

ANNUAL REPORT

2009

**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**

2009



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 1, 2010

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

Dear Honourable Madam Casey:

I am pleased to present to you my first annual report. The enclosed 2009 Annual Report of the Office of the Information and Privacy Commissioner, for the period January 1, 2009 to December 31, 2009, is the seventh 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:

The *Freedom of Information and Protection of Privacy Act* has been a law of PEI since 2002. This 2009 report covers the seventh year of activities of the Office of the Information and Privacy Commissioner, operating under the helm of Acting Commissioner, Judy Haldemann. Fulfilling the office's primary responsibility, the office handled various reviews regarding decisions of public bodies to access to information requests, and investigations into reported privacy complaints.

The citizens of Prince Edward Island have benefited from the services of Ms. Haldemann in her role as Acting Commissioner. She has years of experience through her long-term employment with the provincial government and has acquired an intimate understanding of the inner workings of the province. Her vast experience and her strengths in legislative drafting and interpretation are reflected in her well-analyzed orders.

A debt of gratitude is also owed to Mary-Lynn Smith, the office's full-time assistant. She has been the face of the office for many years and her in-depth knowledge and unbiased, confident guidance has been a resource for many. The numerous hats she wears include receptionist, communications officer, website manager, intake manager, file review officer, legal researcher, office manager and assistant.

Maria C. MacDonald,
Information and Privacy Commissioner

Mandate of the Office of the Information and Privacy Commissioner

The functions of the Information and Privacy Commissioner and the office are found in the *Freedom of Information and Protection of Privacy Act* (Part IV). The Commissioner independently reviews the decisions and practices of many of the provincial government offices as they relate to access to information and protection of privacy. The Commissioner does not oversee the actions of the courts, Members of the Legislative Assembly, private businesses or associations. Only the government departments, branches, offices, and the 123 agencies, boards, commissions, corporations, offices, or other bodies listed in the FOIPP Act Regulations fall under the jurisdiction of the Commissioner.

FOIPP Fact:

Did you know that municipalities and municipal police forces are not subject to FOIPP laws? However, RCMP is subject to the federal *Access to Information Act* and *Privacy Act*.

On the freedom of information side of the Act, a person makes a request for information to one of the above-noted public bodies. The public body gives the records to the applicant, unless it decides that the records fit into any of the limited and specific exceptions of the Act. If the public body does not give the records to the applicant, the public body is obliged to openly, accurately and completely communicate with the applicant about how its decision fits into one of the statutory reasons why they are not providing the information/records. If the applicant is not satisfied with the public body's decision, he or she may make a request to the Commissioner to review the matter.

The Commissioner also reviews complaints of privacy breaches by public bodies. During a review, the Commissioner receives submissions from both parties and, with consideration to the FOIPP Act and precedents from this jurisdiction and others, the Commissioner makes findings of fact and law. The Commissioner may make recommendations and orders to a public body resulting from those findings.

In addition to responding to specific requests for review, the Commissioner is generally responsible for monitoring how the Act is administered to ensure that its purposes are achieved.

50. (1) In addition to the Commissioner's functions under Part IV, with respect to reviews, the Commissioner is generally responsible for monitoring how this Act is administered to ensure that its purposes are achieved, and may

- (a) conduct investigations to ensure compliance with any provision of this Act or compliance with rules relating to the destruction of records set out in any other enactment of Prince Edward Island;
- (b) make an order described in subsection 66(3) whether or not a review is requested;
- (c) inform the public about this Act;
- (d) comment on the implications for freedom of information or for protection of personal privacy of proposed legislative schemes or programs of public bodies;
- (e) comment on the implications for protection of personal privacy of using or disclosing personal information for record linkage;
- (f) authorize the collection of personal information from sources other than the individual the information is about;
- (g) bring to the attention of the head of a public body any failure by the public body to assist applicants under section 8; and
- (h) give advice and recommendations of general application to the head of a public body on matters respecting the rights or obligations of a head under this Act.

