PRINCE EDWARD ISLAND LEGISLATIVE ASSEMBLY

Speaker: Hon. Francis (Buck) Watts

Published by Order of the Legislature

Standing Committee on Communities, Land and Environment

DATE OF HEARING: 5 OCTOBER 2017

MEETING STATUS: PUBLIC

LOCATION: LEGISLATIVE CHAMBER, HON. GEORGE COLES BUILDING, CHARLOTTETOWN

SUBJECT: BRIEFING ON FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

COMMITTEE:

Kathleen Casey, MLA Charlottetown-Lewis Point [Chair]
Dr. Peter Bevan-Baker, Leader of the Third Party
Richard Brown, MLA Charlottetown-Victoria Park
Bush Dumville, MLA West Royalty-Springvale (replaces Hon. Heath MacDonald, Minister of Economic Development and Tourism)
Hon. Jamie Fox (replaces Sidney MacEwen, MLA Morell-Mermaid)
Hon. Pat Murphy, Minister of Rural and Regional Development
Hal Perry, MLA Tignish-Palmer Road
Darlene Compton, MLA Belfast-Murray River (replaces Bradley Trivers, MLA Rustico-Emerald)

COMMITTEE MEMBERS ABSENT:

Bradley Trivers, MLA Rustico-Emerald
Hon. Heath MacDonald, Minister of Economic Development and Tourism
Sidney MacEwen, MLA Morell-Mermaid

MEMBERS IN ATTENDANCE:

none

GUESTS:

Information and Privacy Commissioner (Karen Rose)

STAFF:

Emily Doiron, Clerk Assistant (Journals, Committees and House Operations)

Edited by Hansard

The committee met at 10:00 a.m.

Chair (Casey): Good morning everybody and welcome to the Standing Committee on Communities, Land and Environment. I'm Kathleen Casey. I'm the Chair of the committee.

Today, I would like to welcome the hon. Jamie Fox, who is substituting for Sidney MacEwen, and Darlene Compton, who is substituting for Brad Trivers, and also Bush Dumville, who is substituting for the hon. Heath MacDonald.

Just as a friendly reminder, I know some people have some new phones, and they're just trying to figure out how they operate. If everyone could silence their phones and make sure they don't disturb the meeting, including my own. Hopefully, it's all turned off.

We have our agenda before us, and I'm looking for adoption of the agenda –

Mr. R. Brown: Moved.

Chair: Thank you, Richard Brown.

Today, we're having a briefing on the *Freedom of Information and Protection of Privacy Act* and I would like to welcome, your behalf, Karen Rose, the Information and Privacy Commissioner.

Now, I'm going to turn the floor over the Karen Rose for her presentation.

Maybe, hon. members we will allow Karen to do her presentation and ask questions following, but if there is something that you want to ask, Karen is that okay if they ask a question?

Karen Rose: Oh, yes. I have a proposed procedure.

Chair: Oh, perfect.

Karen Rose: After each recommendation, there are only five, but after each one I think that would be the best time to get questions on that particular recommendation.

Chair: Excellent.

Karen Rose: Then we can move through the remaining ones.

Chair: Karen, before you start. Could you say your name and your title just for the record?

Karen Rose: Sure. Karen Rose, Information and Privacy Commissioner for PEI.

Chair: The floor is yours.

Karen Rose: Thank you.

One housekeeping measure, our clerk has passed you a replacement page. As you know, I provided you with a written report with my recommendations set out in it.

I noticed, last night, a factual error in the report. I corrected it and when I get to recommendation four, I will compare what the original statement was on page 10 with what it says now so that you're aware of what the error was and how it was corrected. When we get to recommendation four, that's when page 10 will come in.

As I mentioned there are five recommendations. They're in no particular order, but they're in the same order as they were in, in my report. I welcome questions following my brief overview of the recommendation.

The five recommendations are: Adding municipalities to the FOIPP act; adding post-secondary educational institutions to the FOIPP act; producing information to the commissioner relating to a claim of solicitor-client privilege; shortening the time limits under sections 19, 20, 21 and 22 from 20 years to 15 years; and a provision for a periodic review of the FOIPP act.

How we came – how our office came to these recommendations is, first we reviewed legislation. The first piece of legislation we reviewed was the Alberta FOIPP act, upon which our FOIPP act is based. Then, we reviewed our own FOIPP act. We reviewed a couple of secondary pieces of legislation just during the process of determining what would the best recommendations be. Those would be the *Archives and Records Act* and the Municipal Government Act, which is not yet proclaimed.

We also looked at what is going on in other jurisdictions. Once we determined where we were leaning, we looked at what is happening in British Columbia? What is happening in New Brunswick? What's happening in Newfoundland? That's another thing that we did to prepare.

Lastly, we considered our own experiences, the experiences of our office over the past 15 years since the FOIPP act was proclaimed to determine what we thought was missing, and should it be subject to amendment.

Chair: Karen, I have a question from Peter Bevan-Baker.

Karen Rose: Sure.

Dr. Bevan-Baker: Thanks for being here, Karen.

I just wanted to pick up on what you were just saying about the jurisdictional scan that you did and the other places that you looked at to inform your review.

I heard all of them as being Canadian jurisdictions.

Karen Rose: Yes.

Dr. Bevan-Baker: Yeah.

I'm wondering why because the Centre for Law and Democracy, which is, sort of, a renowned global institution when it comes to freedom of information issues, I can't remember the exact statement, but it's something along the lines of: Canada used to be a world leader when it came to access to information, but now we have been overtaken by many, many other jurisdictions. On the global range of access to information Canada now is considered to be quite weak.

I'm wondering why you would not have gone beyond our national borders to look for, perhaps, more progressive possibilities.

Karen Rose: That's a good point, Peter.

The only time we looked at what was going on outside of Canada was when we were looking at recommendations that currently have not been implemented in Canada.

One example of that, one recommendation that we considered was the duty to document. Some of you may be familiar with that. We can talk about that a little bit later, if you would like.

There currently is no duty to create records in any jurisdiction in Canada. When we were looking at that we looked at what is happening in New Zealand and Australia because those are two countries that have a duty to document. What we determined, in that case, is not – those countries have implemented a duty to document in their records management legislation. In their, what would be the equivalent of our *Archives and Records* Act, not in their freedom of information legislation.

Also, we looked at recommendations that had been made within Canada with regard to a duty to document. Recommendations lean towards putting such a duty in legislation such as the *Archives and Records Act* so that's why, given that this was a FOIPP act review, that's why we rejected that as a recommendation.

That is an example of us going outside of Canada so, perhaps, for the next review it would be a good idea to go outside of Canada for all of our research and not just those that don't seem to exist in Canada.

Chair: Peter Bevan-Baker.

Dr. Bevan-Baker: Thank you, Chair.

You mentioned the previous review that was done. I think it was April 2009 −

Karen Rose: Yes.

Dr. Bevan-Baker: − and if I'm not mistaken, those recommendations were never actually acted upon. So I'm wondering whether, how much that informed the review that you did and whether we're seeing the same recommendations repeated.

Karen Rose: I don't think there are any of our recommendations today that are – and I could be wrong, but I definitely reviewed all of the recommendations that were made by the committee in April 2009, and I carefully reviewed them, and what I found on the

whole was that many of those – eight years have passed since then, and many of those recommendations have sort have been worked out through interpretation.

So I think there were some concerns that certain sections would be interpreted one way and maybe we should be a little bit more precise when we word it, but over the ensuing years those recommendations have been interpreted, or I am confident that they would be interpreted in a way that would not pose the risks that were talked about in those recommendations.

What I can tell you is at the end of the day; we reviewed those recommendations in 2017 and found that most of them were not necessary.

Chair: Peter Bevan-Baker.

Dr. Bevan-Baker: Thank you, Chair.

Can I just clarify that this is the first review that's been done since that 2009?

Karen Rose: Yes, it is.

Dr. Bevan-Baker: It is? Okay.

Karen Rose: I do understand that there was an internal government review done in 2012, but it wasn't a committee review. These were the only two committee reviews that were done; but I do understand that there was a review that was really, essentially, a comparison of everything that was in the Alberta FOIPP Act, and whether Prince Edward Island would be advised to make any further amendments, that would be similar to the Alberta FOIPP act.

Which is essentially what out office has done in order to come to the recommendations that we have here; because if you look at them, out of the five recommendations, there are only two that don't currently exist in the Alberta act: The solicitor-client privilege which Alberta is working on, and the periodic review, which has been recommended by a reviewing committee in the last review of the FOIPP act in Alberta, but it was never implemented, to periodically review the act every six years. The other three are currently law in Alberta.

Chair: Peter Bevan-Baker.

Dr. Bevan-Baker: Final question on this, Chair, thank you.

The Alberta FOIPP is what you based most of your review on, and I'm wondering why. Newfoundland recently updated their FOIPP and they're –

Karen Rose: Yes.

Dr. Bevan-Baker: – in my opinion, the most progressive in Canada, anyway, 2015; and I'm wondering why you wouldn't have used one with stronger recommendations or a stronger FOIPP law as your model.

Karen Rose: You'll probably hear me say this a few times. Actually, I say it here on my next slide. We're working under a piece of legislation that has effectively been around since 1995. Even though it was proclaimed here in 2002, it had been in existence in Alberta since 1995. So we have 22 years of experience with a piece of legislation that has really served us very well, so to move to − I agree that Newfoundland's legislation is forward-thinking, very well done.

It arose as a result of a three-person panel of fantastic expertise. But some of the, if – in our view, this piece of legislation has worked very, very well on Prince Edward Island because it really has promoted accountability. It does protect the privacy of personal information of Islanders. So at the end of the day, we didn't think it was necessary to – we definitely are aware of what's happening in Newfoundland.

One of the examples in Newfoundland is that committee recommended a duty to document, for instance. Not in their FOIPP list, not in their – they don't call it FOIPP; they call it ATIPPA, *Access to Information and Protection of Privacy Act*. So they are forward-thinking, but I – in our view, this legislation works just as well, if these five recommendations are implemented, as the Newfoundland legislation.

