



**Special Committee on Government Records Retention
First Report of the First Session Sixty-sixth General Assembly**

Motion 86

**Creation of a Special Committee of the Legislative Assembly on
Government Records Retention**

November 26, 2020

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Mr. Speaker and Members of the Legislative Assembly of Prince Edward Island:

I have the honour to present the report of the Special Committee on Government Records Retention concerning the matters contained in its Order of Reference, Motion 86, as adopted by the Legislative Assembly of Prince Edward Island on June 30, 2020. Both the possibility of government records being improperly deleted and current practices related to electronic records and security were considered and discussed during fourteen meetings held over a period of four months.

As a backdrop to this work, an enormously painful and disruptive global health emergency, caused by a novel coronavirus, was being experienced in every part of the world.

Within our country, the Public Health Agency of Canada worked with provinces, territories and international partners to actively monitor the pandemic, focusing on containment of the outbreak, prevention of further spread, and the development of effective vaccines. In Prince Edward Island, the Office of the Chief Public Health Officer provided leadership, oversight, and advice, all based on the available data and science.

The Special Committee was able to carry out its mandate safely by complying with that guidance and following all recommended public health measures.

Over the course of its investigations, the Special Committee received input from the former and current Auditors General, the former and current Information and Privacy Commissioner, and individuals within the provincial government with expert knowledge in information technology and recorded information management, among others. The Special Committee gratefully thanks all those who shared their knowledge and experience.

Overall, the goals of the Special Committee were three-fold: to investigate the past, evaluate the present, and make recommendations to shape the future of the creation, management, retention and disposition of public information.

Accordingly, the Special Committee is pleased to make eight recommendations, based on its reviews and discussions. Adoption of these recommendations will connect people, technology and processes of the increasingly-digital work space to facilitate an effective information and records management environment for the Province of Prince Edward Island.

Adoption of this report effectively concludes the work of the Special Committee on Government Records Retention.

Respectfully submitted,

Michele Beaton, MLA

Chair, Special Committee on Government Records Retention

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EXECUTIVE SUMMARY

The Special Committee on Government Records Retention was created in late June 2020 and directed by the Legislative Assembly of Prince Edward Island to study the missing records referenced in an Order of the Information and Privacy Commissioner (Order No. FI-20-007, dated June 9, 2020), as well as the current practices related to electronic records and security.

The Special Committee met a total of fourteen times to consider these matters, and received input from experts in the field of information technology and electronic records management. Both the current and former Auditors General, and Information and Privacy Commissioners assisted the Special Committee in its work.

As a result of its investigations, the Special Committee on Government Records Retention is making a series of recommendations:

- 1. That all public bodies work to achieve an 80% compliance rate for completion of basic records management training for all employees required to do so by the end of Fiscal Year 2020-21; a rate of 90% by the end of Fiscal Year 2021-22; and 100% by the end of Fiscal Year 2022-23.**

- 2. That the *Archives and Records Act* be amended to add a “Duty to Document” requirement.**

- 3. That a government-wide policy for Routine Disclosure/Active Dissemination be developed.**

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4. **That further exploration into the establishment of a Vital Records Policy be conducted by the Public Archives and Records Office (PARO).**
5. **That the efforts to promote and automate electronic document and records management continue to receive priority within government.**
6. **That a three year RIM strategy for the years 2021-2023 be developed, to be presented to the Legislative Assembly of Prince Edward Island by the Minister of Education and Lifelong Learning in the next sitting.**
7. **That public bodies retain all non-transitory records until retention schedules are fully in place.**
8. **That Government, when it provides a written response to this report in the next seasonal sitting, as is required under Rule 110(9) of the *Rules of the Legislative Assembly*, provide timelines for the implementation of these recommendations, except where the committee has already specified timelines.**

A focus on missing electronic records, specifically email correspondence, brought the entire system of recorded information management by the Government of Prince Edward Island under scrutiny beginning in 2015. The Special Committee on Government Records Retention is pleased to note that considerable effort has been expended since that time to strengthen the management of information, in terms of financial and human resources, training and communication, and legislation and policy.

