OFFICE OF THE
INFORMATION and PRIVACY COMMISSIONER
for Prince Edward Island

Decision No.	D-26-012
OIPC File No.	C/26/00236
Public Body	Department of Justice and Public Safety
Public Body Ref. Nos.	2026-322 JPS
Statute and Sections for Review	*Freedom of Information and Protection of Privacy Act,* R.S.P.E.I. 1988, Cap. F-15.1, section 4 [records to which *FOIPP Act* applies]
Decision-Maker	Denise N. Doiron, Information and Privacy Commissioner
Date of Decision	September 25, 2026

Summary:

An Applicant requested access to records under the *Freedom of Information and Protection of Privacy Act*. The Department disclosed 71 pages of records. However, the Department refused to give the Applicant access to some information in records of the Vital Statistics Office because those records are excluded from the *FOIPP Act*. The Commissioner confirmed that the requested records were records made from information in the office of the Director of Vital Statistics are excluded from the *FOIPP Act*, under clause 4(1)(h)(iv) of the *FOIPP Act*. Therefore, the Commissioner does not have jurisdiction to review the Department's decision to withhold such records.

Access Request and Response:

[1] The Applicant made an access request to the Department of Justice and Public Safety (the "Department") under the *Freedom of Information and Protection of Privacy Act* ("*FOIPP Act*"). The access request was approximately three pages long but, in summary, was for records held by Vital Statistics relating to the Applicant's Prince Edward Island birth registration and their name (which I will refer to as "Part 1"), and records created by Vital Statistics related to correspondence between the Applicant and Vital Statistics on four specific dates (which I will refer to as "Part 2").

[2] The Department provided partial access to the Applicant. The Department provided access to records that were responsive to Part 2. They refused to disclose records responsive to Part 1, stating "…the Act does not apply to these records which are records made from information in an office or offices defined in the *Vital Statistics Act* under section 4(h)(iv) *[sic]* of the Act". The Department explained there are specific processes and mechanisms set out in the *Vital Statistics Act* for requesting these records, explained that the Applicant would be required to submit a specific form and proof of identification, and provided a link to a website with more information and an online application button.

Request for Review:

[3] The Applicant requested a review. They stated that they were not asking for a ruling that the underlying birth registration itself must be produced. However, the Applicant mentioned several different topics they wanted us to review. In summary, the Applicant was asking us to review whether the Department applied section 4 of the *FOIPP Act* too broadly, and whether the Department conducted an adequate search, based on the kinds of records the Applicant had requested.

Analysis:

[4] The *FOIPP Act* gives applicants a broad right of access to records in the custody of or under the control of a public body. But, this right of access is subject to limited and specific exceptions, as are set out in the legislation.

[5] Subsection 4(1) of the *FOIPP Act* sets out certain classes of records to which the *FOIPP Act* does not apply. If a record satisfies one of the clauses of section 4(1) of the *FOIPP Act*, then the *FOIPP Act* does not apply to the record, and a public body is not obligated to provide access to it.

[6] Clause 4(1)(h)(iv) of the *FOIPP Act* states:

> 4(1) This Act applies to all records in the custody or under the control of a public body, including court administration records, <u>but does not apply to</u> the following:
> . . .
> (h) a record made from information
> . . .
> (iv) in an office of a division registrar, district registrar, or the Office of the Director, as defined in the *Vital Statistics Act* R.S.P.E.I. 1988, Cap. V-4.1, or
> . . .
>
> *[emphasis added]*

[7] The issue, then, is whether the categories of records the Applicant requested within Part 1 fall within the parameters of clause 4(1)(h)(iv) of the *FOIPP Act*. If the *FOIPP Act* applies, the Department must process the access request. If it does not apply, then the records the Applicant requested are exempt from the *FOIPP Act* and the Applicant has no right of access to them under the *FOIPP Act*.

[8] Based on the text of the Applicant's access request for records related to their name, and the types of records specifically identified by the Applicant, and my review of the *Vital Statistics Act*, I find that any responsive record that is encompassed under Part 1 of the Applicant's access request is made from information in an office of a division registrar or the Office of the Director of Vital Statistics under the *Vital Statistics Act*.

[9] For this reason, I find that clause 4(1)(h)(iv) of the *FOIPP Act* excludes these records from the application of the *FOIPP Act.* As the *FOIPP Act* does not apply to the records responsive to Part 1, the Applicant has no right of access under the *FOIPP Act*.

[10] I note that the *Vital Statistics Act* has a specific process to follow to ask for information in an office of a division registrar or the Office of the Director of Vital Statistics. Although not required to do so, the Department explained in their decision letter how to do this and gave the Applicant a link to get more detailed information, and a mechanism to make their information request. This is the process the Applicant must follow to ask for the information they are seeking.

[11] Regarding the Applicant's request for a review of the adequacy of the Department's search for records responsive to Part 1 of their access request, because I have found that the records at issue are excepted from the application of the *FOIPP Act*, I do not have authority to review the adequacy of the Department's search for such records. Therefore, in my opinion, the circumstances do not warrant conducting a review in relation to the adequacy of the Department's search for records responsive to Part 1 of the Applicant's access request.

Decision:

[12] I confirm that clause 4(1)(h)(iv) of the *FOIPP Act* applies to all categories of records the Applicant requested under Part 1 of their access request, and that all records that would be responsive to Part 1 of the Applicant's access request are excepted from the application of the *FOIPP Act*.

[13] Because I have found that *FOIPP Act* does not apply to the records the Applicant requested in Part 1 of their access request, I do not have authority to review whether the Department conducted an adequate search and, pursuant to section 64.1(b) of the *FOIPP Act*, I am refusing to conduct an inquiry into the adequacy of the Department's search.



Denise N. Doiron
Information and Privacy Commissioner