight experience who had previously issued orders on the same topics.

**Judicial Reviews:** The OIPC faced two judicial reviews in 2011, one being the judicial review of Order FI-10-007, concerning the decision of the Department of Innovation and Advance Learning (“I&AL”) to deny access to records about the participants and units of the Provincial Nominee Program (“PNP”).

The OIPC hired a lawyer to represent the office and prepare submissions to the Court on its behalf; however, there was still a part for the Commissioner to play, and it had a considerable impact on the time and resources of the OIPC. I reviewed our counsel’s submissions and, being ever mindful of the option of the Court to refer the matter back to me for further consideration, I studied the fact and law submissions of counsel for the other two parties.

The role of the OIPC during the judicial review included providing the Court with the documents that the Acting Commissioner considered. The thousands of pages of documents related to the case created a court record measuring about two and a half feet tall. The Supreme Court ordered the OIPC to sever any third party identifying information from the court record, and over the course of three months, the OIPC severed information from more than 4,000 pages of documents. Preparing the court record gave me hands-on insight into the many issues the frontline FOIPP coordinators frequently address (ie., *How much severing is enough, but not too much? How long will it take? How can we manage other work while meeting the deadline?* ).

Some may question my decision for the OIPC, with its limited time and resources, to perform this task, but legal qualifications were not necessary, and I estimate that if I had directed our

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legal counsel to prepare the severed record, it would have cost the OIPC more than an additional \$50,000.00 in legal fees.

**Concluding Remarks:** The OIPC is not the only decision-making body that struggles with backlog and timeliness. Many of these bodies actively involve case management during the various stages of a dispute and find that it assists with delays and backlog. An organization with a greater number of personnel has the liberty of separating the role of case manager from the role of the final decision-maker (e.g., in the PEI Supreme Court, the judge who ultimately makes the final decision is not the same person who performs the pretrial case management). I would prefer a more vigorous case management within the OIPC; however, as the sole decision-maker, I cannot do or say anything that may be interpreted as a demonstration of a bias.

I am an independent officer of the Legislative Assembly (which means that I am not controlled by the government) and I am accountable to the public. The nature of most investigations and inquiries on access to information and protection of privacy do not allow an open-court style hearing, so the public cannot watch me in action to see if the process I follow and the decisions I issue are fair. Orders of the OIPC set out the findings of fact and an explanation of how the law is applied; they are just as much for the benefit of the public as they are for the parties involved. Research, analysis and interpretation of the facts and law take time, but a well thought-out order serves as an authority in future access requests and reviews that deal with similar records and provisions of the *FOIPP Act*.

I have a duty to the public to act with integrity and efficiency. The orders of the OIPC fulfill part of my obligation of accountability by clearly setting out my decisions and my reasons. Through this Commissioner's Focus, I provide more detail on the time involved in carrying out additional and necessary functions of the OIPC. The review process is an ongoing and, yes, time-consuming duty, but I am not complaining. I believe the time invested during the early stages of a review can improve the evidence gathering, perhaps narrow the records and issues and, ultimately, improve the quality of the final resulting order, if one is required. The challenge the OIPC faces is how to improve the timeliness of investigating and deliberating review files without sacrificing the quality of adjudication.

## Summary of Orders

### Access to Information:

Karen A. Rose, acting as Supernumerary Commissioner, adjudicated two separate review files involving the same applicant, the same public body and the same types of records. She issued two orders containing detailed analysis on various sections of the *FOIPP Act* about access to information, including sections 8, 15 and 76. It is the hope of the OIPC that public bodies incorporate the expertise and guidance contained in these orders when processing future access requests.

**FOIPP Quote:** *I am struck by the contrast between my observations eight years ago and what I have observed of the Public Body in this review. Fundamental errors have been made in the calculation of the fee estimate, in the exercise of the Public Body's discretion under section 76 and, most markedly, in the lack of adequate communication by the Public Body with the Applicant. Particular sections of the FOIPP Act, most notably sections 8, 14, 15 and 76, are frequently considered by public bodies in this province. There is an expectation by this office and by the public that all provincial government departments have ready expertise in these sections sufficient to guide applicants. In the review before me, I have observed that, at times, the Applicant was guiding the Public Body.* Supernumerary Commissioner Karen A. Rose, Order 11-002

**Order No. FI-11-001** – The Department of Agriculture (“Department”) received a request for access to inspection reports of a particular companion animal establishment. The Department provided partial access to certain records and refused to disclose other information it claimed would be an unreasonable invasion of the personal privacy of a third party (section 15 of the *FOIPP Act*). The Applicant requested a review of the Department’s decision, both disagreeing with its decision and claiming the Department did an inadequate search. Supernumerary Commissioner Rose found that the Department did not fulfill its duty to assist the Applicant, as found under section 8 of the *FOIPP Act*, and further, that some of the information it withheld under section 15 of the *FOIPP Act* should be disclosed.