Overview of the Office of the Information and Privacy Commissioner:

Building Security Upgrades: The office is located on the second floor of the historic J. Angus MacLean building, across the street from Province House. As a result of a security proposal submitted to the Department of Justice and Public Safety and to the Speaker of the Legislative Assembly in 2008 by the tenant offices, the J. Angus MacLean Building had its security increased in 2009 by the addition of a card accessed security door and a video phone system. This upgrade further enhances the province's obligation under section 35 of the Act to protect personal information by making reasonable security arrangements against risks such as unauthorized access, collection, use, disclosure, disposal or destruction.

FOIPP Fact: The J. Angus MacLean Building was built in 1872 as a bank. One of the 18th century security measures is still conspicuous; a trap door and ladder escape route from the bank manager's office to the basement!

Jobs for Youth: The office had a student employee during the summer of 2009 through the Jobs for Youth program offered by the PEI Employment Development Agency. Matthew Mann, a political studies graduate, has an avid interest in access and privacy, politics and the law. He enhanced the office's electronic library and expanded on the searchable database. Using keywords that are frequently used in the access and privacy field, he searched for information and privacy cases from provincial and federal jurisdictions across Canada, organized them in a useful format and incorporated them into our electronic library. He will be an excellent advocate in the promotion of our Act and to public awareness of access and privacy rights and issues.

Continuing Education of Staff: Mary-Lynn Smith, the office's administrative assistant, completed the Information Access and Privacy Certificate Program with the University of Alberta in June of 2009. She is now recognized as an Information Access and Protection of Privacy professional. In support of ongoing development of her investigative and research skills, Ms. Smith attended a national workshop for investigators in the spring of 2009, and a maritime access and privacy workshop during the summer of 2009.

63. The Commissioner may authorize a mediator to investigate and try to settle any matter that is the subject of a request for a review.

Through the Employee Development and Training Fund offered by the Legislative Assembly, Ms. Smith has enrolled in the Conflict Resolution Certificate Program with the University of Prince Edward Island to obtain a professional mediation designation. The legislation permits the Commissioner to authorize a mediator to work towards resolving a dispute. A mediator assists the parties in negotiating their own settlement, whereby the parties themselves make the decisions about the resolution of the dispute, as opposed to the Commissioner making a final ruling of fact and law. A mediator cannot be the same person acting as the final decision maker. As mediator, Ms. Smith will attempt to resolve issues and

settle files informally, thereby reducing the number of formal reviews needed to be conducted by the Commissioner within the Commissioner's limited time constraints.

Travel: In September of 2009, the Acting Commissioner attended a summit of Information and Privacy Commissioners held in St. John's, Newfoundland. The federal government and all of the provinces and territories have laws governing access to information and protection of

FOIPP Fact: The Commissioners issued two joint resolutions at the 2009 summit: one about legislative proposals that create expanded surveillance regimes and have serious repercussions for privacy rights; and the other about encouraging the incorporation of privacy and patient controls into electronic personal health record systems.

privacy. Although the laws are not uniform, they have similar objectives. The issues we face on PEI are the same ones faced in other jurisdictions. As always, this summit was a tremendous opportunity for us as a smaller jurisdiction to learn from the experience of larger jurisdictions. Commissioners from other jurisdictions are quite generous to share resource materials that our jurisdiction does not have the means to develop on our own.

Budget: The office's total expenditures for the fiscal year April 1, 2009 to March 31, 2010, are \$108,300¹, being the budgeted amount forecasted for this period. It reflects a slight increase from the 2008 budget of \$93,900.00, as the assistant's position became a full-time position in 2008.