It does the job. It has been interpreted to continue to protect the privacy of Islanders and also to give them maximum access to information, so we think it's a great piece of legislation.

Dr. Bevan-Baker: Thank you. Thanks, Chair.

Chair: Karen, I'll turn the floor back to you.

Karen Rose: Thank you.

Since Peter and I have discussed the two previous reviews, I don't think there's much else to say. I will say that in the review that happened from May to December of 2004, we made submissions to your committee – which was differently constituted at that time – and so did the government FOIPP office and some other groups and individuals made submissions to the committee.

The changes that happened from Bill 10, the amendments that were made, I took a look through them and they are very similar to changes that had been made in Alberta. Really, it was a perfect time to review the legislation, because our office had been working under it for a couple of years and we had one particular significant problem with it.

Section 15, which protects personal information, was worded in such a way that the process was very difficult, the decision-making process for a public body to go through to determine: Okay, if we disclose this, will it be an unreasonable invasion of personal privacy? The way section 15 was worded made it a very difficult process, and when we started working through that process we realized the problems with it, and then we discovered Alberta had also realized the problems with it and had made an amendment. That was one of the amendments that was made in Bill 10.

Another significant amendment that was made with Bill 10 was section 50 of our act, which had previously stated that the commissioner's office had the ability to conduct reviews and generally support the legislation; but Alberta had a list of other responsibilities of the commissioner, and now those other responsibilities such as public education, providing advice and recommendations if requested by a public body, those additional responsibilities were added in Section 50. So it was a nice improvement, and I think you would find all of those amendments consistent with the Alberta FOIPP act as well.

I don't need to reiterate that in our view the FOIPP act is well written, and it's an effective tool of government accountability. It's also much-used. We are a very small province, and the Access and Privacy Services Office has told us that last year they received more than 200 requests. Those are just the line departments.

That doesn't include Health PEI, for example, which is a large public body who receives a lot of requests, and this is reported in our annual report which was recently issued. Workers Compensation Board, for instance, also receives requests. So there are other public bodies that don't go through APSO who receive a lot of requests for access.

It is a much-used piece of legislation, and the privacy provisions under part two of the act we think still reflect a growing concern for personal privacy. I think we would all agree that the concern for personal privacy is growing. You can see a lot more in the news, the Equifax breach recently. Whenever there are major breaches, we read about it in the news; and if you're someone who follows this type of thing, what's going on in the legal world, class actions for privacy breaches are really growing.

Chair: The hon. Jamie Fox.

Leader of the Opposition: Thank you, Chair.

How does your office, then, interact with requests going into WCB or the other departments that handle their own? How's that?

Karen Rose: It's the same way. They have a designated – rather than a centralized office, they have a designated FOIPP coordinator. So there is one person within their office who we correspond with and who handles all of their FOIPP requests or privacy issues, breaches, that sort of thing, and so they report just as APSO would report to our office on behalf of a public body or a public body would report to our office through APSO, the WCB reports to us and they have the same type of form letter, so that if, for example, you made a request

to the WCB for access to information and the WCB decided: We will give you A, B and C of your request, but we will not give you D and D. They would say in their letter: and you have 60 days to ask the information and privacy commissioner for a review. They'd give you the same information and you would ask for that review from my office.

Chair: Jamie Fox.

Leader of the Opposition: Do you oversee them to ensure that –

Karen Rose: Oh yes.

WCB in particular, if you look at our annual report for the last couple of years, we issued an investigation report relating to a privacy complaint against WCB a couple of years ago. They have a very sophisticated breach management process that they did not have when I started in the job in 2002. It's really something that has grown and they take privacy very seriously.

We have been following them over the past two years to ensure that they implement the recommendations that I made to their privacy breach management policy.

Leader of the Opposition: Okay for now.

Chair: Thank you.

Richard Brown.

Mr. R. Brown: Thank you, Chair.

First of all, I want to commend you for your report. It's excellently done in terms of the facts being up front. The information being up front and then your recommendations –

Karen Rose: Thank you.

Mr. R. Brown: – there is a lot of – it's well written. It's easy to read. I think the general public could easily read it.

I do have a concern about personal privacy and in the protection of personal privacy. The freedom of information is there, but also the act is just as important to the freedom of my information being protected.

One of the major concerns I have heard over the last couple of years is medical records. I was extremely concerned about a doctor being able to put in their will that: My son will own the medical records and that person is a non-medical person. The son would have the medical records, and contact the people on the medical records and saying: If you want to buy your medical record, I'll sell it to you.

Would your department, have you looked into this? These are medical records and I'm really concerned that when a doctor leaves, and you know we have a transition of doctors nowadays, that where are these medical records showing up?

My recommendation would be that Health PEI should take all records of medical doctors, when they're retiring and not passing them onto somebody, or that we outlaw the inheritance of medical records of family members that are non-medical people.

Karen Rose: Those are very good points. I have a feeling that's going to be an issue that we'll be addressing under the *Health Information Act.*

Mr. R. Brown: Okay.

Karen Rose: As you all know the *Health Information Act* was proclaimed on July 1st, 2017, so just a few months ago. One of the issues that we have become alive to is the custody and control of records of custodians, that's what we call them under the *Health Information Act,* who are no longer practicing or who are deceased. So, who are either retired or deceased, that is something that we have begun to look at because we have seen an issue arise.

Mr. R. Brown: Yeah, okay.

Karen Rose: It is something that you will our office addressing in the coming months.

Mr. R. Brown: Just one other –

Chair: Richard Brown.

Mr. R. Brown: – on her.

When you make a ruling on a request and you say you must release the information, is the information on your website?

Karen Rose: No.

Mr. R. Brown: Why not? Because, you know, when you make a ruling, you say: I rule that you must release the information –

Karen Rose: Yes.

Mr. R. Brown: – how does an individual go to get that information? I think it would be better if you – on your ruling if you said: Release the information, that your website would have the information that you requested to be released.

Karen Rose: Our ruling is to a public body. We're ordering the public body to release the information. The public body then has a period of time that they can ask for a judicial review of our order.

They have 30 days to ask for a judicial review. During that time they can either decide: We will follow the order or we do not think the order was properly made. Therefore they would seek a judicial review.

For that reason we couldn't. But also because it's the public body's responsibility in accordance with the FOIPP act. My only role is to oversee and to – and I'm required to make an order, at the end of the day, on an access review.

After that time, we do follow-up to ensure that the public body did follow the order. Or when we make recommendations to ask the public body: Are you going to follow those recommendations?

Mr. R. Brown: Okay, thank you.

Chair: Bush Dumville.

Mr. Dumville: Thank you, Chair.
Your number one recommendation is adding municipalities.

Karen Rose: Yes.

Mr. Dumville: And a lot of times, provincially, we're concerned of the feds downloading stuff on us. Are we downloading costs to municipalities? Like, how much would it cost a small municipality to get into this program and who would pay?

Chair: Excuse me, Mr. Dumville.

Karen, we're going to get into the recommendations, aren't we?

Karen Rose: Yes. We can start getting into them now, if there are no other questions –

Mr. Dumville: Oh, I just thought we were in one.

Karen Rose: Yes, and we have covered a few things, but I'm comfortable starting – I'm comfortable answering that question –

Chair: I have a few more people on the speaking order –

Karen Rose: Oh, sorry.

Chair: – so, Mr. Dumville, do you want to hold your question –

Mr. Dumville: I –

Chair: – until we get to recommendations –

Mr. Dumville: – will hold that, Chair.

Chair: Okay, thank you.

I have Peter Bevan-Baker next.

Dr. Bevan-Baker: I'll hold my questions, too, Chair.

Chair: Hon. Jamie Fox.

Leader of the Opposition: I just have a quick question. You talked about judicial review. Who actually does the judicial review?

Karen Rose: The Supreme Court.

Leader of the Opposition: Okay, thank you.

Chair: Thank you.

The floor is yours.

Karen Rose: I think I can move into my first recommendation on that note.

An Hon. Member: (Indistinct)

Karen Rose: Okay, Mr. Dumville, I think I'll introduce this a little bit and address your question. I'll reiterate what I think your question is when I do that, okay?

Mr. Dumville: Thank you.

Karen Rose: Currently, there is no legislated requirement to provide access to information by municipalities or to protect the personal information that municipalities hold.

I know you're aware of the Municipal Government Act, which under sections 47 and 48 requires, will require, when it's proclaimed, within a year after it's proclaimed, under sections 47 and 48, that municipalities create bylaws, which will be consistent with the regulations, which are yet to be drafted. So, I can only make so much comment on this because I don't have the regulations.

My review of sections 147 and 148 of the Municipal Government Act show me that the standard is much, much less detailed than it is in our *Freedom of Information and Protection of Privacy Act*, there is one very good thing in those sections. There is what we call proactive disclosure.

There is a list of documents that municipalities must provide to the public body, presumably on a website or something like that, such as financial statements. That is a very good thing that is actually not contained in our own *Freedom of Information and Protection of Privacy Act*, but there is no provision for independent oversight. That is my – that is a very significant concern.

What I mean by that is there is no provision for, if you're not happy with the response of a municipality to your access request, there is no provision, as yet, unless that shows up in the regulation, to ask my office to review the decision of the public body. Or if you have a privacy complaint, there is no provision on that.

I'm just going to take a quick look, before I get to your question, Mr. Dumville, at sections 147 and 148 to point out a couple of other things about them; a couple of other concerns I have.

Section 147 says: It only applies to information that was created or collected on or after the coming into force of this section.

Our present FOIPP act applies to all records in the custody and control of public bodies. It doesn't matter when they were created. Sometimes they were created 25 years ago. Sometimes they were created last week, but it doesn't matter. This provision says that it will – that this bylaw, that the municipalities are yet to create, will only apply to information that was created or collected on or after the coming into force of this section. That is a concern of mine.