There is, however, more to do to minimize potential vulnerabilities, not only to improve business collaboration and access but to enable all government employees to participate fully

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in the capture, classification and management of information. Adoption of the recommendations put forward by the Special Committee will build on the foundational work of the past and position the Government of Prince Edward Island to effectively manage and facilitate access to information in order to support decision-making and ensure accountability.

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INTRODUCTION

The Special Committee on Government Records Retention was created by the Legislative Assembly of Prince Edward Island and directed to study the missing records referred in the Information and Privacy Commissioner's Order FI-20-007, and the current practices related to electronic records and security.

Motion 86, moved by the Leader of the Official Opposition, the Honourable Peter Bevan-Baker and seconded by Michele Beaton, Mermaid-Stratford, was debated on June 25 and June 30, 2020. It passed on June 30, 2020.

The text of the motion follows:

WHEREAS a June 9, 2020, order of the Office of the Information and Privacy Commissioner (Order No FI-20-007) raised serious questions about the possibility of government records being improperly deleted;

AND WHEREAS access to government records is fundamental to open and transparent government;

AND WHEREAS government has committed to an external review of this issue;

AND WHEREAS an external review will not provide the openness and transparency that the public expects and deserves;

THEREFORE BE IT RESOLVED that a Special Committee of the Legislative Assembly on Government Records Retention be created: with a six person membership, consisting of

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two members from government members, two members from the Official Opposition and two members from the Third Party;

AND THEREFORE BE IT FURTHER RESOLVED that the committee study the missing records referred in the Information and Privacy Commissioner's order and the current practices related to electronic records and security;

AND THEREFORE BE IT FURTHER RESOLVED that this committee report back to the Legislative Assembly with recommendations within six months.

By the terms of Motion 86, membership on the Special Committee was to consist of two private members of the Governing Party, two members from the Official Opposition, and two members from the Third Party.

Permanent members of the Special Committee on Government Records Retention are:

Michele Beaton, Chair (District 5, Mermaid-Stratford)

Hon. Peter Bevan-Baker (Leader of the Official Opposition; District 17, New Haven-Rocky Point)

Cory Deagle (District 3, Montague-Kilmuir)

Sidney MacEwen, (District 7, Morell-Donagh)

Gordon McNeilly (District 14, Charlottetown-West Royalty)

Hal Perry (Deputy Speaker; District 27, Tignish-Palmer Road)

Substitute members of the Special Committee were:

Trish Altass (District 23, Tyne Valley-Sherbrooke)

Hannah Bell (District 11, Charlottetown-Belvedere)

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Several additional Members of the Legislative Assembly participated in meetings of the Special Committee:

Hannah Bell (District 11, Charlottetown-Belvedere)

Zack Bell (District 10, Charlottetown-Winsloe)

Sonny Gallant (Leader of the Third Party; District 24, Evangeline-Miscouche)

Ole Hammarlund (District 13, Charlottetown-Brighton)

BACKGROUND

The basis for the mandate given to the Special Committee was outlined in the first clause of Motion 86, specifically:

WHEREAS a June 9, 2020, order of the Office of the Information and Privacy Commissioner (Order No FI-20-007) raised serious questions about the possibility of government records being improperly deleted;

As referenced in the clause, Order No. FI-20-007 is concerned with a failure to comply with the requirements of the *Archives and Records Act*. The summary, which forms part of the Order (Pages 1-2), follows:

Two applicants requested reviews of five decisions of the Department of Economic Growth, Tourism and Culture (EGTC), regarding access to information from a named government employee's emails in 2011. In each review, the applicants questioned whether the EGTC had fulfilled their duty to assist the applicants by conducting a reasonable search. The applicants also questioned whether the EGTC had been open, accurate and complete in their responses to the applicants, as the EGTC had not advised the applicants that emails of the government employee, during the period requested, were missing and not recoverable. In all reviews, the Commissioner found that the EGTC had conducted a reasonable search, but that they had not responded to the applicants openly, accurately and completely. The Commissioner ordered the EGTC to refund the applicants their fees paid.