	2010-2011 Budget Estimate	2009-2010 Budget Forecast	2009-2010 Budget Estimate	2008-2009 Budget Forecast	2008-2009 Budget Estimate
Administration	4,900.00	4,900.00	4,900.00	4,900.00	4,900.00
Materials, Supplies and Services	1,600.00	1,600.00	1,600.00	1,600.00	1,600.00
Professional and Contract Services	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
Salaries, benefits and contributions	95,800.00	95,800.00	95,800.00	81,400.00	85,900.00
Travel and Training	<u>5,000.00</u>	<u>5,000.00</u>	<u>5,000.00</u>	<u>5,000.00</u>	<u>5,000.00</u>
Total	108,300.00	108,300.00	108,300.00	93,900.00	98,400.00

¹ This information is taken from page 159 of the Prince Edward Island *Estimates of Revenue and Expenditures 2010* as found at: <http://www.gov.pe.ca/budget/2010/estimates.pdf>. Information from 2008, reported in 2009, is found at page 169 at <http://www.gov.pe.ca/budget/2009/estimates.pdf>

Right to Know Week 2009

FOIPP Fact: Right to Know Day is dedicated to the promotion of access to information worldwide. It has been celebrated every September 28th since 2002. Right to Know Day is celebrated around the world, including Argentina, Czech Republic, El Salvador, India, Jamaica, Latvia, Mexico, Sierra Leone, South Africa, Peru, Spain, Turkey and the USA. Over 60 countries have access to information legislation, and more countries are in the process of developing such laws.

Right to Know Week is an annual event held across Canada that marks the right of individuals to access information held by government offices, and highlights the benefits of transparent, accessible government. September 28 to October 2, 2009, was proclaimed as Right to Know Week in Prince Edward Island by the then Attorney General, Honourable Gerard A. Greenan. The theme for 2009, “Starting with a Strong Foundation”, focused on the vital role provincial public servants play in promoting our right to access information and on the valued

service that the citizens of PEI are receiving from our public servants. To raise an awareness within the public service to the importance of freedom of information legislation, the office sponsored an essay-writing contest to employees of provincial government with the topic question, “Why is a public service employee’s understanding of Right to Know important in a democratic society and what benefits does the PEI government gain by this understanding?” The winning essay was submitted by Nancy Murphy, Community Development Officer, Department of Fisheries, Aquaculture and Rural Development, and the runner up was Jane MacIsaac, Trade Development Officer, PEI Business Development Inc. A multiple-choice Access to Information quiz was featured on the office’s website and a Right to Know Fact Sheet was distributed throughout the offices of the provincial government.

A joint initiative of the federal, provincial and territorial offices of Information and Privacy was facilitated through the federal office to introduce a national logo contest for the 2009 Right to Know Week campaign. The offices were looking for a new and powerful logo to be the official identification for Canada's 'Right to Know' Week events, and to be used on the official website and all related promotional materials.

The contest was open to all Canadian residents who are amateur graphic designers. The logos of five finalists were judged by a jury of Canada’s federal, provincial and territorial Commissioners based on thematic relevance, quality of image and creativity and artistry. The winning logo was submitted by Justin Ward from St. Albert, Alberta. This office had t-shirts printed bearing the new logo and distributed them as prizes.



Update to 2008 Annual Report

Legislative Overview of the FOIPP Act

The *Freedom of Information and Protection of Privacy Act* sets out a timeline for a comprehensive review of the Act to be carried out. It started in late 2008. The Standing Committee on Community Affairs and Economic Development has carried out this comprehensive review of the Act. As reported previously, Acting Commissioner Judy Haldemann submitted recommendations for amendments to the Act and appeared before the Committee in January 2009. The Committee formulated its final report and presented it to the Legislature on April 16, 2009, during the second session of the 63rd General Assembly. The Standing Committee endorsed the 16 recommendations brought forward by Acting Commissioner Haldemann, noting that her insight and knowledge of the Act were extremely beneficial to the Standing Committee throughout its deliberations. The Standing Committee expressed its confidence that the amendments she proposed would improve and strengthen the Act, and the motion was carried. There exists no further documentation on any action carried out towards implementing the recommended amendments, nor has any indication been brought to the attention of this office.