**8.** (1) The head of a public body shall make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely.

*Section 8, Duty to Assist:* A public body’s duty to assist an applicant includes making every reasonable effort to search for records requested and, in a timely way, informing an applicant of what it has done. It is up to a public body to prove it met the criteria of an adequate search by providing the following required evidence:

- (i) who conducted the search;
- (ii) the scope of the search (areas searched);
- (iii) the steps taken to identify and locate all possible locations of records responsive to the request;
- (iv) steps taken by the public body to identify and locate records responsive to the request; and

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- (v) reasons the public body believes that no more responsive records exist other than the ones that have been identified.

Supernumerary Commissioner Rose found that the Department failed in its obligation to conduct an adequate search. The Department did not take adequate steps to identify and locate responsive records, nor did it respond adequately to the Applicant's specific questions and concerns about the search. The Department did not attempt to contact the Applicant to provide the Applicant with information, nor did it seek clarification from the Applicant on the request. The Supernumerary Commissioner further found that the Department failed in its duty to respond openly, accurately and completely, in that it did not respond adequately to the Applicant while processing the access request, nor did it respond adequately to the Commissioner during the review process. Supernumerary Commissioner Rose ordered the Department to refund the Applicant's initial \$5 fee.

*Section 15:* The objective of section 15 is to protect personal information from any disclosure that would be considered an unreasonable invasion of a third party's personal privacy. Section 15 contains mandatory exceptions to disclosure, and it is incumbent on the Commissioner to address all of its applicable subsections, whether raised by a party or not. In her order, Supernumerary Commissioner Rose sets out the two-step process for determining whether a section 15 exception applies. A public body must first determine whether the information is "personal information" as defined under clause 1(i) of the *FOIPP Act*, and if it is, the public body must then determine whether disclosing the personal information would constitute an unreasonable invasion of a third party's privacy.

Subsection 15(2) of the *FOIPP Act* describes situations when disclosure of third party personal information would not be an unreasonable invasion of privacy; this order speaks to two of them. The Applicant relied on clause 15(2)(a) of the *FOIPP Act*, arguing that it is not unreasonable for a public body to disclose information if the third party has given written consent. The Applicant also relied on clause 15(2)(e) of the *FOIPP Act*, claiming that an employee's classification, salary range, discretionary benefits and employment responsibilities are types of information that should be released. Supernumerary Commissioner Rose did not accept the Applicant's position on implied consent, but she found that it is reasonable to disclose names of individuals in their professional capacity who provide a service to the Public Body.

Subsection 15(4) of the *FOIPP Act* describes circumstances when disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy. The Department claimed that because the information was compiled as part of a law enforcement matter, as found under clause 15(4)(b) of the *FOIPP Act*, it could not disclose the information. When relying on this particular clause, a public body must show that a formal process was established to conduct the investigation and that the investigation could result in a penalty or action imposed under a statute or regulation. Supernumerary Commissioner Rose agreed with the Public Body, finding that some of the personal information redacted from the records at issue formed part of a law enforcement matter.

As with all presumptions of law, the presumptions of section 15 of the *FOIPP Act* are rebuttable. The Applicant claimed that the information at issue was desirable to subject the activities of the Department to public scrutiny, being a rebuttal under clause 15(5)(a) of the *FOIPP Act*. Supernumerary Commissioner Rose found that this clause is intended to apply to circumstances when the public scrutiny is on a public body, not on a third party. She found that disclosing third party personal information would not subject the Department to public scrutiny.

**Order No. FI-11-002** – The Department of Agriculture received a request for access to inspection reports relating to complaints against a particular companion animal establishment. The Department provided the Applicant with a fee estimate for processing the access request, basing its calculations on approximately 5200 pages and 150 hours of preparation time. Pursuant to section 76 of the *FOIPP Act*, the Applicant asked the Department to excuse her from the fee, claiming the records requested related to a matter of public interest. The Department declined to waive the fee.