The applicants also raised the possibility that someone had intentionally deleted the missing emails to avoid public access. The Commissioner concluded that there was

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insufficient evidence to make such a finding, but found that the EGTC failed to comply with rules relating to the destruction of records, in violation of the *Archives and Records Act*.

The Prince Edward Island Information and Privacy Commissioner found that the Department of Economic Growth, Tourism and Culture failed to comply with the rules relating to the destruction of records as set out in Section 15 of the *Archives and Records Act*, in force prior to 2017. Non-transitory emails were lost, and there were no printed and retained paper copies.

The Information and Privacy Commissioner's Order reinforced the earlier findings of the Office of the Auditor General of Prince Edward Island contained in the report, *Special Assignment, Government Involvement with the E-Gaming Initiative and Financial Services Platform*, dated October 6, 2016.

That report detailed the observations and set out 15 recommendations resulting from a special assignment undertaken by the Office of the Auditor General at the request of Executive Council in March 2015, and a similar request received at the same time from the Standing Committee on Public Accounts of the Legislative Assembly of Prince Edward Island.

The work involved an examination of government support to the Mi'kmaq Confederacy of Prince Edward Island in relation to internet gaming (E-gaming), consideration of government's dealings with Simplex, Capital Markets Technologies (CMT) in relation to E-gaming and financial services, and extended into efforts to initiate a loyalty card program, and a memorandum of understanding to establish a financial services platform.

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In brief, the report analyzed three initiatives being considered by government in the 2009-2012 time frame: the creation of a platform for the unregulated internet gaming market; the establishment of a financial service platform to allow processing of a large volume of financial transactions in various currencies and with financial institutions worldwide; and a loyalty card incentive program intended for the tourism sector. None of the proposed ventures were implemented.

As reported by the Auditor General, there was no intention to examine records management in government at the outset of the engagement; however, in light of difficulties encountered in obtaining relevant documentation, a decision was made to review selective practices and policies related to the management of government records. The result was a conclusion that not all government records were being managed and safeguarded as required by legislation and policy. There was a lack of compliance with the *Archives and Records Act* related to retention and disposition schedules.

The Auditor General made two recommendations in relation to records management in the *Special Assignment* report:

Recommendation 7.14 The Public Archives and Records Office, in cooperation with public bodies, should monitor compliance with records management policies and procedures and submit compliance reports to the Minister of Education.

Recommendation 7.15 The Minister of Education, as the Minister responsible for the *Archives and Records Act*, should take necessary action to enforce compliance with the Act.

As a result, a number of actions to improve records management were implemented. Based on

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followup work by the Office of the Auditor General, and reported in the March 2020 *Annual Report of the Auditor General to the Legislative Assembly*, significant improvements had been made to promote and enforce record retention compliance across government.

While much has been accomplished to improve the management and safeguarding of information held by public bodies in this province, there is still work to be done, and the Special Committee on Government Records Retention is pleased to contribute to that process.

A FOCUS ON ELECTRONIC RECORDS MANAGEMENT

While the principles underlying records management—creation, retention, identification, retrieval and disposition of records—apply to all records, regardless of format, it is more difficult to preserve and protect those records that do not have a physical existence.

The growing volume and increasing value of email and other digital records pose particular challenges.

Email has become the *de facto* standard for business communication across organizations. Sending and receiving internal and external correspondence, distributing memos, circulating drafts, disseminating directives, transferring official documents, supporting various business processes of the organization, and much more are regularly shared by email. Inboxes are filled with a mix of critical business records and private data, as well as informal conversations and unsolicited spam. Long email threads mean multiple copies of the same record with attachments that are managed, or not, by each recipient in the trail. The number of messages involved on a daily and weekly basis, the informality with which they are created and sent, and the ease with which documents can be attached means that email as an information type tends to be treated differently than paper-based records.