Links to Access and Privacy Information

In 2008, Acting Commissioner Haldemann expressed discouragement with the lack of direction on the province's websites regarding accessing information, reporting privacy concerns and applying for reviews with this office. She urged government to address this problem. I am happy to report that the websites to each government department has a link to FOIPP matters prominently placed and easy to find. The information is thorough, accessible and inviting. I commend the provincial government for its efficiency in responding to the concerns expressed in last year's annual report.

Judicial Review of Order No. PP-08-001

In 2008 an order was issued about complaints that the Eastern School District improperly disclosed personal information and improperly attempted to collect personal information. Acting Information and Privacy Commissioner Karen A. Rose found that the school district had authority to disclose the personal information at issue, but that it improperly attempted to collect personal information.

Both the Eastern School District and the Complainant filed an application for judicial review: the Complainant claimed an error about authority to disclose personal information; and the Eastern School District claimed an error about improper collection of personal information. At the time of this report, the judicial review filed by the Complainant had not yet been heard.

FOIPP Fact: The appropriate standard of review in respect of decisions of the PEI Information and Privacy Commissioner is correctness with respect to questions of law and reasonableness with respect to questions of fact, or mixed questions of fact and law.

The judicial review of the Eastern School District was heard in 2009. The Court found that the Acting Commissioner applied section 31 and subsection 32(2) of the FOIPP Act, but did not consider or apply

subsection 32(1), which permits indirect collection of personal information under specific circumstances, including the circumstance at hand. The Court set aside the portion of the order that found the Eastern School District in contravention of the FOIPP Act by collecting the Complainant's personal information.

There was a second aspect to the judicial review resulting, in part, from a technical error that did not warrant overturning the Acting Commissioner's decision; however, the Eastern School District did question the Acting Commissioner's authority to recommend training and then order a report on the outcome of that training. Honourable Justice Campbell found that the Acting Commissioner had the authority to recommend education and training to the Eastern School District's management and employees, but that she exceeded her jurisdiction in imposing a reporting duty without having any authority for doing so.

31. No personal information may be collected by or for a public body unless . . .

(c) that information relates directly to and is necessary for an operating program or activity of the public body.

....

32. (1) A public body shall collect personal information directly from the individual the information is about unless

...

(j) the information is collected for the purpose of managing or administering personnel of the Government of Prince Edward Island or a public body.

...

(2) A public body that collects personal information that is required by subsection (1) to be collected directly from the individual the information is about shall inform the individual of

- a) the purpose for which the information is collected;
- b) the specific legal authority for the collection; and
- c) the title, business address and business telephone number of an officer or employee of the public body who can answer the individual's questions about the collection.

Summary of Orders

Request to Disregard:

In 2009, the Office of the Information and Privacy Commissioner received its first applications to disregard a request for access to information. In these related applications, the Applicant was requesting access to loans and grants provided by certain public bodies to a group of companies during a three-year period. The public bodies argued that the information requested by the Applicant did not exist in the format requested, and that the process required to fulfill the requests would unreasonably interfere with its operations, frustrating the administration of its programs and activities, causing its staff to neglect their regular duties and responsibilities, creating undue hardship and potentially requiring additional resources at an added cost. The Applicant clarified that it was the financial information that was being sought rather than the agreements themselves. The FOIPP Act specifically directs a public body to create a record for an applicant if the record is already in electronic form and it would not interfere with the ordinary operations of the public body. As the financial information was in versatile electronic form already, the paper search was no longer necessary and would not require the 110 hours of searching for the actual agreements. Acting Commissioner Haldemann declined the requests to disregard and strongly urged the public bodies to work with the Applicant to refine and fulfill the access request. The decisions are posted on the website www.oipc.pe.ca referenced as nos. AU-09-001 and AU-09-002.

52. If the head of a public body asks, the Commissioner may authorize the public body to disregard any request made under subsection 7(1), if the request

- (a) would unreasonably interfere with the operations of the public body or amount to an abuse of the right to access, because of the repetitious or systematic nature of the request; or
- (b) is frivolous or vexatious.