**76.** (4) The head of a public body may excuse an applicant from paying all or part of a fee if, in the opinion of the head,

(a) the applicant cannot afford the payment or for any other reason it is appropriate to excuse payment; or

(b) the record relates to a matter of public interest, including the environment or public health or safety.

#### **Regulations to the FOIPP Act**

**9.** (1) This section applies to a request for access to a record that is not a record of the personal information of the applicant.

(2) An applicant is required to pay an initial fee of \$5.

(3) Processing of a request will not commence until the initial fee has been paid.

(4) In addition to the initial fee, fees in accordance with Schedule 2 may be charged if the amount of time spent, as estimated by the public body to which the request has been made, exceeds two hours.

(5) A fee may not be charged for the time spent in reviewing a record.

Supernumerary Commissioner Rose reviewed the estimate and the Public Body's decision not to waive the fee. Her order offers detailed and constructive guidance on the proper procedures to follow when calculating a fee estimate. She notes that a fee is based on the time involved in gathering the records, but that the time has to be reasonable. Based on the evidence provided, including a summary of the records, Supernumerary Commissioner Rose found that the estimate was excessive and that the Public Body's estimate of 5200 pages of records included duplicates. She reduced the estimate to 2600 pages and 26 hours of

preparation time. She suggests that, in future, a department supply an applicant a summary of the records, and she states at paragraph 47, "... such summaries are a necessary part of the Applicant's decision-making process in narrowing requests to reduce costs to both the Applicant and the Public Body."

The Applicant based her request for a fee waiver on a claim that the records at issue were of public interest. This office has previously reported on and recommended the use of a particular public interest test that is based on seven considerations. Order No. FI-11-02 contains additional detail on the criteria to consider in deciding whether records qualify as records of public interest and whether it is reasonable to waive fees.

**FOIPP Fact:** Criteria considered in determining if records are of public interest:

1. Does the subject of the records relate directly to the environment, public health or safety?
2. Has the subject of the records been a matter of recent public debate?
3. Do the records disclose how the public body is allocating financial or other resources?
4. Will the records contribute to the public understanding of an important issue, i.e. open and transparent government?
5. Will disclosure add to public research on the operation of Government?
6. Has access been given to similar records at no cost?
7. Have there been persistent efforts by the applicant or others to obtain the records?

Based on this public interest test, Supernumerary Commissioner Rose determined that the records at issue qualified as records relating to a matter of public interest.

The finding of public interest does not mean a fee waiver is automatic. Supernumerary Commissioner Rose considered whether a fee waiver for access to the records of public interest at issue in the case before her be allowed. A public body has an obligation to exercise its discretion fairly and judiciously, taking into consideration the relevant facts and circumstances surrounding the issues, as well as the principles and objects of the *FOIPP Act*. Consideration should include two over-riding principles: (i) that the *FOIPP Act* was intended to foster open, transparent and accountable government, subject to the limits the *FOIPP Act* contains; and (ii) that the *FOIPP Act* intended that whoever was seeking records should pay. The Commissioner was mindful when exercising her discretion in this particular case that although she deemed the records at issue of public interest, they were large in number. Supernumerary Commissioner Rose ordered the Department to reduce the fee estimate by 50%.

With reference to a public body's duty to assist, Supernumerary Commissioner Rose found that in failing to invite the Applicant to provide support for the fee waiver application and in failing to exercise discretion openly, the Department did not fulfill its duty to assist the Applicant as required under section 8 of the *FOIPP Act*.

**FOIPP Quote:** *“The underpinnings of public bodies' duty to engage in discussions with applicants and to assist in narrowing requests flow naturally from the circumstances of each access request. A public body is the party that has the background knowledge and familiarity, not only with the records in its possession, but also with the FOIPP Act and its Regulations. An applicant is at a disadvantage as a newcomer to this process, and it is up to the public body to guide the applicant. I find that this is an integral part of a public body's duty to assist applicants.”* Supernumerary Commissioner Karen A. Rose, Order 11-002

## **Protection of Privacy:**

**Order No. PP-11-001** – A privacy complaint was made against the Workers Compensation Board (the “Board”) for breaching the Complainant’s privacy during an internal appeal by disclosing personal information to a former employer (the “Accident Employer”). The complaint was threefold: (i) improper oral disclosure of medical information; (ii) improper disclosure of personal information by the Board when it provided a copy of a reconsideration decision letter and attachment to the Accident Employer; and (iii) improper disclosure of personal information by the Board when it provided the Appeal Record and Factum containing financial and medical personal information to the Tribunal, who in turn provided the Appeal Record and Factum to the Accident Employer.