The result is a potential for increased risks and costs from an inability to provide evidence of an action taken or a decision made, a loss of critical records and corporate memory, inefficient and ineffective search-and-retrieval of electronic records, and the storing of emails that are not required for business purposes.

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Government must be able to capture and retain electronic records and, in the interests of transparency and accountability, provide efficient and effective methods for the public to lawfully access those records.

It is a growing challenge. The management of email records by public bodies has been the subject of investigations and orders issued by information and privacy commissioners across Canada.

In this province, the issue of missing electronic records, specifically email correspondence related to government's E-gaming and financial services platform initiatives, has occupied the Legislative Assembly of Prince Edward Island, its committees, and its independent officers for some time.

In March 2015, the Auditor General of Prince Edward Island received a request from Executive Council to undertake a special assignment related to government's involvement with an E-gaming initiative and financial services platform file. At the same time, a similar request was made by the Standing Committee on Public Accounts of the Legislative Assembly of Prince Edward Island.

The Auditor General presented the report entitled *Special Assignment: Government Involvement with the E-gaming Initiative and Financial Services Platform* in October 2016. It highlighted serious issues with records management within government, among other findings.

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The Auditor General concluded that important government records had not been adequately managed and protected as required by legislation and policy. In particular, the report noted that the emails of three senior government officials who were key participants in E-gaming and/or financial services platform business initiatives were not properly archived. Their email accounts were removed after leaving government, and such accounts cannot be recovered after a period of one year. The records were effectively lost.

The *Special Assignment* report was reviewed, in detail, by the Standing Committee on Public Accounts at its meetings of October 19, November 2, November 9, and November 10, 2016; and January 11, January 18, February 1, February 15, February 22, and March 1, 2017. The Standing Committee presented its findings and recommendations to the Legislative Assembly on this matter on December 2, 2016, and December 1, 2017.

The recommendations put forward in the Auditor General's report were endorsed by the Standing Committee on Public Accounts, and resulted in the development of a three year plan to increase the level of recorded information management compliance within government departments, agencies and commissions. The strategy, *Recorded Information Management (RIM) Strategy and Three Year Plan*, was released in December 2016.

Amendments to the *Archives and Records Act* were proclaimed in May 2017 which further strengthened government's commitment to adequate recorded information management practices.

In June 2020, the Information and Privacy Commissioner for Prince Edward Island released Order FI-20-007, concerning the Department of Economic Growth, Tourism and Culture. Two applicants requested the Information and Privacy Commissioner review decisions of the Department regarding access to information from a government employee's emails from 2011.

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Investigation confirmed that the employee's emails from June 2010 to April 2012 were missing from electronic storage; the time period coincided with activities on the E-gaming file. This had been discovered by the employee in March 2015, and all appropriate steps were taken by this individual, and others, to investigate and attempt a resolution of the issue but with little success.

The Information and Privacy Commissioner reported there was insufficient evidence to conclude that someone in government either wilfully destroyed or directed the destruction of two years of emails to evade an access to information request.

The various investigations into the existence or destruction of electronic records, in this case, emails potentially relating to government's investments in an exploration of business opportunities and associated activities, have been time consuming and resource-intensive.

The scrutiny made clear that the records management practices, developed in the paper environment of the twentieth century, had not kept pace with an increasingly digital world. It further revealed that compliance with good records management practices, in general, needed to be improved across the enterprise.

In response, a heightened awareness and practice for records management has been developed. The culture change is supported by legislation, regulation, policy directives and oversight. The Special Committee believes that the adoption and implementation of its recommendations will further strengthen the creation, management, retention and preservation of records, in all forms, for public bodies in the Province of Prince Edward Island.

COMMITTEE ACTIVITIES - OVERVIEW OF PRESENTATIONS

The Special Committee on Government Records Retention met a total of fourteen times to fulfil its mandate: on August 11, August 26, August 27, September 16, September 25, October 9, October 14, October 23, October 28, the morning of November 6, the afternoon of November 6, November 20, the morning of November 24, and the evening of November 24.