- 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.
- (2) The head of a public body shall create a record for an applicant if
- (a) the record can be created from a record that is in electronic form and in the custody or under the control of the public body, using its normal computer hardware and software and technical expertise; and
 - (b) creating the record would not unreasonably interfere with the operations of the public body.

Access to Information: Six orders addressing public body decisions on access to information requests were issued in 2009. The following summaries detail certain pertinent directives issued from the Acting Information and Privacy Commissioner.

Order No. FI-09-001 - The Department of Environment, Energy and Forestry denied an applicant access to information pertaining to a government-funded project. The Public Body severed information, saying it consisted of third party business information (s. 14), third party personal information (s. 15) and advice from officials (s. 22). The Applicant argued that the information related to a government-funded project and that taxpayers have a right to access the information related to its approval. Acting Information and Privacy Commissioner Judy Haldemann found that the information was severed in accordance with the FOIPP Act; however, she addresses concern with the quality and accuracy of the Public Body's submissions and provides valuable direction for all public bodies to follow when making submissions, including:

FOIPP Fact: Two of the mandatory exceptions to disclosure found in the FOIPP Act include section 14, third party business information, and section 15, third party personal information. Section 22, advice to officials, is a discretionary exception.

- (i) In this case, the public body relied on its departmental guidelines that included a list of records “not normally” released to the public. Acting Commissioner Haldemann directed that a list of records in the guidelines of any public body as “not normally released” (or similar phrasing) is just that — guidelines. If the guidelines are not in compliance with the FOIPP Act, they cannot be relied upon.
- (ii) One of the requirements of the mandatory exception to disclosure under section 14, third party business information, is that the information “is supplied, explicitly or implicitly, in confidence”. A statement that certain information “would have been supplied in confidence” is not sufficient evidence to prove the section 14 confidentiality clause. In this case, despite the Public Body's failure to give evidence that the business gave the information in confidence, the Acting Commissioner found that the information was implicitly supplied in confidence. She emphasized to other public bodies that it is an unsafe practice for any public body to merely rely on assumptions of confidentiality without providing further evidence or supporting arguments.
- (iii) No one has to provide reasons for their request for information, and a public body cannot withhold records based on those reasons, be they either stated or implied. It is not for a public body to decide whether an applicant needs or has a use for the information being requested.

Order No. FI-09-004 – PEI Business Development Inc. denied an applicant access to information about loans and grants made by it to a company over an 11-year period. The Public Body said that disclosure of the specific documents in their entirety could be harmful to the business interests of the third party company. The section 14 mandatory exception has three required elements. The information must be information that:

- (1) would reveal commercial or financial information of a third party; and
- (2) is supplied, explicitly or implicitly, in confidence; and
- (3) would be reasonably expected to result in one or more of the harm outcomes listed in clause 14(1)(c).

The amount of the loans and grants was not information that was supplied to the Public Body by the third party company, and the Applicant was just looking for the amount of the loans and grants, not the information that was submitted about the company in order to determine eligibility. The actual amount of the loans and grants were decisions made by the Public Body. Acting Commissioner Haldemann found that the Public Body did not correctly apply the mandatory exceptions of section 14. She found that the three required elements of section 14 were not met and, therefore, there existed no statutory reason for the Public Body to refuse to disclose the information being requested. The Public Body was ordered to disclose to the Applicant the loan and grant dates, amounts and interest rates.

Order No. FI-09-005 – A government office or public body has a duty to assist someone who makes a request for information. In Order No. FI-09-005, the Eastern School District fell short of its duty to assist an applicant. The Applicant was looking for a number of records regarding a mediation, including information on the qualifications of a mediator, legal representation and associated legal costs, together with the Applicant’s personal information in the custody and control of the Public Body and its disclosure of this personal information. The Public Body provided access to some of the information and denied access to certain other information.

