

# PEI's *Freedom of Information and Protection of Privacy Act*

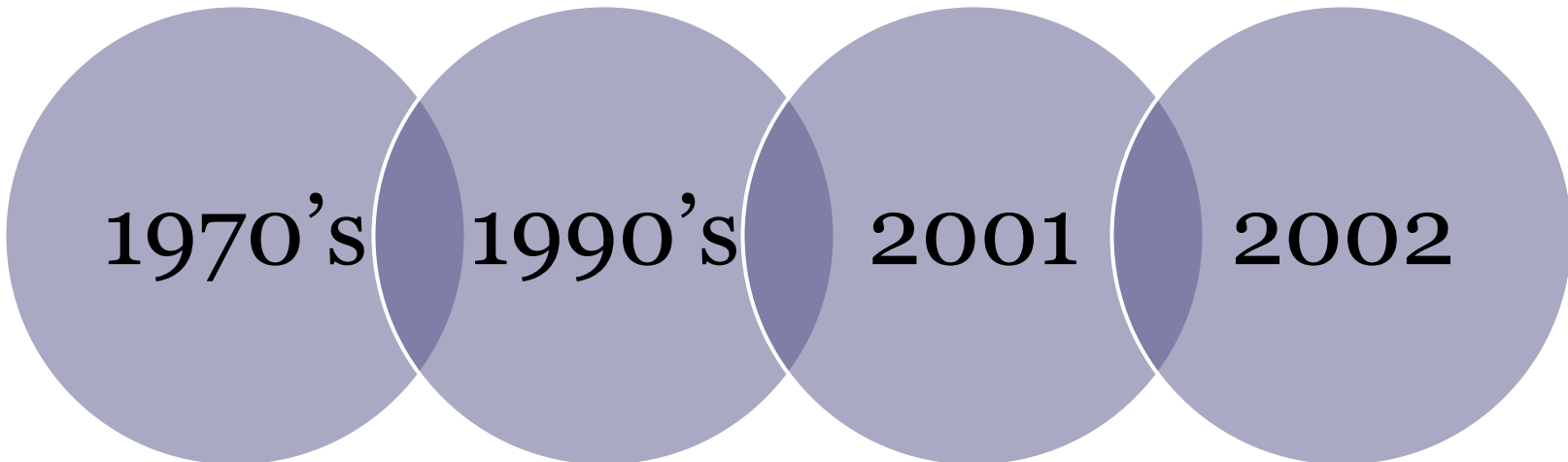
An Overview by the OIPC

For the Standing Committee on  
Communities, Land and Environment

March 14, 2017