On **August 11, 2020**, the Special Committee met to elect a Chair and to consider its work plan. Michele Beaton, District 5, Mermaid-Stratford, was duly elected. Discussion of the work plan focused on two separate lines of inquiry: a retrospective look at the E-gaming situation and an exploration of how incidents of non-compliance with the *Archives and Records Act* might be prevented in the future. The Special Committee determined that understanding the records management environment, including legislation, regulation, policy and practice for public bodies in this province would be an essential component of its investigations. In addition, a jurisdictional scan of Canadian provinces and territories, with a particular focus on best practices would form the basis for useful comparisons.

The Special Committee met next on **August 26, 2020**, to hear presentations from former Auditor General, Jane MacAdam, CPA, CA; Darren Noonan, CPA, CA, Auditor General; and Jennifer Bowness, CPA, CA, Senior Manager of Performance Audit, Office of the Auditor General. Special Committee members were given a general overview of the activities and findings of the special assignment audit of government's involvement with the E-gaming initiative and financial services platform. The scope of the engagement was limited as a result of a number of issues, including email accounts of some former senior government officials, who were key participants in the initiatives being examined, which were closed, deleted and could not be recovered. The missing emails pointed to a vulnerable system of records retention and disposition, which was addressed by way of two specific recommendations in the Auditor

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General's report, *Special Assignment: Government Involvement with the E-gaming Initiative and Financial Services Platform*, dated October 4, 2016.

At its meeting of **August 27, 2020**, former Information and Privacy Commissioner, Karen Rose; accompanied by Denise Doiron, Information and Privacy Commissioner, appeared before the Special Committee, to review details of Order No. FI-20-007, issued in June, 2020. The Order concerned a review of several access to information requests made to the Department of Economic Growth, Tourism and Culture. Following a brief overview of the Office of the Information and Privacy Commissioner, including its role, responsibilities and relationship with public bodies, much of the discussion centred on missing records and information that was unobtainable or gaps encountered in the preparation of the Order. Other topics were also explored, including routine disclosure of government documents and duty to document.

On **September 16, 2020**, the Special Committee reconvened to receive a briefing from John Brennan, Director, Business Infrastructure Services; and Scott Cudmore, Director Enterprise Architecture, from the Information Technology Shared Services (ITSS) section of the Department of Finance. The Special Committee learned that government's data has grown significantly in recent years. Departments are becoming more digital in their workflows, and the legislative changes made to the *Archives and Records Act* in 2017 triggered a large influx of data into ITSS enterprise level storage and backup environments. Because electronic records provide documentation of essential government functions and information necessary to protect the interest of citizens, their proper management is essential. The Special Committee was told that improvements to records management are ongoing: in 2016, the RIM (Recorded Information Strategy) was developed. Employee change forms requiring records management authorization were implemented the following year. In 2018, a small scale preliminary study for electronic records management was undertaken, and this year, a Request for Proposal (RFP) for an electronic records management system will be released. The Special Committee

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was interested to learn of the technical process of email deletion, in light of the findings of both the Auditor General in 2016 and the Information and Privacy Commissioner in 2020, both of which referenced missing emails.

The Special Committee met next on **September 25, 2020**, to be briefed on current practices in records management within government. Bethany MacLeod, Deputy Minister of Education and Lifelong Learning, accompanied by Jill MacMicken-Wilson, Provincial Archivist, detailed Recorded Information Management (RIM) responsibilities across government. Under the mandate of the *Archives and Records Act*, the Public Archives and Records Office coordinates the corporate RIM program for government with policies, procedures, standards and training to assist departments in developing records management programs.

On **October 9, 2020**, the Special Committee met in an *in camera* session to begin consideration of its report to the Legislative Assembly.

The Special Committee held three additional meetings in October to hear from witnesses related to its mandate: on **October 14, October 23, and October 28, 2020**.

