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Legislative Assembly

Information and  
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Assemblée législative

Commissaire à l'information et  
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Legislative Assembly  
P.O. Box 2890  
Charlottetown, PEI  
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February 20, 2026

VIA EMAIL

Dear Carolyn Simpson, MLA,

**Re: Draft bill “Disclosure to Protect Against Intimate Partner Violence Act”  
Consultation on proposed legislative scheme under section 50(1) of the FOIPP Act  
Our file reference: C/26/00035**

Thank you for your invitation for me to give our comments on the draft bill “Disclosure to Protect Against Intimate Partner Violence Act”, which we received on February 11, 2026. Thank you also for giving us some extra time to provide this feedback beyond the originally requested response date of February 17, 2026. I hope you understand our need to take a little longer to respond to the proposed legislation on such a weighty topic.

I am providing my comments of this proposed legislative scheme under section 50(1)(d) of the *Freedom of Information and Protection of Privacy Act* (the “FOIPP Act”), which provides:

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

...

(d) comment on the implications for freedom of information or for protection of personal privacy of proposed legislative schemes or programs of public bodies;

...

We recognize the significance of this issue, and it has been a topic of discussion amongst our counterparts across Canada. In October of 2024, Information and Privacy Commissioners from across the country issued a joint resolution on responsible information-sharing in situations involving intimate partner violence. You can read the resolution at the following link: [https://www.priv.gc.ca/en/about-the-opc/what-we-do/provincial-and-territorial-collaboration/joint-resolutions-with-provinces-and-territories/res\\_241010\\_ipv/](https://www.priv.gc.ca/en/about-the-opc/what-we-do/provincial-and-territorial-collaboration/joint-resolutions-with-provinces-and-territories/res_241010_ipv/).

I have broad work experience with vulnerable people. I understand that intimate partner violence is a pervasive problem, and I believe that effective information sharing with a person at risk, and other public bodies, could mean the difference between life and death. However, I have serious concerns about this proposed bill. My concerns relate to the removal of rights of privacy of citizens, gaps in the proposed draft, that there is no notice to a person about whom an inquiry was made (a “partner”), that personal information about them was sought out or disclosed, there are no checks or balances about the accuracy of the information, and no accountability or independent oversight.

While I appreciate the intention of the proposed legislation is to give people information to assist them in making informed decisions, there are provisions in existing legislation that can accomplish the same purpose but without the concerns raised by the proposed legislation. The *FOIPP Act* is one such piece of legislation. The *FOIPP Act* does not require a police service to assess the risk to a potentially vulnerable person (an “applicant”), but there are mechanisms within the *FOIPP Act* that could allow a police service or other public body to disclose the personal information of an individual to their intimate partner, or other organizations or public bodies for risk assessment and safety planning. The *FOIPP Act* has checks and balances, independent oversight, and offence provisions.

### **Deficiencies in the proposed legislation**

As a tribunal that interprets legislation, I see deficiencies in this proposed bill. Some examples include:

- How will the police assess when two people are or were in a physical or emotional relationship? For example, when do people establish an emotional relationship? Does online dating prior to any in-person meeting constitute an emotional relationship? Does one sexual encounter constitute a physical relationship? Who determines if there is or was a “relationship” between the two parties? etc.
- How will the police assess the level of risk? For example, is it numerical value? Based on what?
- How will the police determine how the applicant intends to use the risk information, or whether the application is frivolous or vexatious under section 3(3)(b)?
- Will the police give a written decision of their reason to refuse to consider or discontinue an application? There does not appear to be an appeal mechanism for an applicant whose application was refused or discontinued
- It may be a form of abuse for an applicant to request information to use for a purpose other than informing the applicant’s safety or make a frivolous or vexatious application. Will the police inform the partner that an application was made?
- What mechanism is there to ensure information is correct, or to correct information that may be known to be inaccurate?

- I anticipate the risk assessment process to be resource intensive and require expertise. Can a police service refuse to accept and process such access requests for lack of specialized expertise or resources?

There are provisions in the *FOIPP Act* that would allow police or other public bodies to disclose personal information in response to an access request or proactively. As proposed, this legislative scheme removes any accountability of the existing rights to protect a person's personal information that are granted under the *FOIPP Act*.

I also have concerns that the intent appears to be to disclose verbally only and to have no records of disclosures. Municipal police services in PEI (except for Kensington Police, currently) are public bodies under the *FOIPP Act* and have obligations to be accountable for disclosures made about personal information. RCMP are not public bodies under provincial legislation but have similar requirements under federal legislation. The requirement that disclosures be verbal with no records of the disclosure or what personal information about a partner was disclosed is contrary to the legal obligations of the public bodies intended to make the disclosures.

Further, individuals have a right to know when personal information about them has been disclosed by public bodies, and public bodies have an obligation to be accountable for such disclosures and inform individuals upon their request that personal information about them has been disclosed. This does not require disclosure of the identity of those to whom the information has been disclosed, but not having records would impinge upon the right of an individual to be advised that personal information about them has been disclosed by a public body.

### **No notice to partner**

I have serious concerns that the partner receives no notice of an application for information about them, the outcome, or the content of the disclosed information. There is no option for the partner to be informed, or respond to the allegations against them, or provide input into the decision to disclose their personal information. This contradicts the basic principles of natural justice.