Another is the language. When we're dealing with interpretation, the language is very important. For those of you who were here in my presentation in March, I went through, you're probably tired of hearing it, but under part 2 the privacy provisions, we always talk about collection, use and disclosure.

The public bodies have obligations with regard to what information they collect, how they use it and who they disclose it to. The word 'disclosure' does not show up in these two sections. The word 'collection' shows up, the word 'use' shows up. I think what 148 1(d), I think it means to say 'disclosure' but the word really matters.

What it says is: respecting who may have access to the personal information. Access and disclosure are two different things in our world. Access is you're getting access to information that you've requested. Disclosure is you've got personal information and there should be rules around who you disclose it to. The verbiage is also a little bit concerning to me.

There is a provision for correcting your own personal information. That is a good thing. That's also contained in FOIPP. Again, both sections apply to information that was created on and after the coming into force of this section.

Those are just some cursory concerns I have about the Municipal Government Act. But as I say, I can't – I haven't seen the regulations and the regulations could be very – could change my observations.

Now, I'd like to address Mr. Dumville's question because I am aware that we have – I think your question is: Are we creating a large burden for municipal governments? I think we're creating a burden. I don't think it's a large one.

I think the Municipal Government Act could be a burden. I think adding municipalities under the FOIPP act would be less of a burden. That's because we have 15 years of experience under the FOIPP act. We have resources. For those offices, I'm familiar of what it's like to have very few resources in an office. For those offices who have very few resources, what they're going to do is what I've done, and that's look at, talk to people who have already had experience under the legislation.

For municipalities who are small and have very few resources, there are other resources they can turn to here on PEI. They can talk to the APSO office; they can copy the forms; they can borrow some training; they can call my office, and we'd be very happy to help.

We've got a very mature piece of legislation, we have many resources across the Island, and no one is going to – the Municipal Government Act, sections 47, 147 and 148 exist because, I think, we all agree all governments are accountable, including municipal governments.

To me, since we all – if we start with the presumption that all governments are accountable and should protect the personal information in their custody and control, then, to me, in our view, the best solution is to apply the FOIPP act to municipalities because we'll have – the resources are there and they're ready to be accessed.

Mr. Dumville: Chair.

Chair: Bush Dumville.

Mr. Dumville: I think, possibly, you answered my question, because my next question was: The cost in expertise in drafting to suit provincial requirements.

Karen Rose: Right.

Mr. Dumville: You believe that they can, like their regulations have got to fit in with provincial –

Karen Rose: Right, and I'll give you – the only other province who has – Nova Scotia has effectively put their *Municipal Government Act* under FOIPP. In Nova Scotia, their information and privacy provisions are in the *Municipal Government Act*, section 20. It is a very huge act and I think the sections start at four-hundred-and-something, but they are all-encompassing. They are as detailed as a FOIPP act. What they've done is they put it into the *Municipal Government Act* and made the Office of the Information and Privacy Commissioner the oversight person. They've effectively done the same thing as using the FOIPP act.

Again, if we want to talk about where the expertise is and where the resources are, they already exist in this province. If we create new rules, first of all, I don't think the standard is good enough at this point; but if we do create new rules, there will be nowhere to turn to know how to interpret them in the beginning.

Mr. Dumville: Chair, just one further question.

Chair: Bush Dumville.

Mr. Dumville: The RCMP, they fall under the federal access act. Our local police departments do not. Will they be able to call in the same – how will they dovetail in –

Karen Rose: Yes.

Mr. Dumville: – like with municipalities –

Karen Rose: Yes.

Mr. Dumville: – will they be treated the same?

Karen Rose: Yes, they would. In all other – and that's the next statement on the slide. PEI is the only province which does not have freedom of information and protection of privacy legislation for its municipalities. The Territories don't yet have it, but both of their commissioners – actually, Nunavut and Northwest Territories commissioner, I think, has been asking for municipalities to be

added for more than a decade, but it's in her most recent report. In the most recent report of the Yukon, they have asked for municipalities to be added.

In Saskatchewan – which is something I raised in my written report – in Saskatchewan, municipalities have not, up until this point, included local police services. That has caused a problem in Saskatchewan, and I believe it's causing a problem on Prince Edward Island, as well, for the same reason.

That's because we now have what's called collaborative risk models. In Saskatchewan it's called the hub and on PEI it's called the bridge. These are wonderful models of collaboration, which necessarily involve the sharing of personal information.

As I said in my report; the PEI Bridge is a model to identify people in the community who are at risk of harm, who are often children. I will give you a list of the public bodies, of the bodies who are involved in the PEI Bridge: education, child protection, municipal police forces, RCMP, PEI family violence prevention, Mi'kmaq Confederacy of PEI, probation, public health, adult protection, mental health and addictions, and victim services.

The problem with not having – when you've got a sharing, or a disclosure of personal information among bodies, Islanders needs to know that their personal information is being protected, so local police services have no legislated requirement at all to protect the personal information of the people whose information they are discussing.

That's because there is a gap in the legislation. The RCMP are covered by the federal legislation, but there is nothing for local police services. Saskatchewan recognized that and in May of this year they changed the law to include local police services in their municipality.

It is a gap that should be corrected because if you are involved in the bridge – let's say I am someone who has been determined to, who they've offered services to because I am at risk. I also, under FOIPP legislation, have the right to ask: okay, what personal information do you have of me, so that I can look and make sure that it's accurate, apply for a correction if I want to; and also, if I believe that my privacy has been violated I have the right to make a complaint. But the police services, although I am confident that they are doing their best to protect our personal information, they are not legislatively required to do so. So that's a good reason to include them in the municipalities.

Chair: Thank you.

Mr. Dumville: Thank you, Chair.

Chair: Richard Brown.

Mr. R. Brown: Thank you.

Quick question: You have 200 access to information requests yearly, I'd say. A lot of time would be spent on that. Have you been consulted on the Municipal Government Act?

Karen Rose: No.

Mr. R. Brown: Have you been consulted on the health act?

Karen Rose: The *Health Information Act*?

Mr. R. Brown: Yeah.

Karen Rose: Yes, extensively. The *Health Information Act* was in draft when my predecessor was Information and Privacy Commissioner, Maria MacDonald, and she gave extensive recommendations on the draft, many of which were implemented before.

Mr. R. Brown: So do you think legislation that's concerning access to information, privacy, that your office should be consulted before the act is – you know, that you sign off on it that says: Look, it meets the requirements of the act. I think that would avoid a lot of requests and a lot of work on your part later on if –

Karen Rose: Yes.

Mr. R. Brown: – you were there to preview it and –

Karen Rose: Yes.

Mr. R. Brown: – to say: Yeah, okay, it meets the standard, and continue.

Karen Rose: Yes. I think one of the concerns sometimes is that if we provide –

Mr. R. Brown: Oh, okay.

Karen Rose: – input and a complaint later –

Mr. R. Brown: Okay.

Karen Rose: – arises, we are not as independent as we could be; but having said that, we were consulted extensively on the health information and we do make comments and there's provision in our legislation for advice and recommendations.

Mr. R. Brown: Thank you.

Chair: Peter Bevan-Baker.

Dr. Bevan-Baker: Thank you, Chair.

Karen, you were talking about the concerns that arise when you have bodies that are outside FOIPP involved in a very personal situation like the Bridge program, and you talked about how bringing municipalities under the act will inevitably bring municipal police services, but there were some other organizations that you have mentioned.

Many of them were government organizations and therefore would be covered by FOIPP, but the Mi'kmaq Confederacy, for example, or the family violence prevention, neither of them are – it would not affect them, even if municipalities do come under the act. Do you have concerns that we still have bodies which are involved in the Bridge program that even if municipalities do fall under FOIPP will still not be covered by the act?

Karen Rose: My understanding, Peter, is that both of those organizations are consulted in a way that does not involve the sharing of personal information, but good question otherwise. Whereas local police services may have to provide information about past family violence incidents, for example, my understanding is that those two organizations are there more on a consultant basis, but I can confirm that.

Chair: Peter Bevan-Baker.

Dr. Bevan-Baker: Thank you, Chair.

You talked about the potential burden for municipalities in having to provide this information, and your recommendation is for municipalities to fall under FOIPP so that there is that critical independent oversight that your office would provide that would not be provided under the municipal act as it's currently drafted.

So I'm wondering what other arguments there are for not including municipalities under the act and bringing PEI in line with every other province in the country?

Karen Rose: I don't think there is any other argument except for the resource issue. I think that is the only argument, and that is why I have recommended to consider a delayed statutory effect; because when we were here last time in March, we talked about how regional health authorities and school boards did not come under FOIPP until a year after, and that was to allow them to basically get their house in order.

Those are public bodies who have a lot of records and a lot of personal information as well, and it allowed them some extra time to organize themselves before they came under the act. The Municipal Government Act itself says that these changes, even after proclamation, won't take effect for another year. I think the delayed statutory effect would allow municipalities to get their own houses in order, seek those resources, and then be ready for the legislation when the date comes.

Dr. Bevan-Baker: Thank you.

Thank you, Chair.

Chair: The hon. Jamie Fox.

Leader of the Opposition: Depending on the answer, Chair, it could be two questions.

What's your definition of a public body?

Karen Rose: The public bodies are listed in Schedule A of the regulations to the FOIPP act, so the act lists those that are not public bodies, those offices which are not public bodies, and then there are about 100 public bodies including all line departments, but

there's no way I'd be able to remember all of them right now.

Leader of the Opposition: Okay, so with that –

Chair: Jamie Fox.

Leader of the Opposition: – if we bring in the municipality – which I have no problem with at all – if we bring in the municipalities under the FOIPP act, the City of Summerside would fall under that, the police department would fall under that, the fire department would fall under that, Summerside power would fall under that.

Does Maritime Electric fall under the FOIPP act, or should it fall under the FOIPP act due to the influence they have in the province?