Ed Malone, Director of Strategic Initiatives with the Business Infrastructure Services, ITSS, presented information related to information technology aspects of records management at the Special Committee's meeting of **October 14, 2020**, with a particular focus on government's initiative to replace the existing email platform with a Microsoft Office 365 environment. The project is estimated to take 18 months to complete. In addition, the Special Committee was given an update on the release of a Request for Proposal (RFP) for an Electronic Document and Records Management System. Part of the RFP will be a five year strategy to enable automatic classification of data and retention schedules. Following this portion of the meeting, John Brennan, Director Business Infrastructure Service, ITSS, answered questions related to the

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missing emails referenced by the Auditor General in the *Special Assignment* report. Specifically, the Special Committee was given information regarding a search of additional email accounts from the time frame of January 1, 2010 to March 31, 2015. As a result, the Special Committee determined it would request the names of individual account holders, the length of the archives, any gaps in the archives and possibly the size of any gaps. The information was provided by the provincial Treasury Board Secretariat on October 16, 2020.

On **October 23, 2020**, the Special Committee heard a presentation on modern records management from Juliana MacEwen of Precision Digital Imaging Services Inc., a company with locations in Stratford, PE, and Halifax, NS. Her message emphasised the importance of managing records from creation throughout the information life cycle, along with the importance of training, communication, technology and automation to support the modern records management user.

Continuing discussions related to its mandate, the Special Committee met again on **October 28, 2020**. Brad Mix, Senior Director of Business Attraction with Innovation PEI; and Bobbi-Jo Dow Baker, Solicitor, Access and Privacy Service Office of the Department of Justice and Public Safety made statements and answered questions. Mr. Mix provided detailed information of the circumstances surrounding his discovery of a missing block of his emails covering the time frame of June 2010 to April 2012. Ms. Dow-Baker gave a presentation about government's Access and Privacy Services Office (APSO), a centralized service falling under the Department of Justice and Public Safety.

The Special Committee met on two separate sessions on **November 6, 2020**. Both sessions were chaired on a temporary basis by Hannah Bell, District 11, Charlottetown-Belvedere.

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In the morning session, the Special Committee heard from Melissa James, former Deputy Minister of Innovation and Advanced Learning; and Chris LeClair, former Chief of Staff to then-Premier Robert Ghiz. In response to questions, both witnesses stated that all their records and emails remained with government following their departures: in 2011, for Mr. LeClair; and 2013 in the case of Ms. James. Mr. LeClair provided an excerpt from the October 28, 2020, decision of Chief Justice David H. Jenkins, Prince Edward Island Court of Appeal, which addressed the matter of removal of email accounts in the provincial government:

[259] The evidence shows that the policy and procedure the province had in place since at least 2007 was that once a person left the employment of the Government, ITSS (Information Technology Shared Services) first disabled the email account of the former employee, then removed the email account but kept a back-up of the email account for a period of 365 days, after that they are no longer available. They did so because of the costs and types of the licenses available to the government for email accounts and the volume of storage available. Between the years 2007 and 2011 they followed this procedure 1,054 times for employees ranging from secretaries right through to the Premier's office.

The Special Committee reconvened in the afternoon of November 6, 2020, to receive a presentation from Erin McGrath-Gaudet, Deputy Minister of the Department of Economic Growth, Tourism and Culture. The procedures regarding the Department's responses to Freedom of Information and Protection of Privacy (FOIPP) requests were outlined. Further clarification, including details about timelines, was provided concerning the five requests reviewed by the Information and Privacy Commissioner in Order F1-20-007.

Meeting again on **November 20, 2020**, the Special Committee met with the Honourable

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Darlene Compton, Minister of Finance. As the subject matter before the Special Committee concerned electronic security of the Government of Prince Edward Island, a motion was moved and carried to conduct the meeting *in camera*.