*Improper oral disclosure of medical information:* The Complainant believed that employees of the Board discussed his medical condition with an employee of the Accident Employer during a phone call, because the employee of the Accident Employer used the expression “pre-existing condition” a few days after the phone call. Commissioner Maria C. MacDonald held that there was insufficient evidence of improper disclosure of medical information.

*Improper disclosure of personal information by providing a copy of the reconsideration decision letter and attachments to the Accident Employer:* This is actually the second order issued by this office concerning the Board disclosing this Complainant’s personal information to the Accident Employer during a reconsideration process. In Order No. PP-06-002, Acting Commissioner Karen A. Rose found that the Board violated the *FOIPP Act* by disclosing more information than was reasonably required. She recommended the Board amend its reconsideration procedure to be sensitive to privacy and limit the disclosure of personal information to that which is necessary and complies with the *FOIPP Act*.

The *Workers Compensation Act* directs the Board to provide a summary of the reconsideration to a person with a direct interest in the matter, if that person has, in writing, requested one; however, the Board’s standard practice is to send former employers the entire reconsideration decision, including all attachments. The Board does not wait for a written request by the former employers, nor does it do an analysis of their potential interest.

In a previous and unrelated workers compensation matter, the Supreme Court of PEI remarked that the accident employer is typically a disinterested person. In this case, the accident employer would not be rehiring the individual, and its assessment rates would be unaffected by the appeal decision. Commissioner MacDonald held that the Board violated the *FOIPP Act* when it provided a copy of the reconsideration decision letter and enclosures to the Accident Employer.

*Improper disclosure of personal information by providing the Appeal Record and Factum to the Accident Employer:* The disclosure of the Appeal Record and Factum to the Accident Employer happened in two stages: (i) the Board provided the Appeal Record and Factum to the Tribunal; and (ii) the Tribunal then served the Appeal Record and Factum on the Accident Employer.

Section 5 of the *Appeal Regulations* under the *Workers Compensation Act* requires the Board to give the Tribunal all information on which it intends to rely. It is reasonable that the Board would rely on medical and financial information for an appeal concerning one's capacity to work and one's benefits, but there were glaring examples of documents that the Board filed with the Tribunal that were not relevant to the appeal. The Commissioner held that the Board improperly disclosed personal information by providing the entire content of the Complainant's file to the Tribunal.

The Board cited Ontario case law to argue that the Tribunal was responsible for removing personal information from the material it received before providing it to the Accident Employer; however, these cases offered no assistance to the analysis, as the workers compensation laws of Ontario are quite different from the workers compensation laws of PEI. Section 3 of the *Appeal Regulations* under the *Workers Compensation Act* of PEI requires the Tribunal to distribute the materials, as appropriate and as received, to parties with a direct interest in the matter. The Commissioner did not fault the Tribunal for not reviewing the content of the materials filed by the Board, as it does not have the power to select which material to distribute; however, the Tribunal does determine to whom it distributes the materials - 'parties' with a direct interest in the matter. The Tribunal claimed it had a legal obligation to abide by the policies of the Board, as provided for under subsection 56(17) of the *Workers Compensation Act*. Although the Board has a blanket policy that an accident employer is a 'person' with a direct interest, there is no Board policy about a 'party' with a direct interest.

The Commissioner found that the Accident Employer was not a 'party' with a direct interest in the matter, because the Accident Employer advised it was not participating in the appeal. Furthermore, because the Accident Employer would not be affected by the outcome of the appeal, the Commissioner found that the Accident Employer had no direct interest in the matter. The Commissioner held that the Tribunal improperly disclosed personal information by providing a copy of the Appeal Record and Factum to the Accident Employer.

**FOIPP Quote:** “ *If the Board has a policy that requires a violation of another law, the Tribunal could be in the difficult position of deciding which law to break. If the Tribunal was required to consider the expression ‘persons with a direct interest in the matter’, it would be faced with such a dilemma. The Tribunal is a public body and it must comply with the FOIPP Act. As a designated public body, the Tribunal cannot breach the provisions of the FOIPP Act to comply with the Workers Compensation Act, supra; however, that is not the case before me. The language in section 3 of the Workers Compensation Act Appeal Regulations, supra, refers to ‘parties with a direct interest’ and not ‘persons with a direct interest’. The rules of statutory interpretation presume that the Legislature meant something different when it uses different words. Different words are used in the Workers Compensation Act, supra: persons and parties. I do not need to invoke the prevailing provisions of the FOIPP Act.*”  
Commissioner Maria C. MacDonald, Order No. PP-11-001, at paragraph [102]