Karen Rose: Maritime Electric would fall under the *Personal Information Protection and Electronic Documents Act*, the federal legislation, because it's a business that operates a commercial – it's a commercial enterprise. So it must follow the personal information protection and freedom of information provisions in that legislation.

But you're right. I think I had not considered until now the municipal electric –

Leader of the Opposition: The Summerside utility.

Karen Rose: – of Summerside, so that is definitely something that should be looked at.

Chair: Jamie Fox.

Leader of the Opposition: So with that, if we're going to look at Summerside utility because of that, given the influence that Maritime Electric has where it is basically, I would say, it's a public body where it has such influence on power solely on Prince Edward Island, should they not be expanded to that? Maybe you might not want to answer that question, but –

Karen Rose: I think that's a good question for your committee.

Leader of the Opposition: Thank you.

Chair: Peter Bevan-Baker.

Dr. Bevan-Baker: Thank you, Chair.

Jamie brings up a really interesting and important point. The lines between what's public and what's private are sometimes very blurred, and I think that Maritime Electric, that's one. I'd just like to ask a couple of questions on that, because increasingly over the last few decades there's been situations where a large amount of public work is contracted out to private contractors.

Whether we're talking about – well, all sorts of contract work is carried out by private businesses using public money. So are those private bodies that perform public functions, what is their relationship to the FOIPP act?

Karen Rose: It depends on whether they're an agent. Agents of public bodies are considered employees under the definition of employee in the FOIPP act. Therefore, they act on behalf of the public body, and what they do is subject to the FOIPP act.

If you're talking about contracts that public bodies enter into for service contracts, that's not the same thing as an agency. Those organizations who enter into contracts with public bodies are subject, if they are commercial enterprises, they're subject to their own legislation; but keep in mind that we already have a body of decisions that say that, for example, on the whole, contracts between public bodies and such service providers are subject to access to information.

Chair: Peter Bevan-Baker.

Dr. Bevan-Baker: Is that through access to the tendering process? Is that what you're referring to there, Karen?

Karen Rose: No, RFPs is a different thing, because as you know, during the actual tendering process that's a confidential process, but once a contract is entered into we have a body of orders which state that that contract, on the whole, there may be – individual exceptions must be provided.

Dr. Bevan-Baker: Thank you, Chair.

Chair: Thank you.

Bush Dumville.

Mr. Dumville: Thank you.

I'd like to – could you enlarge a little bit on solicitor-client privilege? Like what code it comes under? Is it going to be strengthened or is it allowing less use of this privilege? Is it conflicting with the new –

Karen Rose: Yes.

Mr. Dumville: – what you're trying to do.

Karen Rose: I am very interested in talking about solicitor-client privilege, but that's my third recommendation.

Mr. Dumville: Oh. I'll hold off.

Karen Rose: So I will –

Mr. Dumville: I'll hold off.

Karen Rose: Okay.

Mr. Dumville: Thanks, Chair.

Karen Rose: And I'm trying to –

Mr. R. Brown: Ah, you're doing great.

Karen Rose: – explain it –

Mr. R. Brown: You're doing great.

Karen Rose: When I explain it, I'll explain it in a way that you will see the practical problems that we're having in the office.

One final – subject to your questions – one final recommendation that I have relating to municipalities is that if municipalities are added under the FOIPP act, there would need, likely, to be an amendment to section 19 as there is in Alberta, because municipal governments would have to be added as a government. I'm going to show you what section 19 looks like. It'll come alive to you a little bit better.

Okay, so section 19 says that: A head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to harm relations between the Government of Prince Edward Island or its agencies and any of the following or their agencies.

So, it lists – so in Alberta, municipal governments, they call them local public bodies, are included in that as a government agency. That would be the only other change that would be required other than adding municipalities in the definition of public body in section one.

I'm ready for recommendation two if you are. Okay? I'll set this aside.

Again, currently there is no legislative requirement to provide access to information or to protect personal information for post-secondary educational institutions in this province. In this country, all provinces and all territories except PEI include post-secondary educational institutions in their FOIPP legislation.

UPEI and Holland College do have policies, which they implemented in May of this year, relating to freedom of information and I also will point out that UPEI has had a privacy policy, I believe, since 2004. Both of these institutions are sophisticated institutions. I do not doubt that they do protect the privacy of the information that they hold, but they are not subject to the legislation so it's up to them whether they have this policy or not, and it's up to them what they put in the policy.

Also, there is no independent oversight at both UPEI and Holland College. You can ask for reconsideration from a vice-president in both cases, but I don't consider that independent oversight of a decision.

In our view, it is not a big step for UPEI or Holland College to come under the FOIPP act. As I mentioned, they're sophisticated institutions. They have a chief privacy officer, so they have someone who is within their organization who's already got the experience in privacy and now access to information.

They also have proactive routine access on their website. So similar to that section 147 in the Municipal Government Act, they have a list of documents on their website that they will proactively disclose, which is very consistent with freedom of information legislation.

I think they're ready.

Some Hon. Members: (Indistinct)

Chair: I have a question coming up from Peter Bevan-Baker, but before we do that, just a point of interest: When the UPEI student union last year and over the years has presented to our committee on this very recommendation, our co-op student happens to be here in the room today, Justin Clory, and he was part of the student union presenting this recommendation so I'm sure it's very satisfying to him to actually see that this has now made it to the floor of our committee. So, I just thought I would give that as an added bonus and I can see the smile on his face at the back of the room.

Peter Bevan-Baker, you have the floor.

Dr. Bevan-Baker: Thank you, Chair.

I agree they are ready. They certainly should be ready. Again, we're the only province, as you state in your report, where post-secondary institutions are not covered under the act. Again, of course there is a certain burden in having to provide access to information, but given the amount of public funding which goes to both institutions, that obligation to accountability and transparency overrides that in my opinion, by far.

I'm going to ask you the same question I did about the municipalities: What other arguments are there to be made that these institutions not be covered by the FOIPP act?

Karen Rose: I think we would have to ask them because I can't think of an argument against including UPEI and Holland College in the FOIPP act (Indistinct)

Dr. Bevan-Baker: My guess is if you can't think of one, then probably none exists.

Karen Rose: Right, yes.

Dr. Bevan-Baker: Thank you.

Thank you, Chair.

Karen Rose: And again, as you mentioned, Peter, there is always a resource issue, but they do have the infrastructure in place, I think. In addition, you'll notice in a text box in my report I just have a couple of websites of the University of Alberta, website of University of Saskatchewan, because it would take you no more than five minutes to check Dalhousie, UNB, Memorial – they all have a large part on their website that deals with freedom of information, talking about their legislation and it would be, therefore – if they're not ready, they could easily become ready.

Dr. Bevan-Baker: Thank you, Chair.

Chair: Thank you.

The hon. Jamie Fox.

Leader of the Opposition: Three or four times now, Karen, you've mentioned about resources. How many staff and what do you have for resources in your office?

Karen Rose: We have had a big increase in resources as of January of this year. We now have 2.8 people in the office.

Leader of the Opposition: Is that counting you?

Karen Rose: Yes, which is −

Mr. R. Brown: 50% increase.

Leader of the Opposition: With what you're dealing with now and what could be possible in the future, should we be looking at an increase to your staffing budget or resources?

Karen Rose: I don't think so, Jamie, because when I started in this job two years ago we were dealing with a significant backlog. We had 45 files in the office at that time. Since then, we have opened, I think 41 – no, more than that, probably 45 or 50 files and we currently have 20 opened FOIPP files and four under the *Health Information Act*, the new legislation.

The reason I would not ask for more resources at this time is because we're still dealing with the old backlog. We have two freedom of information files still from 2011, which we're trying to finish up. We have one privacy investigation from 2011 and we have one freedom of information file from 2014. That's what we have from the old backlog.

Believe it or not, it's the old backlog that is taking up all of the time. I recently issued an order that – I'm glad I didn't add up the hours that it took me to write it. It was from 2011. It ended up being 63 or 64 pages long. It took me a huge amount of time to write that order.

Once these orders from the backlog are dealt with, I think we will then have the resources to comfortably deal with what's currently in the office and what's going to come at us from the *Health Information Act*. But, you can ask me next year.

Chair: Thanks, Karen.

I'll turn the floor back to you to continue your presentation.

Karen Rose: Okay, so you will notice a table in the report at page – I don't have it on the slide because it wouldn't fit – at page six of the report, there's a table.

Again, I have recommended considering a delayed statutory effect for UPEI and Holland College, but I have also pointed out sections which are in the Alberta act which take into consideration some special concerns of post-secondary educational institutions. I just want to briefly review those with you for your consideration in the event that you make this recommendation.

Section one is simply including them in defining in the definition of a public body under section one, but section four is the section of the act which says: These records are not subject to FOIPP. That's what section four does. For post-secondary educational institutions, in Alberta FOIPP does not apply to teaching materials and employee research information, presumably because those belong to the professor, and it also does not apply to personal records of an appointed or elected member of a board of governors.

For instance, the UPEI board of governors. If they have personal records – this is a mirror of a legislation relating to MLAs as well; personal records of MLAs are not considered records under section four. So that's what section four says. That's worthy of consideration.

Our section 15, which is Alberta's section 17, already states that disclosure is not an unreasonable invasion of personal privacy if it only reveals enrollment in a school and the FOIPP act means a public school, a school in the Public Schools Branch or French school board.

I want to point out, because I noticed Peter's eyebrow raised there, I want to point out that that doesn't mean that public bodies are – such as school boards are allowed to provide lists, if – subsection three of section 15 states: that if I, as a student, of one of these schools, do not want my name to be on a list, it will not be on the list. There is a provision too, especially if there are concerns for my safety and that sort of thing.

Anyhow, all that would need to be considered under section 15 is to add: not only schools, but to change it to school or post-secondary educational institution. And that's what they have in Alberta's section 17, which is the equivalent of our 15.

Section 36 is a section that deals with the use, public bodies' use of personal information. It's Alberta's section 39. Fundraising is very important to post-secondary educational institutions, so the next two sections deal with exceptions for fundraising purposes.