In a morning meeting on **November 24, 2020**, the Special Committee met with three witnesses, virtually, to receive a briefing on digital records management within the Canadian federal government: Sonya Read, A/Assistant Secretary Digital Policy and Services, Treasury Board Secretariat; Robert Trottier, A/Executive Director Digital Policy, Treasury Board Secretariat; and Dara Price, Director General Archives Branch, Library and Archives Canada. The witnesses discussed the federal Policy on Service and Digital, key roles and responsibilities on information management within the Government of Canada, information management tools employed at the federal level, and challenges and opportunities in the current information management context. Following this briefing the committee moved *in camera* to consider its report.

In an evening meeting on **November 24, 2020**, the Special Committee met again, *in camera*, to further consider its report.

RECOMMENDATIONS TO THE LEGISLATIVE ASSEMBLY

As a result of its considerations, your Special Committee is pleased to recommend:

- 1. That all public bodies work to achieve an 80% compliance rate for completion of basic records management training for all employees required to do so by the end of Fiscal Year 2020-21; a rate of 90% by the end of Fiscal Year 2021-22; and 100% by the end of Fiscal Year 2022-23.**

All government staff are required to have records management training to ensure compliance with the requirements of the *Archives and Records Acts*, as set out in Action area #3, *Recorded Information Management (RIM) Strategy and Three Year Plan*. Training is a necessary component of a successful RIM program. However, in the most recent RIM Assessments provided to the Special Committee (for FY 2019-20), government departments reported widely varying degrees of success in ensuring their employees completed basic RIM training.

Given that RIM Basics 101 course is offered to all government employees as online learning, a goal of 80% compliance for employees to complete the course should be achievable by the end of the current fiscal year. In following years, the Special Committee recommends a goal of 90% compliance in completing the mandatory training by the end of Fiscal Year 2021-22; and 100% compliance by the end of Fiscal Year 2022-23.

For newly-hired employees, or those that have been recently promoted to a management level, the Special Committee recommends that basic RIM training be completed within their probationary period.

Management of information in today's world requires fulltime efforts and appropriate knowledge by all involved in the creation, distribution, use, maintenance, and disposition of records.

2. That the *Archives and Records Act* be amended to add a “Duty to Document” requirement.

Records, in all forms, support effective decision-making and facilitate the delivery of programs and services to the residents of Prince Edward Island. Effective records management enables departments to direct their ongoing operations, and protect their capacities for accountability, stewardship, evaluation, access to information, privacy, security and policy compliance.

As the first step in its life cycle, the creation of a record that explains the “who,” “what,” and “why” of decision making promotes good governance and public trust. A duty to document establishes a positive duty for public servants and officials to create a full, accurate and complete record of important business activities.

A duty to document does not mean creation of excessive records, but rather focuses on the creation and retention of the right records. The guiding principles are the business needs of the public body, and the expectations of the public that deliberations, actions and decisions will be documented.

The Special Committee recommends a duty to document be incorporated into existing information management laws, specifically the *Archives and Records Act*. As an example of such legislation, New Zealand’s federal *Public Records Act 2005* enshrines a specific

obligation to create, maintain, and preserve government documents. Section 17(1) of the Act states, “Every public office and local authority must create and maintain full and accurate records of its affairs, in accordance with normal, prudent business practice, including the records of any matter that is contracted out to an independent contractor.”

3. That a government-wide policy for Routine Disclosure/Active Dissemination be developed.

Routine disclosure is the routine or automatic release of certain types of administrative and operational records in response to requests made informally. Active dissemination is the periodic release of general records in the absence of a request.

The Information and Privacy Commissioner, during the Special Committee’s meeting of August 27, 2020, recommended that government look towards routine disclosure, on a departmental level, taking into account the type of records held.

The Special Committee agrees. Routine disclosure and active dissemination can create efficient, cost-effective means of providing the public with greater access to government information. When general records are identified as available for routine disclosure or active dissemination, the result should be less work for public bodies in responding to requests for information, along with a greater confidence from the public that government is transparent and accountable.