13. (1) Within 15 days after a request for access to a record is received by a public body, the head of the public body may transfer the request and, if necessary, the record to another public body if

- (a) the record was produced by or for the other public body;
- (b) the other public body was the first to obtain the record; or
- (c) the record is in the custody or under the control of the other public body.

Acting Commissioner Haldemann found that the Public Body correctly applied section 14 (third party business information), section 15 (third party personal information), section 22 (advice to officials) and section 27 (information available to the public) in severing or denying disclosure of the information.

Some of the records were not in the care or control of the Eastern School District, but the Eastern School District did not re-direct the Applicant or transfer the request to the public body that it believed had the records the Applicant was seeking. The Public Body contended that the FOIPP Act applies to records in its custody and control (s. 4). It said that as some of the records were not in its custody or under its control,

it had no duty to assist (s. 8) and no obligation to transfer the request to the other public body (s.13). Section 13 of the FOIPP Act is a discretionary provision and uses the words “may transfer the request”. The Public Body maintained that as the terminology is optional, it was not required to transfer the request. The Acting Information and Privacy Commissioner found that the Public Body misapprehended the intention of section 4, which applies to records, and sections 8 and 13, both of which are directed to the actions of the public bodies. The Acting Commissioner advocated for the Public Body to consider making section 13 referrals in future cases where another public body could reasonably be expected to have such records.

The Public Body refused to disclose some records pertaining to the mediation because of legal privilege or solicitor-client privilege (s 25). The Acting Information and Privacy Commissioner found that mediation privilege is a type of legal privilege contemplated by section 25 of the FOIPP Act. She analyzed the common law privilege, including Wigmore’s four conditions of privilege, and determined that the four conditions were met in this case.

The Supreme Court of Canada has held that the four conditions from *Wigmore on Evidence* should be applied to determine whether communications are privileged. These four conditions are:

- (1) The communications must originate in a confidence that they will not be disclosed.
- (2) The element of confidentiality must be essential to the maintenance of the relationship in which the communications arose.
- (3) The relationship must be one which, in the opinion of the community, ought to be “sedulously fostered”.
- (4) The injury caused to the relationship by disclosure of the communications must be greater than the benefit gained for the correct disposal of the litigation.

This order contains substantial case law on the issue of common law privilege. The Acting Commissioner agreed with the Public Body that the protection of privilege is necessary for mediation to succeed. Parties must be assured of confidentiality in order for discussions to be free and frank.

Order No. FI-09-006 – This order involves the same applicant and most of the same records as Order FI-09-005. The Public Body in this case, being the Department of Education and Advanced Learning, and the Eastern School District collaborated on their submissions and had substantially similar arguments. Although Acting Commissioner Haldemann did not have any concerns about two public bodies comparing legal arguments on access requests regarding virtually the same records, she does speak to the public bodies’ submissions regarding collaboration. The Department of Education and Advanced Learning said that the “spirit” of section 13 supports the sharing of arguments between public bodies. The Acting Commissioner disagreed with this and says that section 13 does nothing more than provide for the transfer of an access request from one public body to another public body.

Order No. FI-09-006 is not identical to Order No. FI-09-005, but much of the analysis and findings mirror it. Acting Information and Privacy Commissioner Haldemann held that the Public Body correctly applied section 15 (third party personal information), section 22 (advice to officials) and section 25 (privileged information) in its decision to deny access to the information at issue.

This order is also related to Interim Order FI-08-003, which deals with preliminary issues of submitting requests on time. The interim order held that the request to review the fee estimate was submitted outside of the timeline permitted under the FOIPP Act and was refused; however, the timeliness of submitting the request to review the access request was minimally overdue and the Acting Commissioner granted an extension.