What section 39, in Alberta, says, which would be our section 36: "Post-secondary educational institutions may use personal information in alumni records for fund-raising…" They can use our name, contact us for fundraising purposes, unless, very similar to section 17 in Alberta: Unless the individual, unless I as an alumnus request that they discontinue this use. It allows them to automatically contact alumni for fundraising purposes, unless then I say: No, stop contacting me.

Section 37 is our section that deals with disclosure of personal information and that is Alberta's section 40. This would apply where UPEI discloses alumni information for fundraising purposes to a professional fundraiser. What this section says is: There needs to be a written agreement with the person or the company to whom that personal information is disclosed that access must be provided and that it must be discontinued if requested by the individual.

It's very equivalent to the previous section, but it applies in cases of –

Chair: Did you finish –

Karen Rose: – contracting out. Yes.

Chair: Thank you.

Darlene Compton.

Ms. Compton: Not necessarily on that, but you mentioned in recommendation two in your slide, UPEI and Holland College, what about *Collège de L'île* in Wellington, the French post-secondary, would that be included, as well?

Karen Rose: Is that created –

Chair: It's part of Holland College now.

Ms. Compton: Okay, it's part of –

Mr. R. Brown: No, it's a college.

Ms. Compton: – Holland College now.

Chair: No, *Collège de L'île* now has a (Indistinct) correct me if I'm wrong, but have they not now – I know I take lessons at *Collège de L'île* at Holland College.

Leader of the Opposition: There was a joint something done there.

Ms. Compton: But still (Indistinct)

Karen Rose: Yes, and the recommendation is that any, I say UPEI; my recommendation says post-secondary educational institutions. I name UPEI and Holland College because of their recent policies and because they are created by statute and funded by the provincial government. If *Collège de L'île* is included in the statute then it would be – it would fall under my recommendation, but, thank you, I was not aware of *Collège de L'île.*

Ms. Compton: Thank you, Chair.

Chair: We'll turn the floor back to you, Karen.

Karen Rose: Okay, those are the only additional amendments that, if post-secondary educational institutions are included that those additional amendments would be worthy of consideration, especially because fundraising is so important to post-secondary educational institutions.

Peter, I just remembered something. In our meeting in March, you had asked whether other jurisdictions added municipalities later, after the initial proclamation of their FOIPP legislation, and I said, I don't remember exactly what I said, I may have said: I didn't think so, but I'd look into it. In any event, I said I would look into it. I did look into it and it is sort of summarized in the report, but almost every jurisdiction delayed the effect of bringing municipalities into their legislation.

I actually have a chart. I know I'm going back to municipalities, but I did want to get back to you on that. Just one moment, here it is. So, in Alberta, the legislation was proclaimed in1995, and municipalities came on in 1999. In British Columbia it was proclaimed in1993, municipalities came on in 1994. In Manitoba, and I'm not sure what the history of this is, the legislation was proclaimed in 1998; all municipalities except Winnipeg were included at that time. Then, in 2003, five years later, Winnipeg was added. In New Brunswick, they actually have a fairly new piece of legislation.

They had an older piece of legislation, which was greatly updated. It's the *Right to Information and Protection of Privacy Act* in 2010, and municipalities came on in 2012. In Newfoundland, they included municipalities from the outset of the 2005 legislation and also their 2015 legislation, but their old legislation from 1990 did not include municipalities. Between 1990 and 2005 they did have some time to get ready. In Nova Scotia, their FOIPP act was proclaimed in 1993, or their new FOIPP act, and in 1999 municipalities came on. In Ontario, FIPPA was enforced in 1988, and the municipal FIPPA came into force in 1991. Quebec seems to have included them from the outset in 1982. Saskatchewan was proclaimed in 1992 and local authorities came on in 1993, but as you know police, local police services did not – were not included in the legislation until this year.

I just wanted to clear that up.

Dr. Bevan-Baker: Thank you.

Karen Rose: This one is near and dear to my heart. Well, they all are. I'm going to try to walk you through this so you can see how a recent Supreme Court of Canada decision is affecting, will affect what happens in our office.

For section 25, is a discretionary exception to disclosure, there are many discretionary exceptions to disclosure in the FOIPP act, and there are a few mandatory exceptions, as well. What that means is public bodies may refuse to provide access to information if certain – if one of these exceptions applies.

In section 25, a public body may refuse to disclose information if the public body finds that it is subject to solicitor-client privilege. For 18 years in Alberta, public bodies would provide those records to the commissioner, and the commissioner would review them to determine whether section 25 was properly applied.

Last year, the Supreme Court of Canada found that in Alberta's legislation, which is effectively the same as ours, section 53, I'm going to show you that section in a minute just so it's more clear, section 53 does not – which is the section that allows the commissioner to order a public body to produce records, does not apply to records over which solicitor-client – that contains solicitor-client information. They interpreted it – I'm going to show you section 53 so you'll see why.

There it is. Okay, so section 53.3 says: 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.

For years, public bodies produced those to us, but the Supreme Court of Canada says that solicitor-client privilege is not a privilege of the law of evidence; it's actually bigger than that. I don't disagree with – I can't disagree with the Supreme Court, but I don't disagree either. They said that: Solicitor-client privilege is a substantive right fundamental to the proper functioning of the legal system. It's more than just a privilege of evidence; it's much bigger than that.

I gave you a little blurb at the beginning of the discussion of solicitor-client privilege in my report to just explain how important solicitor-client privilege is. It is fundamental to the proper functioning of the legal system because, though – solicitor-client privilege records need to be confidential so that I, as the client, will give my lawyer − will be up front and honest to my lawyer, and give them all of the information for them to give me the best advice. So there is no doubt solicitor-client privilege is very important.

What the Supreme Court of Canada said is that this subsection is not clear enough. If we are to order production of records over which solicitor-client privilege is claimed, we have to be clear, unequivocal and precise. In other words, I think that means we would have to specifically say including records subject to that over which solicitor-client –

Leader of the Opposition: (Indistinct)

Karen Rose: Right. It cannot be broadly – it cannot be a broad statement such as any privilege of the law of evidence. It has to specify solicitor-client privilege; and they also said that it would also need to say that – and I have this in my recommendation – that solicitor-client privilege is not waived when the solicitor-client privilege records are provided to the commissioner.

We have always operated – when solicitor-client privilege records have been provided to me, we have always operated under the assurance to the public body that you are not waiving your privilege. We are reviewing it for one purpose and one purpose only, and that is to determine whether in our view the section was properly applied, and then after that we are required to return those records to you, which we always do, and when I reviewed those records I reviewed them in private. No one else has access to them and they are kept very secure.

Let's go back.

Mr. Dumville: (Indistinct)

Chair: Sure. Bush Dumville.

Mr. Dumville: You're bound by that. You're part of the solicitor-client privilege at that point?

Karen Rose: Yes, yes. That is an effective way to say it.

Mr. Dumville: So you were just invited into the –

Karen Rose: For that one purpose –

Mr. Dumville: Yeah.

Karen Rose: – and that one purpose only.

Mr. Dumville: Thank you, Chair.

Karen Rose: Just to show you what happens from a practical point of view, the very first thing our office does: You apply for access to records from a public body. The public body provides you with A, B and C but does not provide you with D and E. You apply to my office to review that decision. The very first thing we do, as soon as we let the public body know there's going to be a review, is ask them for the records.

I really can't do anything until I see the records. I don't know what the public body has done until I see the records, so that's the very first thing I've asked; and I can tell you that we've had three different experiences in our office relating to solicitor-client records.

We have had an experience where the public body was not comfortable with giving us the record, but said: You can come to my office and review the record. You can look at it, determine whether – there's a test called the Solosky test established by the Supreme Court of Canada which I would apply to determine whether – and so I have done that. I didn't necessarily need to have the record in my hand. In that case I've gone to the public body's office, looked at the record and determined whether, in my view, solicitor-client privilege applied. So that's one way we have dealt with it.

Another way we have dealt with it is the public body has simply provided us with the records; we have reviewed it, made a determination. In many cases, we confirm to the applicant right away: I think this is solicitor-client privilege records. I return it before the review is over because the applicant says: Okay, I just wanted a second set of eyes on it. Now that you've had your second look at it, I'm happy with that. So that can happen.

Another approach that our office has taken – I haven't taken this approach, but our office has taken this approach in the past – is in Alberta there was something called a solicitor-client privilege protocol. It was a form that public bodies could fill out if they – it was sort of the first step. If you're not comfortable providing us with these records, fill out this form, give us enough information so that we can apply the Solosky test and determine whether you have applied section 25 correctly; and if you provide us enough information, we won't require the records.

It has happened that we have been provided enough information, but it has also happened that we have not been provided enough information, where we have had to go back, our office – and when I say our office, I mean not me individually, but another commissioner in our office have had to go back and say: This is not enough information for me to apply the test, I need the actual record.

Luckily, in those cases, we got the actual record. So the public body then said: We didn't initially want to give it to you, but we – and I issued an order on solicitor-client privilege early this year, maybe January or February this year, where that exact thing happened, where the public body did not want to provide the record but the former commissioner had given them – this was from the backlog – the former commissioner had given the public body a list of: Okay, I'm fine with these records, but these other ones, I don't have enough information. The public body did provide the records, and then I was able to review the records and write my order regarding solicitor-client privilege. In that case, solicitor-client privilege applied to the records.

Chair: Bush Dumville.

Mr. Dumville: I'm just trying to get it through my head. If you review it, everything's fine, you hand it back, no problem, but what is you disagree with it? How much are you pulling off that of that specific information, or do you just, can you make your recommendation without being specific?

Karen Rose: Yes. We are very careful when we write the orders not to reveal anything from the record. If you read our orders, we try to make them easy to follow but sometimes they're a little more challenging because we're not revealing the contents of the record. That's something we definitely have to do. We can't reveal the contents in the event there is a judicial review, too, and the order is overturned.