# History of *FOIPP Act*



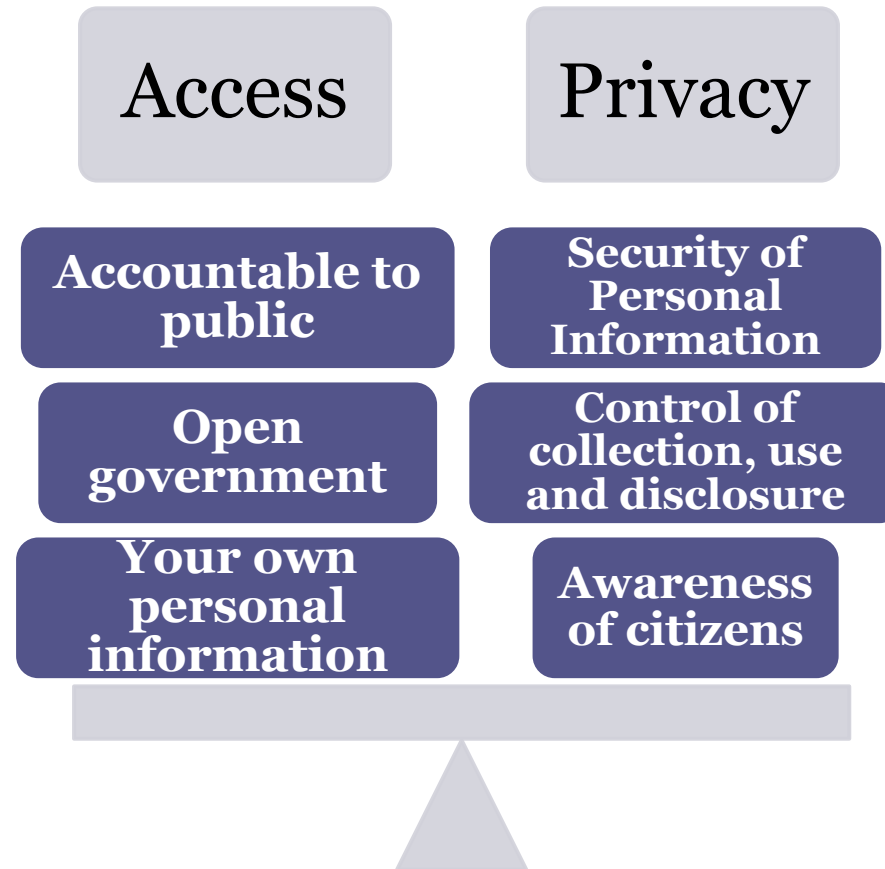
1970's

1990's

2001

2002

# *FOI/PPA Act: Two Acts in One*



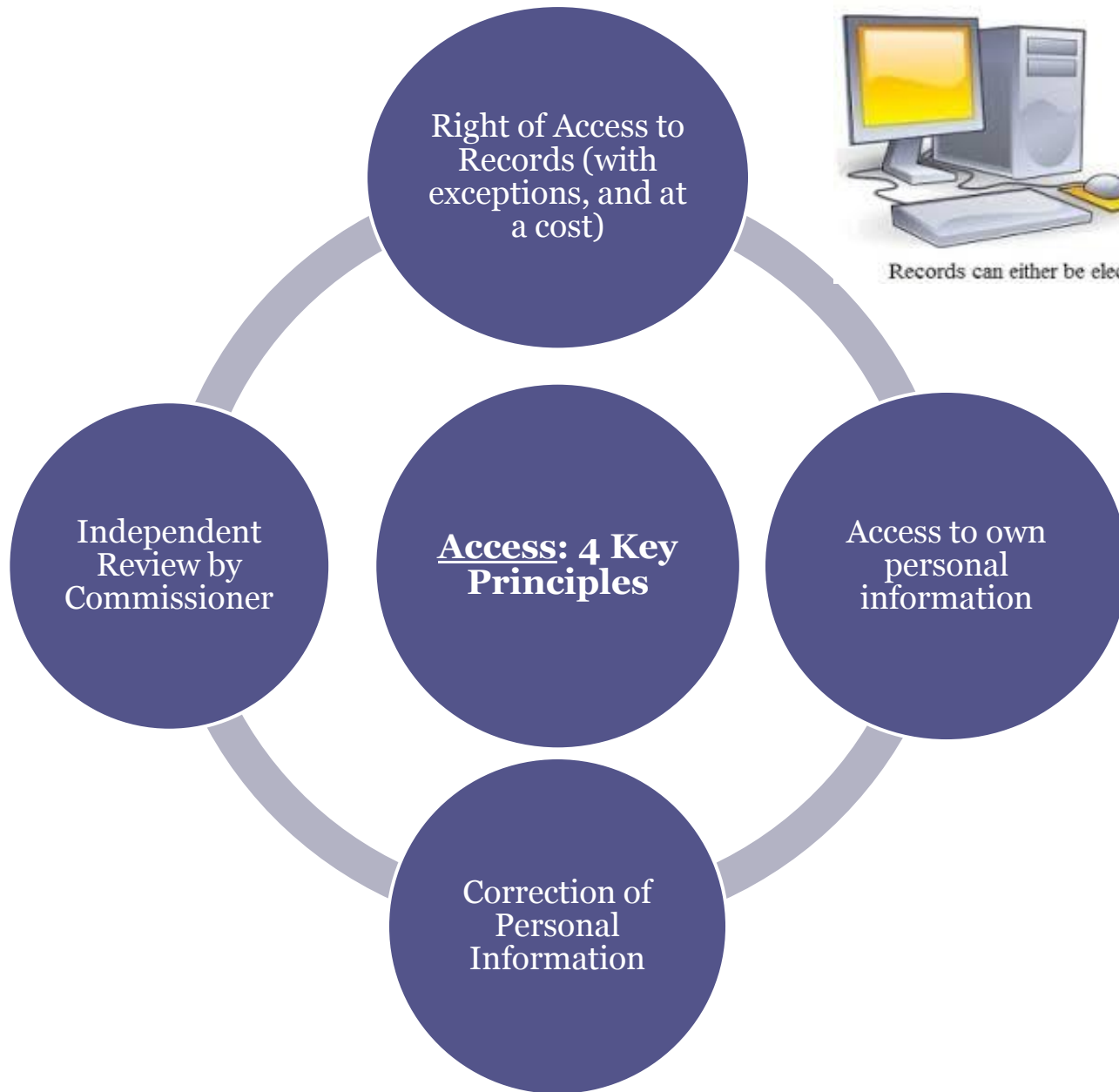
# What is a Public Body?