Commissioner MacDonald found that disclosing the information at issue did not comply with provisions in the *Workers Compensation Act*. Similar to Order No. PP-06-002, Commissioner MacDonald found that both the Board and the Tribunal violated the *FOIPP Act*. Although the Board was previously found in violation of the *FOIPP Act* for disclosing too much of the

Complainant's personal information to the Accident Employer, the Board did not violate an order of this office. In Order No. PP-06-002, Acting Commissioner Rose did not order the Board to stop disclosing personal information, reasoning that the disclosure was already complete. In Order No. PP-11-001, Commissioner MacDonald ordered the Board and Tribunal to stop disclosing personal information in violation of Part II of the *FOIPP Act*. Commissioner MacDonald recommended, among other things, that the public bodies review their respective policies and procedures to ensure that they are privacy sensitive and limit the disclosure of personal information to only that which is necessary and complies with the *FOIPP Act*.

**FOIPP Quote:** *“With respect to reconsideration decisions, I RECOMMEND that the Board only notify the persons the Board has identified as persons with the potential to have a direct interest in the matter about decisions made about a worker or an employer. This notice ought to include:*

- *a notice that it has made a decision;*
- *what expected affect the decision will have on the recipient of the notice, if any;*
- *information about the persons right to request a summary of the decision, subject to an assessment of their direct interest and subject to the limits of disclosure under Part II of the FOIPP Act; and*
- *information about that persons right to access relevant parts of the workers compensation file, subject to an assessment of the bona fides issue in dispute.”*

Commissioner Maria C. MacDonald, Order PP-11-001, at paragraph [119.5]

# STATISTICS

## Summary of Requests for Review

January 1, 2011 – December 31, 2011

Public Body	Access to Information		Protection of Privacy		Resolved in 2011 (without an order)	Order issued in 2011	Carried Forward to 2012
	<i>carried over from previous years</i>	<i>2011 requests</i>	<i>carried over from previous years</i>	<i>2011 requests</i>			
Agriculture and Forestry	1	2	0	0	0	2	1
La Commission scolaire de langue française	0	0	0	0	0	0	0
Community Services and Seniors	0	1	0	0	0	0	1
Eastern School District	0	6	1	1	1	0	7
Education and Early Childhood Development	0	2	0	<i>1 overlaps with the above-noted ESD file</i>	1	0	<i>1 [+ 1 overlaps with the above-noted ESD file]</i>
Elections PEI	0	0	0	0	0	0	0
Environment, Labour and Justice	0	0	0	0	0	0	0
Executive Council Office	0	0	0	0	0	0	0
Fathers of Confederation Buildings Trust	0	0	0	0	0	0	0
Finance, Energy and Municipal Affairs	1	1	1	1	0	0	4
Fisheries, Aquaculture and Rural Development	0	0	0	0	0	0	0
Health and Wellness	1	1	0	<i>1 overlaps with the above-noted FEMA file</i>	1	0	<i>1 [+ 1 overlaps with the above-noted FEMA file]</i>
Health PEI	1	2	2	0	1	0	4

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Public Body	Access to Information		Protection of Privacy		Resolved in 2011 (without an order)	Order issued in 2011	Carried Forward to 2012
	<i>carried over from previous years</i>	<i>2011 requests</i>	<i>carried over from previous years</i>	<i>2011 requests</i>			
Innovation and Advanced Learning	7	1	0	1	0	0	9
Island Regulatory and Appeals Commission	0	0	1	0	0	0	1
Island Waste Management Corporation	0	0	0	0	0	0	0
Office of the Premier	0	0	0	0	0	0	0
PEI Liquor Control Commission	0	0	0	0	0	0	0
PEI Public Service Commission	0	1	0	0	1	0	0
Tourism and Culture	1	0	0	0	0	0	1
Transportation and Infrastructure Renewal	1	0	0	0	0	0	1
Western School Board	0	0	0	0	0	0	0
Workers Compensation Board of Prince Edward Island	0	0	2	0	0	1	1
Workers Compensation Appeals Tribunal	0	0	<i>1 overlaps with one of the above-noted WBC files</i>	0	0	<i>1 overlaps with the above-noted WBC file</i>	0
<b>TOTAL</b>	<b>13</b>	<b>17</b>	<b>7</b>	<b>3</b>	<b>5</b>	<b>3</b>	<b>32</b>