What I foresee is that if public bodies stop providing us – and this hasn't happened yet, because we haven't had, since the Supreme Court of Canada decision, we haven't had to deal with a file relating to solicitor-client privilege records – but if public bodies look at the Supreme Court of Canada decision and decide to stop providing us with solicitor-client privilege records, then we will obviously require evidence in order to fulfill our oversight role.

But if the public body, as in the past in some instances, does not provide us with enough evidence for us to determine in our view whether section 25 applies, we will have a situation of not enough – you haven't proven your case, because the burden is on the public body, and if we have that kind of a situation we will have to order release of the record. If we order release of the record and the public body strongly believes it's subject to solicitor-client privilege, the public body will seek the judicial review. So I – worst-case scenario, we will have a line of judicial reviews relating to solicitor-client privilege.

Mr. Dumville: So the judicial –

Chair: Bush Dumville.

Mr. Dumville: Thank you, Chair. Sorry about that.

So the judicial review will determine whether you're fishing or whether you have actually enough evidence to request that information?

Karen Rose: Yes. It can only – a judicial review − the Supreme Court will review my decision. So they will look at the evidence that the public body has provided. They will look at the evidence that the public body has provided, and solicitor-client privilege is not considered to be my area of expertise, whereas something like collection of information would be considered to be my area of expertise, but not solicitor-client privilege.

So they would basically remake the decision. Looking at that same evidence, they would decide whether they think Section 25, whether the public body has proven that section 25 applies.

Mr. Dumville: Thank you, Chair. Thank you.

Leader of the Opposition: So to be clear –

Chair: Hon. Jamie Fox.

Leader of the Opposition: So to be clear, your recommendation number three does take into account what the supreme court said last year?

Karen Rose: Absolutely, yes.

Leader of the Opposition: Totally? Okay.

Karen Rose: Because what the Supreme Court said is if you are going to, if your legislation – it actually referred to the British Columbia legislation, and I think implied that the British Columbia legislation is different in that it does specify solicitor-client privilege.

So it says if your legislation is going to permit production to the commissioner of solicitor-client privileged information, it has to be clear, precise and unequivocal. It actually gave suggestions, and one of those were that it would have needed to say that solicitor-client privilege is not waived when the records are provided to the commissioner.

Leader of the Opposition: Okay.

Karen Rose: And it would have needed to be explicit, so this is not a draft section. This would be up to the Legislature to decide.

Leader of the Opposition: (Indistinct)

Karen Rose: But, I've just said that the commissioner may require, because in some cases if I have enough evidence I don't need production of those documents –

Leader of the Opposition: Yeah.

Karen Rose: – so if the commissioner believes that she requires it, that the commissioner may require a public body to produce records containing information over which solicitor-client privilege is claimed.

Mr. R. Brown: Chair?

Chair: Richard Brown.

Mr. R. Brown: Thank you, Chair.

How many other provinces – are we the only province that (Indistinct)

Karen Rose: Pardon me?

Mr. R. Brown: Are we the only province that doesn't allow, or, you know –

Karen Rose: No, I think what has happened now is that all of the jurisdictions are trying to determine what effect the Supreme Court of Canada decision might have on them.

I did notice that the federal information commissioner, for instance, wrote to the federal department of justice, I believe, saying for 30 years we have been provided with these documents, we don't think the Supreme Court of Canada decision should affect this on a go-forward basis, please confirm.

I think they're just trying to work these things out because federally, as well, I don't think there is that clear, precise and unequivocal language. There is some – I think there is concern across the country and it's something that all of the jurisdictions will be grappling with.

Mr. R. Brown: But you did have a case in PEI, didn't you, where you were denied it?

Karen Rose: Initially denied, and then they provided.

Mr. R. Brown: Okay.

Karen Rose: They provided it, yes.

Mr. R. Brown: After *The Guardian* reported that –

Chair: Thank you.

Mr. R. Brown: – they were denied.

Chair: Thank you.

Karen Rose: I wasn't aware of that, but they were initially denied and then they were provided.

Mr. R. Brown: I don't know.

Chair: I'll turn the floor back over to you.

Mr. R. Brown: Thank you.

Karen Rose: That's all I have on solicitor-client privilege. If you have any other questions –

Mr. R. Brown: No, you're doing great.

Karen Rose: – you're welcome to –

Mr. R. Brown: (Indistinct)

Karen Rose: Okay, this is the section where I replaced page 10. I'll go over what – it's about what's happening in other jurisdictions.

Sections 19, 20, 21 and 22 of the FOIPP act are basically sections that protect the deliberative space in government so that I – for instance, section 22 deals with advice to officials. I am only going to feel comfortable providing advice and recommendations to your public body, if that is my role; if I know the world at large is not going to have that advice.

It makes it easier. They're very important sections. They need to be there because it makes it easier for people to put forward ideas that may later be determined to be –

An Hon. Member: (Indistinct)

Karen Rose: – ill-advised. Exactly, so it's really important to protect that deliberative space. In section 22, it's advice to officials. Section 19 it's intergovernmental relations, so jurisdictions, perhaps seeking advice or checking on what's going on in other jurisdictions, other governments. Section 20 is Cabinet confidences, and section 21 is public body confidences.

I'm not questioning the importance of these exceptions. However, there is a provision in both of them, under subsection 2, I think, in all of them. They are outlined in the text box at the beginning of page 9. There's a subsection which states that: if the record is 20 years old or older then this exception does not apply.

In other words, once it gets that old we – the public body will release it. Maybe not proactively, but if you ask for it you will get it.

What I am recommending is that time limit be reduced to 15 years. It is 15 years in Alberta. It is 15 years in British Columbia. It is also 10 years for what we would call advice to officials in British Columbia. There are longer time limits throughout the jurisdictions of this country, and I have set those out in my description. It goes as high as 25 years in – just one second; it'll tell you which jurisdiction – in Quebec. It's conseil exécitf – Cabinet confidences in Quebec are 25 years. Mind you, a preliminary draft of a bill or a regulation is only 10 years in Quebec. They have various time limits for various types of exclusions.

The time limits in other jurisdictions vary. I pointed out that in four jurisdictions, Alberta and the three territories, I'd better check – I'd better be telling you the correct information.

In Alberta and BC it is 15 years. In Newfoundland it's 15 years for everything except Cabinet confidences, which is 20 years. In Nova Scotia it's 15 years for intergovernmental affairs; 10 years for deliberations of Executive Council, and five years for advice, what we call advice to officials, which is our section 22. It varies.

In Nunavut it's 15 years. Northwest Territories it's 15 years. Federally, it's 20 years for advice, 15 years for internal audits, and confidences of the Queen's Privy Council, 20 years. It's 20 years in Ontario. Here it's 20 years. Quebec, as I mentioned, ranges from 10, actually, at the lowest five to 25 years.

The idea behind this time limit is that harm reduces over a period of time. We have other – another provision of the act that says, for instance, with personal information, after a certain period of time, as time goes on it is less of an invasion of personal privacy. This is a similar type of thing.

The factual part, and on page 10, which I wanted to correct is I had said that: both the Alberta and the British Columbia commissioners had recommended reducing their 15-year time limits to 10-year time limits. But, in fact, it was the committee reviewing Alberta's act in November, 2010 which recommended that Cabinet – that the exception for, actually for Cabinet confidence and advice to officials could be reduced from 15 to 10 years. That recommendation was not followed. It's still 15 years in Alberta.

In British Columbia there was a recent review of their FIPPA, what they call FIPPA, and it wasn't the BC commissioner who recommended a decrease, it was two organizations; the Centre for Law and Democracy and the BC Freedom of Information and Privacy Association. They recommended that the 15-year time limit for Cabinet confidences be shortened to 10 years.

The time limits are really all over the map. It's a question, it's a judgment call of whether you think 20 years is a little long to wait for information relating to what went into advice and recommendations, or if 15 years is more appropriate.

Chair: I had a question from Bush Dumville.

Mr. Dumville: I'm just curious why you recommended 15 years. Was it because of other provinces or is it – like, I mean, that's three, in terms of Executive Council, that's three turnover of election cycle, right?

Karen Rose: Right.

Mr. Dumville: So, which would be basically 12 years.

Karen Rose: Yes.

Mr. Dumville: You're saying 15 years. Is that kind of to protect the individuals that are making these decisions from a harmful purpose, you say it's –

Karen Rose: Yes, it's more to protect the system from harm –

Mr. Dumville: Yes.

Karen Rose: – so that we will continue to – if I were someone providing advice to government and that was my role, to provide advice, that I could use as much honesty and candor as possible. We want to have a system where people are as honest and candid as possible when giving their advice. That's why the section is there.

We are recommending 15 years because looking across the country at all the various time limits, and especially with – not so much with Cabinet confidences, which I think deserve a good chunk of time, but definitely with advice to officials, 15 years is long enough to wait for that type of information. I think you still protect that deliberative space and you get to a point that issues that were important to us 15 years ago are not, we're looking at them; 15 years later we're looking at them more from a historical point of view than a political point of view.

Chair: I have a question from Peter Bevan-Baker.

Dr. Bevan-Baker: Thank you, Chair.

As you pointed out, Karen, there is a general reduction and an opening up of these records sooner rather than later. It's my hope that records should be opened by default with some very specific exceptions. I think that every one of those exemptions should be justified. I absolutely understand about the timeframe for Cabinet confidences, of course.

I'm wondering why advice to ministers, for example, is not made as the federal minister, or federal information commissioner recommended, available either immediately or certainly within five years? What –

Karen Rose: Yes.

Dr. Bevan-Baker: – are your thoughts on that?

Karen Rose: She recommended – it's interesting because my understanding in reading that report, or that section of the report, was Suzanne Legault, the federal information minister, recommended is currently a 20-year timeframe. She recommended that it be reduced to five.