Protection of Privacy:

Order No. PP-09-001 – This office received a complaint that personal information, namely the Complainant’s home address, had been improperly disclosed to a third party by a member of the Office of the Attorney General. An individual’s home address is “personal information” and can be disclosed by a public body only within the boundaries listed in the FOIPP Act. The Public Body says that a probation officer had authority to disclose the home address to assist in an investigation of a possible unauthorized tenant in a housing unit and that the tenancy question was a law enforcement proceeding [subclause 37(1)(o)]. The Acting Information and Privacy

37. (1) A public body may disclose personal information only

- (a) in accordance with Part I;
- (a.1) if the disclosure would not be an unreasonable invasion of a third party’s personal privacy under section 15;
- (b) for the purpose for which the information was collected or compiled or for a use consistent with that purpose;
- ...
- (o) to a public body or a law enforcement agency in Canada to assist in an investigation
 - (i) undertaken with a view to a law enforcement proceeding, or
 - (ii) from which a law enforcement proceeding is likely to result;

Commissioner did not accept this position. She stressed that the situation at hand was not one of an investigation in the nature of law enforcement, but one of enforcement by a housing authority which could be related to a possible breach of contract. Acting Commissioner Haldemann further found that a breach of contract would not in itself be a criminal matter or a matter of such a serious nature as to result in law enforcement proceedings.

Through the course of the review it was revealed that the disclosure was related to an investigation under the *Adult Protection Act*. Under that Act, the probation officer is compelled to assist. Acting Commissioner Haldemann refers to section 38(b) of the FOIPP Act to describe a circumstance where a public official would be required to disclose personal information, as occurred in this case.

38. For the purposes of clauses 36(1)(a) and 37(1)(b), a use or disclosure of personal information is consistent with the purpose for which the information was collected or compiled if the use or disclosure

- (a) has a reasonable and direct connection to that purpose; and
- (b) is necessary for performing the statutory duties of, or for operating a legally authorized program of, the public body that uses or discloses the information.

STATISTICS

Summary of Requests for Review

January 1, 2009 - December 31, 2009

Public Body	Access to Information		Protection of Privacy		Resolved in 2009 (without an order)	Order issued in 2009	Carried Forward to 2010
	<i>carried over from previous years</i>	<i>2009 requests</i>	<i>carried over from previous years</i>	<i>2009 requests</i>			
Agriculture	0	1	0	0	0	0	1
Commission scolaire de langue française	0	0	0	0	0	0	0
Community and Cultural Affairs and Labour	1	0	0	0	0	1	0
Eastern School District	2	0	2	0	1	1	2
Education and Early Childhood Development	1	1	0	0	0	1	1
Elections PEI	0	0	0	0	0	0	0
Environment, Energy and Forestry	2	1	0	0	0	1	2
Executive Council Office	0	0	0	0	0	0	0
Fathers of Confederation Buildings Trust	0	0	0	0	0	0	0
Fisheries, Aquaculture and Rural Development	0	0	0	0	0	0	0
Health	0	6	1	0	4	0	3
Innovation and Advanced Learning	5	4	0	0	0	3	6

Public Body	Access to Information		Protection of Privacy		Resolved in 2009 (without an order)	Order issued in 2009	Carried Forward to 2010
	<i>carried over from previous years</i>	<i>2009 requests</i>	<i>carried over from previous years</i>	<i>2009 requests</i>			
Island Regulatory and Appeals Commission	0	0	0	0	0	0	0
Island Waste Management Corporation	0	0	0	0	0	0	0
Office of the Attorney General	1	0	1	0	1	1	0
Office of the Premier	0	1	0	0	0	0	1
PEI Liquor Control Commission	0	0	0	0	0	0	0
PEI Public Service Commission	0	1	0	0	0	0	1
Provincial Treasury	0	2	1	0	0	0	3
Social Services and Seniors	0	0	1	0	0	1	0
Tourism	0	0	0	0	0	0	0
Transportation and Public Works	2	2	0	0	1	1	2
Western School District	0	0	0	0	0	0	0
Workers Compensation Board of Prince Edward Island	1	0	3	0	2	0	2
Workers Compensation Appeals Tribunal	0	0	<i>2 overlaps with two of the above noted WCB files</i>	0	<i>1 overlaps with one of the above noted WCB files</i>	0	
TOTAL	15	19	9	0	9	10	24