Public Body  
(Schedule 1)

- Government departments
- Boards, commissions, agencies, eg. WCB, Health PEI

NOT a  
Public Body

- Municipalities
- Post-secondary educational institutions



Records can either be electronic or physical copies

# Access: Process

Time Limits	Fees	Review
<p><u>Section 9:</u> 30 days</p> <p><u>Section 12:</u> additional 30 days if large # records, more detail needed, consult with third parties</p>	<p><u>Section 9(2):</u> \$5 initial fee</p> <p>Schedule 2: Additional fees if more than 2 hours</p> <ul style="list-style-type: none"><li>• Location and Retrieval, Preparation and Handling</li><li>• Photocopying</li></ul>	<p><u>Section 61:</u> 60 days for applicant 20 days for third party</p> <p>No fee</p>

# Sample Exception: *Section 14*, Disclosure harmful to third party business interests

- Mandatory exception
- Required to prove:

Disclosure would reveal trade secrets, or commercial, financial, labour relations, scientific or tech info of TP, AND

Supplied, explicitly or implicitly, in confidence  
AND

Disclosure reasonably expected to cause described harms

# Sample Exception: Section 22, Advice from Officials

- Discretionary exception
- Must reveal the type of information listed in one of clauses 22(1)(a) to (h)
- Discretion must be exercised in balanced and judicious manner





# Privacy: What does Part II of *FOI/PP Act* Do?

**Controls the collection, use, and disclosure of personal information**

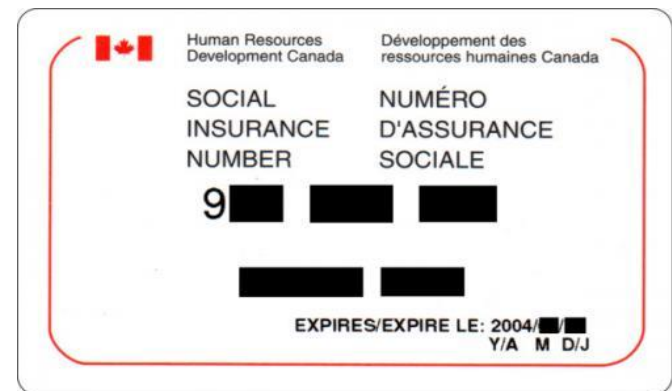


# Privacy: What is Personal Information?

- S. 1(i) recorded information about an identifiable individual, including
  - your name, address or telephone number,
  - your race, colour, national or ethnic origins,
  - your religious or political beliefs;
  - your age, sex, marital status, or family status;
  - anything which can be used to identify you, such as a number or symbol;
  - your fingerprints, blood-type, or inheritable characteristics;
  - information about your health or medical history, including information about a physical or mental disability;
  - your educational, financial, employment, or criminal history (including criminal records where a pardon has been given);
  - a person's opinion about you; and
  - your personal views and opinions, unless they are about someone else.

# PRIVACY: Rules of Collection, ss. 31-32

- To collect personal information, must either
  - Be authorized by law
  - Be for law enforcement OR
  - Relate directly to and be necessary for a program or activity of public body
- Explain purpose and authority
- Examples of breaches



# PRIVACY: Rules of Use, s. 36

- Once personal information is validly collected...
  - Use it for its original purpose or a consistent purpose
  - Breach: Snooping
- Keep it secure, s. 35
  - Misdirected mail
  - Lost or stolen records



# Privacy: “Snooping”

- Consequences are growing:
  - Currently discipline, termination, fines
    - S. 75(2) of *FOIPP Act*
    - Fines increasing (Ont & Sask)
  - Recommendations to reveal name of snooper
    - Sask Commissioner says snoopers have diminished expectation of privacy



# PRIVACY: Rules of Disclosure, s. 37

- Again, disclose it for its original purpose or a consistent purpose
- DO disclose to fulfill promised service
  - Need-to-know internal disclosure
  - Disclosure is often inadvertent
- Examples of breaches



# Role of Information and Privacy Commissioner

- independent reviews (access and privacy)
- resolution of complaints, s. 50
- Both processes may result in an order, s. 66
  - Access – confirm decision of PB, Order disclosure or non-disclosure of record, or reconsideration
  - Privacy – stop collecting, using, or disclosing p.i. in violation of Act, or destroy p.i. collected in violation of Act