Previously, in the early 2000s, I believe, or early 1990s, John Grace, who was the information commissioner, had recommended that it be reduced to 10. That recommendation had not been picked up. I think she was also looking at from a perspective of, not only should we reduce the time limit, but once the decision is made we should automatically – because then there is nothing to protect anymore. It's a very good recommendation.

Dr. Bevan-Baker: Yeah.

Karen Rose: It is. I'm glad you raised it, Peter, because it's a recommendation that exists in other jurisdictions: that once the decision is made, with certain types of documents, once the decision is made, the exception no longer applies.

Chair: Peter Bevan-Baker.

Dr. Bevan-Baker: That's not one of your recommendations, Karen –

Karen Rose: No.

Dr. Bevan-Baker: – but I'm wondering whether – how comfortable you would be with that being a recommendation from this committee, for example, following this discussion?

Karen Rose: I think I would be, and I would actually undertake to provide you with some examples from other jurisdictions on how that would –

Dr. Bevan-Baker: Great. Thank you.

Karen Rose: – I think I'd be quite comfortable with it. If I get back to the office and have any additional concerns I'll also let you know.

Dr. Bevan-Baker: Thank you, Karen.

Chair: Is everybody in agreement with Karen –

An Hon. Member: Sure.

Chair: – finding out more information on that?

Some Hon. Members: Yes.

Chair: Thank you, Karen.

We'll turn the floor back to you.

Karen Rose: That's all I have to say about the shorter time limits.

I'm going onto periodic review. I mentioned that there are three other Canadian jurisdictions that provide for periodic reviews of their legislation. I realize that not all legislation is subject to periodic review within the legislation, but I think our FOIPP act is a unique piece of legislation because it is so much used. It is something that imposes responsibilities on government, and it provides rights, which our Supreme Court of Canada, our access to information rights, our Supreme Court of Canada has said are quasi-constitutional rights.

The reason, I think, a periodic review is important is because the freedom of information and protection of privacy issues are dynamic issues. Issues that are alive today may not have been issues that were alive five years ago in this area. I think that a review every six years embedded in the legislation is a good idea.

As you can see from previous reviews it's, the review can – you can set out what the review requires. I gave you a sample of what it could say. You could make it more detailed than that if you like. I know some jurisdictions, one of those three jurisdictions that has periodic reviews, I think, requires that it be a public review, so that it's offered out to the public. That is another option.

Because the issues are so dynamic, and especially in the privacy realm things are changing very quickly, for that reason, I think that a review every six years is highly recommended.

Chair: Questions?

Jamie Fox.

Leader of the Opposition: How fast do you think, or how soon would you like to see these recommendations put in place?

An Hon. Member: November 15th.

Leader of the Opposition: When?

Mr. R. Brown: November 15th, the day after the House opens.

Karen Rose: As soon as reasonably possible. I think those that involve, I think the solicitor-client privilege recommendation deserves some study. I think, although I feel very strongly about that recommendation, I still think, obviously, that it needs to be studied and all aspects need to be looked at.

I believe that municipalities and post-secondary educational institutions should be consulted before those are implemented and their views canvassed.

Leader of the Opposition: Thank you.

Karen Rose: But again, I believe very strongly in those recommendations, as well.

Chair: Excellent. Oh, sorry. Peter Bevan-Baker.

Dr. Bevan-Baker: That's quite all right, thank you.

A couple of things that weren't covered in your recommendations, Karen, that I want to ask some questions on.

The first is that time limit for responding to requests, the 30 days and then a 30-day request for extension if that is requested by the body.

How often do you find it's necessary to grant those additional 30 days, or, I'm sorry, to go beyond the 60 days –

Karen Rose: Right.

Dr. Bevan-Baker: – the 30 plus 30, and how often do you have to go beyond that, typically?

Karen Rose: Over the course of 15 years, not often.

However, there are – I would venture to say the only time I am asked to go beyond, whether – basically public bodies will let me

know that they are maybe having trouble reaching third parties, or the third party just got back to them and needs two weeks in order to make submissions. They always involve third parties. That's when I come in.

If you ask for information, but it affects – but a public body thinks it – under section 28, if it's a section 14 third-party business interests, or section 15, personal information, the public body has to notify those third parties. If I reviewed all of the times that I have given – I have said: That sounds reasonable, to give you an extra two weeks to do this, or three weeks to do this. I would say, each time, it involved third parties needing more time to respond.

As to how often? Not often.

I find the APSO office, since the office has been centralized, and I have only been in this position – when I came into this position, APSO had already been, the Access and Privacy Services Office had already been set-up.

I find that they are doing, overall, a very good job of sticking to the time limits.

Chair: Peter Bevan-Baker.

Dr. Bevan-Baker: Thank you.

You mentioned earlier in your presentation, Karen, that you have some active files from up to five, six years ago, if I –

Karen Rose: Yes, I have –

Dr. Bevan-Baker: – and I know you inherited them –

Karen Rose: Yes.

Dr. Bevan-Baker: – and I'm wondering how long a timeline, hypothetically, could be extended? I know it's a reasonableness –

Karen Rose: Yes.

Dr. Bevan-Baker: – so, is it – could a file, conceivably, be indefinitely extended?

Karen Rose: No.

Dr. Bevan-Baker: Okay.

Karen Rose: No. We, in our annual report, we state: it is our expectation that before the end of this year all four of those files that predate 2016 will be closed. I'll be very surprised if they're not closed.

I know two of them will be closed. Two of them have issues of process, which may or may not be resolved by then, but they will be – if they're not resolved by then, they'll be resolved shortly thereafter.

So no, there is no such thing as indefinite, and on a go-forward basis there will be no such – I don't expect any backlog to accumulate.

Just to give you an example, Peter, we have two – I have two orders for current files that have to be written right now. They are actually being set aside. When I say current, I mean they're from 2016 or 2017. Those are the only two orders that I haven't issued from 2016/2017. I have had to set them aside because it is so important to finish this 2011 one that I'm working on right now.

However, when I'm done of that 2011, I will deal with both of those current ones. So, indefinite is never going to happen.

Dr. Bevan-Baker: Thank you.

Chair: Peter Bevan-Baker.

Dr. Bevan-Baker: Thank you.

I'd like to talk a little bit about the base fee for the request for information, the $5 fee. I'm assuming that doesn't contribute substantially to the office's budget, so I'm wondering why that fee is necessary.

Karen Rose: That fee goes into provincial treasury, I think. It's paid when – you can now apply for access online, and I think you pay the fee online as well. In my view, the $5 fee is a good thing. Occasionally, public bodies – especially in other jurisdictions, not so much here – will receive a plethora of requests from one individual across many, many, many public bodies, and it's very difficult to deal with all of those at once.

A five-dollar fee, I think, is just a message that you will be expending the resources of our public body. Definitely it will cost us more than $5, but this is a token amount for

you to take your access request seriously. So I have no difficulty with the $5 fee.

Dr. Bevan-Baker: And I'm not sure I do either, but I'm just wondering whether five dollars is enough to be a deterrent for frivolous or vexatious requests. It seems to me that it's a very low amount.

Karen Rose: Well I think the –

Dr. Bevan-Baker: I'm not suggesting –

Karen Rose: – process – yes –

Dr. Bevan-Baker: – it could go higher. I'm just –

Karen Rose: Just imagining myself as someone applying for access to information, I think that process of filling out the form, paying the $5, makes it feel a little bit more official to me, and is a little bit of an effort for me to make as compared to waking up in the middle of the night and saying I really need that information from government and typing it in and thinking that's enough for me to make my access request.

Dr. Bevan-Baker: Okay.

Chair: Thank you.

Sorry, Peter Bevan-Baker.

Dr. Bevan-Baker: Thank you, Chair.

I'd like to – and I know the additional fees that can sometimes accrue because of photocopying costs and things like that – so I'm wondering whether those could be reduced or perhaps even eliminated if we went digital. If rather than providing us with paper copies of the information, could that be supplied in a PDF and are there privacy concerns about that delivery of the information?

Karen Rose: I don't think there would be privacy concerns as long as it was not sent out in a personal Gmail account. If you went to the office and picked it up on a USB, for instance, picked the records up, as long as there is no personal information in the records there is no privacy concerns, and the APSO office now has software where they can digitally redact information which makes it so much easier than the old way with the black markers.

So yes, I think that could potentially be a cost savings, and it is an option. Nothing would have to be amended –

Dr. Bevan-Baker: Okay.

Karen Rose: – under the FOIPP act.

Dr. Bevan-Baker: That was my next question.

Karen Rose: Yes. No, I'm pretty certain nothing would have to be amended under the FOIPP act to – in fact, we recently have, the public body has provided us with records in that format. So they come into the office, they provide us with the records on a USB, we put them in our secure system, we return their USB to them, which makes it a lot easier than having binders or boxes upon boxes of information.

Chair: Peter Bevan-Baker.

Dr. Bevan-Baker: Thank you, Chair.

Given the recent security breach with the government server which ended up sending 94,000 emails or whatever out to people from the government server, do you think that government has sufficient protections to prevent a serious privacy breach? Do you think we have the IT capability?

Karen Rose: Yes. What happens in those instances, Peter, is – and you would see this in our annual report – public bodies voluntarily notify our office of breaches, and it's not just: Oh, by the way, we've had a privacy breach. They provide us with a report. We follow up with questions, and we reach a resolution before closing the file.

So when something like that happens, our office is not only aware of it, but we end up involved in the investigation until we get to the point that we are satisfied that the public body is fulfilling its obligations to provide reasonable security arrangements for personal information.

Dr. Bevan-Baker: Okay.

Chair: Peter Bevan-Baker.

Dr. Bevan-Baker: Thanks, Chair.

Do you have any concerns over how the move towards open data might impact your office and the work that you do?

Karen Rose: Not yet. I'm a supporter of open data. As long as government – public bodies have become very sophisticated over the past 15 years in protecting personal information. Open data does not; public bodies do not provide open data that includes personal information. So our only concern would be personal information, because that's part two of our FOIPP act.