As noted above, the partner is not notified even if the applicant's access request was vexatious or frivolous. In the freedom of information realm, a small portion of applicants make access requests for improper reasons, to collaterally attack a decision, or to attempt to trouble an employee or other individual. We anticipate the same behaviors under this type of legislation. There is nothing in the proposed legislation that would either protect against these kinds of incidents or provide any recourse to someone who has had vexatious or frivolous access requests for their personal information.

## **No checks or balances, accountability, or independent oversight**

The partner has no recourse or remedies under the proposed legislation. For example:

- They are not notified that an application for information has been received or if their personal information was disclosed to an intimate partner, their delegate, or guardian/trustee;
- The proposed bill requires a non-disclosure agreement. This is of little assistance to a partner if they are unaware of the disclosure or the existence of a non-disclosure agreement;
- The disclosing police service is not required to create any records about their disclosure. The proposed bill requires only verbal disclosure. Verbal disclosure ensures that it would be extremely difficult, if not impossible, to account for what information was disclosed, when or to whom, or to ascertain the accuracy of the disclosed information;
- There are no civil, criminal, or regulatory offences for not complying with this proposed bill. Therefore, there is no mechanism of enforcement; and
- There is no independent oversight of the operations of this proposed bill.

## **Permissible disclosure under the FOIPP Act**

The *FOIPP Act* allows a public body to disclose personal information to protect someone's safety, with or without an access request, and without the partner's consent. It also permits proactive disclosure in some circumstances.

The *FOIPP Act* also has checks and balances in place, accountability provisions built in, and independent oversight.

## **Responding to an access request**

I cannot comment on the provisions of the federal *Access to Information Act* that applies to the RCMP, but a person can ask a public body for another person's personal information under section 7 of the *FOIPP Act*. The *FOIPP Act* refers to such a person as a "third party." The *FOIPP Act* prohibits a public body from disclosing a third party's personal information if disclosure would be an unreasonable invasion of the third party's personal privacy. But section 15(2)(b) of the *FOIPP Act* says it is not an unreasonable invasion to disclose a third party's personal information if there are compelling circumstances affecting anyone's health or safety. It also contemplates giving written notice to the third party.

15(2) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if

...

(b) there are compelling circumstances affecting anyone's health or safety and written notice of the disclosure is given to the third party;

...

### Proactive disclosure

There are two provisions of the *FOIPP Act* that allow a public body, including the Charlottetown and Summerside police services, to disclose personal information to a person at risk, or other organization or public body who could help a person at risk, without the partner's consent.

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

...

(a.1) if the disclosure would not be an unreasonable invasion of a third party's personal privacy under section 15;

...

Section 37(1)(a.1) refers to section 15, see section 15(2)(b) quoted above, which says it is not an unreasonable invasion of a third party's personal privacy for a public body to disclose personal information if there are compelling circumstances affecting anyone's health or safety.

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

...

(cc) if the head of the public body believes, on reasonable grounds, that the disclosure will avert or minimize an imminent danger to the health or safety of any person.

The *FOIPP Act* includes checks and balances, including section 37(2) which only permits a public body to disclose the amount of information that is reasonably required. The threshold for when personal information may be disclosed is higher than the proposed bill you asked me to review, for example "compelling circumstances" or "imminent danger."

If information is disclosed in response to an access request or proactively disclosed under the *FOIPP Act*, section 15(2)(a.1) requires notice to the third party. If there are compelling circumstances the public body must notify the third party that the public body disclosed their personal information, but if there is imminent danger to health and safety, they do not need to notify the third party. This notification could be delayed until safety measures to reduce the chance of harm are put in place.

There is independent oversight, along with mechanisms for applicants and respondents (i.e. partners) to provide evidence and written submissions for, or against, disclosure of personal information, and offence provisions under the *FOIPP Act*.

There are also mechanisms for individuals to apply to correct inaccurate personal information about themselves that might be in a public body's records.

## Conclusion

I often recommend that infringements on individual's rights be demonstrably necessary, effective, and proportionate. I have not researched models from other jurisdictions, or their results, but would be happy to review any data you have that indicates that these infringements are necessary, effective, and proportional to the benefits. Our office did a cursory review of other jurisdictions, to see if there was similar types of legislation in other provinces or territories. However, while some provinces have intimate partner violence disclosure statutes, they are substantially different from what is being proposed here.

I note that one of the critiques about similar legislation from other jurisdictions is that it tends to shift the blame onto victims of intimate partner violence for making poor decisions. I have no data or professional opinions that show police's assessment of the level of risk, and their recommendations to mitigate the risk of violence, help to address the complex social, physical, financial, and psychological challenges of a relationship with an abusive person.

This proposed legislative scheme removes the existing protection of privacy rights. In my opinion, the time, energy, cost, and resources of this proposed project would be better spent:

- informing public bodies of the options under the *FOIPP Act* to disclose personal information to someone at risk of intimate partner violence;
- assisting anyone who has either experienced intimate partner violence, or who believes that they are at risk of intimate partner violence, to protect themselves from the risky partner; and
- developing and providing perpetrator programs to address the underlying issues that lead to intimate partner violence.

Due to the gravity and prevalence of the issues we have identified, I have no advice I can give for amendments to the proposed bill that would address my concerns.

In the spirit of openness and transparency, I will be posting a copy of this letter to our website. We would be pleased to answer any questions you may have. Please do not hesitate to contact our office if you have any questions or would like to discuss our concerns in more detail.

Sincerely,



Denise N. Doiron  
Information and Privacy Commissioner