But you may be referring to the potential of taking a data package, combining it with other information that may be out there, and somehow being able to identify. Is that were you were going with it?

Dr. Bevan-Baker: No.

Karen Rose: No.

Dr. Bevan-Baker: I was just wondering generally, although I mean –

Karen Rose: Yes.

Dr. Bevan-Baker: – that it's one –

Karen Rose: At this point –

Dr. Bevan-Baker: – one aspect of that.

Karen Rose: Yes. At this point I have no concerns about it, and I think it really satisfies the freedom of information part of what our office does. So the more information that government can get out there, and then potentially Islanders or others in the world can use that to potentially improve a system, then it can be a good thing.

Dr. Bevan-Baker: Thank you, Chair.

Chair: Thank you.

Richard Brown.

Mr. R. Brown: On the breach of data, you know, accessing the server: You think it should be in our law that departments must communicate with you ASAP when a breach of data is occurring? It's just policy now. Should –

Karen Rose: Yes, it is just policy now. The *Health Information Act* has a mandatory breach reporting requirement, so –

Mr. R. Brown: So in general they should.

Karen Rose: So we operate the same way. Since the *Health Information Act* has been proclaimed, we operate the same way with the health information custodians as we do with public bodies who voluntarily report breaches.

In my view, public bodies are voluntarily reporting breaches, and the reason they voluntarily report them is we can help them. They conduct their investigations. We can provide them with additional advice or recommendations, so –

Mr. R. Brown: But we don't know if –

Karen Rose: We don't know that –

Mr. R. Brown: – we don't know if they're telling you all of the breaches.

Karen Rose: Right, and I think in both cases we don't know.

Mr. R. Brown: Should that law be extended – thank you, Madam Chairman – should that law be extended to private sector companies too? Like, you know, private sector companies, should we say: If you have a breach of data and information is getting out about personal, private information on individuals, you owe it to the people that information is being disclosed or being hacked –

Karen Rose: Yes.

Mr. R. Brown: – to them, and are other provinces doing it or are other countries doing it that's saying: Look, you cannot hide behind your corporate veil.

Karen Rose: Yes.

Mr. R. Brown: You had a major breach and thousands of records of information have been exposed and people's personal private information has been exposed, and you're hiding behind your corporate veil at the –

Karen Rose: Yes. I agree, Richard.

As I mentioned earlier, the *Personal Information Protection and Electronic Documents Act* applies to commercial enterprises, so it applies to corporations. The federal privacy commissioner has recently said in his annual report that he is no longer going to simply respond to complaints.

He is going to – our office also has this authority and so does the federal commissioner – he is going to launch his own investigations whether he receives a complaint or not, and he is particularly concerned about private corporations. So that is something that he is directing. He has decided to direct the resources of his office to ensuring that companies, for instance such as Equifax, who apparently – we call it breach management 101 that as soon as you know the breach occurred, you let the victims of the breach know.

That is happening in our province, and it happens under the *Health Information Act* as well. I think the Equifax example is just one of many examples where one, two months pass –

Mr. R. Brown: Yeah.

Karen Rose: – before the public is even aware that their personal information has been compromised. He is taking that in hand, now.

Chair: Richard Brown.

Mr. R. Brown: I just have one more question: The judicial review is underway now with Health PEI, is –

Karen Rose: Yes.

Mr. R. Brown: Okay. Who makes the decision to go to a judicial review? On –

Karen Rose: Either –

Mr. R. Brown: – PEI, would it be the board?

Karen Rose: Yes, it would –

Mr. R. Brown: But –

Karen Rose: The public body –

Mr. R. Brown: – like this is important that –

Karen Rose: Right.

Mr. R. Brown: – somebody of authority must make this decision. We're going to –

Karen Rose: The head of the –

Mr. R. Brown: – take you to court –

Karen Rose: The head of the public body makes the decision, or the applicant. Keep in mind there is often someone who has requested the information. The applicant – in our province, our first judicial review in this province was from an applicant who was not happy with the decision that I made, and so therefore – so it's either the applicant or the head of the public body who made that decision.

Mr. R. Brown: Who's the head of the public body in Health PEI, then?

Karen Rose: Well –

Mr. R. Brown: It's important that just –

Karen Rose: Right.

Mr. R. Brown: – people don't –

Karen Rose: Right.

Mr. R. Brown: – take you to court.

Karen Rose: The CEO would be the person who makes that decision.

Mr. R. Brown: Would he have to get approval from the board?

Karen Rose: I really don't know how it works. I just get served with judicial reviews.

Chair: Are we good?

Peter Bevan-Baker.

Dr. Bevan-Baker: Thank you, Chair.

Mr. R. Brown: The guy put it out of his mind, here.

Dr. Bevan-Baker: I mentioned right at the beginning, Karen, about how Canada, as the rest of the world has progressed rapidly, we are now considered a bit of a laggard when it comes to freedom of information compared to the rest of the world.

I understand, of course, all of your recommendations are made within the context of the Canadian picture; but it was a surprise to me when I was doing research for the meeting this morning that the jurisdictions where they have the strongest freedom of information are often in South America. Mexico, in particular, which has a world-leading –

Karen Rose: Yes.

Dr. Bevan-Baker: – a place where you would never imagine that – and it's, I assume, because of the level and the breadth of the corruption that has sort of traditionally –

Karen Rose: It would certainly –

Dr. Bevan-Baker: – been there –

Karen Rose: – have a positive effect on (Indistinct)

Dr. Bevan-Baker: Yeah.

In places like Mexico freedom of information covers all government departments, all branches of government. Political parties are covered by FOIPP. Any body that receives public funding is – falls under their freedom of information.

My question is, and again, I understand that you've done this through a Canadian lens, but, is there any reason why Prince Edward Island could not become a Canadian leader, at least in terms of our access to information?

Karen Rose: I don't think there's any reason why we could not expand on what our FOIPP act does. There are always issues of resources, which we've already talked about with regard to us lagging behind other provinces when it comes to municipalities and post-secondary educational institutions.

But no, there is never – similar to electoral reform, sometimes we can be the first –

Mr. R. Brown: She had to bring that up.

Dr. Bevan-Baker: We could try.

Karen Rose: We can try.

Mr. R. Brown: (Indistinct)

Dr. Bevan-Baker: Thank you, Karen. Thank you, Chair.

Chair: Are you good?

Thank you.

Seeing no –

Mr. R. Brown: (Indistinct)

Chair: Richard Brown.

Mr. R. Brown: To close up. Great presentation today, and I want to thank you, but I want to make a record in the record of this committee is that in the most recent News Media Canada Freedom of Information Audit, Charlottetown was given an A for its access to information, and the Province of Prince Edward Island was given an A for its access to information. So, it's not all as bad as some people make it out to be. We're getting A's, which is – I never got one in school – (Indistinct) –

Chair: Thank you, hon. member.

Mr. Dumville: You never went to school.

Mr. R. Brown: Thanks.

Chair: Karen, thank you. Thank you for the presentation. By the number of questions that were generated from your presentation, there is great interest in the work that your office does. Thank you for that. Government always strives to provide timely, efficient and complete responses to requests for information. The recommendations that you've given us today ensures that we're able to continue to do that.

Your recommendations have also given us, this committee, more work. I know recommendations 1 and 2, you said, those bodies need to be, maybe consulted more

before, if there's any implementation of these recommendations, and that the solicitor-client recommendation needs further study.

Our committee has some more work before us, but I do thank you on behalf of all of the members here today. Thank you for your work and the tremendous amount of effort that was put into providing us with great information.

Thank you.

Karen Rose: Thank you for inviting me.

Chair: Members, while Karen Rose is leaving, we'll continue on with our agenda. I'm going to just turn it over to Emily for number 4 and 5. It's just basically updated information, and a little discussion about upcoming meetings.

Emily, I'm going to turn the floor over to you.

Clerk Assistant (Doiron): Sure. Number 4 on the agenda: discussion on the topic of rising cost of real estate in the province, this was brought up at the last meeting from Brad Trivers. It was agreed that suggestions would be sent to me, as the committee clerk, and I would compile a list. That's just the next page on your agenda, I guess, document there.

These were forwarded to me and I've just compiled a list on that topic. It's for discussion of the committee on how they would want to proceed forward on that topic.

Chair: Members, would you like Emily to continue to proceed with contacting the list of speakers, suggested speakers, and then slot them into a future meeting?

Mr. R. Brown: Sure.

Chair: Darlene Compton.

Ms. Compton: Thank you.

I'm not sure what was added as far, excuse me, as a discussion before, but I'm wondering about the assessment office, whether that should be on the list, or whether it could be as far as, you know, how an increase in real estate price is determined or predetermined as far as the assessment office goes?

Chair: Good suggestion. Thank you. We'll add it to the list.

Ms. Compton: Thank you.

Chair: Emily, you'll proceed with that? Number 5.

Clerk Assistant: Number 5, a request to present on the Municipal Government Act was received yesterday from David Pizio, Chairman, sorry, Chairperson of the Community Improvement Committee from Greenmount-Montrose community. That email was circulated yesterday to the committee, and it's also in your package with your agenda there today.

They want to come in to talk about, to speak to the committee on the topic of the new Municipal Government Act.

Chair: Is everybody in agreement that we invite them to come?

An Hon. Member: (Indistinct)

Chair: Great, thank you. We'll add that to our agenda.

Next.

Clerk Assistant: Six: discussion of upcoming committee meetings. I can circulate to the committee some potential dates for the committee to next meet. There is no meeting currently scheduled, but there are different presenters that are available to come in. I'll circulate a note to the committee about scheduling.

Chair: Thank you, Emily.

Clerk Assistant: Unless there's any other, sorry, any other comments on that?

Chair: No? Great, thank you.

Any further – any new business?

Mr. R. Brown: No.

Chair: A motion for adjournment.

Mr. R. Brown: Called.

Chair: Thank you for your input today. It was a very interesting meeting.

Meeting is adjourned.

The Committee adjourned