As well, the people of Prince Edward Island expect effective, well-coordinated and proactive administration of the *Freedom of Information and Protection of Privacy Act*, which includes complete, accurate and timely responses to requests. The Special

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Committee suggests that the Prince Edward Island government consider issuing a directive to heads of public bodies, or their delegates, who process freedom of information requests in accordance with the provisions of the *Freedom of Information and the Protection of Privacy Act* with regard to their responsibilities, including their duty to assist applicants.

4. That further exploration into the establishment of a Vital Records Policy be conducted by the Public Archives and Records Office (PARO).

Government records are especially important because they protect the legal, financial, and historical foundations of the province. Deeds and maps protect property rights; laws and court records protect civil rights; still other records can ensure the rights of individuals to essential information and services.

These records are vital, and have enduring value that must be preserved for years or even centuries, and they must remain secure, accessible and usable over those extreme time frames.

The Special Committee believes it is time to formalize the approach to define which records are vital and make decisions about how to protect them, balancing the business impact and risks against the mitigation costs associated with a well-designed and properly executed vital record management and storage program.

5. That the efforts to promote and automate electronic document and records management continue to receive priority within government.

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Records management in the twenty-first century is challenged by new and ever-changing communications technologies, as well as the sheer volume and variability of records. These developments make document retention and accessibility challenging.

All government departments create electronic records in the course of their daily activities but most have not begun to formalize their electronic records storage and management needs. Email, in particular, has proven to be difficult to manage, and was the source of security and storage issues studied by the Special Committee as directed in its Order of Reference.

The Special Committee was briefed on plans to source an electronic document and records management system that will integrate into Microsoft Office 365. Additionally, the Special Committee was told that a Security Information and Event Management System is being procured to provide insights into, and a track record of, the activities within the IT environment. Both of these developments are reassuring.

The Special Committee recognizes there are significant technical, financial and operational barriers to overcome when implementing an electronic document and records management system, and encourages government to commit to the initiative as an on-going priority. Beyond those investments, a commitment to a robust change management process will be the key component for successful transition to electronic document and records management infrastructures.

It is essential that government implement an electronic document and records management system that will capture, preserve, index, promote accessibility, and appropriately dispose of electronic records.

6. **That a three year RIM strategy for the years 2021-2023 be developed, to be presented to the Legislative Assembly of Prince Edward Island by the Minister of Education and Lifelong Learning in the next sitting.**

The goal of the December 2016 Recorded Information Management (RIM) Three Year Strategy was to increase the level of RIM compliance in government departments, agencies and commissions. Much has been achieved, and the Special Committee extends its thanks for the diligence and hard work of the staff of the Public Archives and Records Office, and to all those who participated in the development of new recorded information management processes.

The Special Committee recommends that a strategic plan for the next three years be developed, building on the foundational work of the December 2016 RIM Strategy, which concluded on March 31, 2020. In meeting with the committee on September 25, the Provincial Archivist indicated that a new strategic plan is in development. The Special Committee is of the view that the strategic plan should address the significance of creation, maintenance, preservation and accessibility of electronic records. A second aspect must be extending formal records management oversight beyond core government to agencies, boards and Crown corporations.

As a measurable target for the first year of the strategy, the Special Committee recommends that all public bodies have an approved records retention schedule, and that it be publicly available, in place by the end of 2021. The Special Committee further recommends that more detailed information, down to the divisional level, be included in the RIM Assessment tabled annually in the Legislative Assembly of Prince Edward Island by the Minister of Education and Lifelong Learning.

7. **That public bodies retain all non-transitory records until retention schedules are fully in place.**

According to information provided by public bodies in response to questions sent by the Special Committee, operational records retention and disposition schedules exist in the various departments of Government, but in almost all departments there remain some sections that do not yet have these schedules in place. The Special Committee stresses that where a schedule is lacking, the default position should be that non-transitory records are retained. It is only once an approved operational retention and disposition schedule is in place for the records of a section that disposition according to that schedule can be contemplated.

8. **That Government, when it provides a written response to this report in the next seasonal sitting, as is required under Rule 110(9) of the *Rules of the Legislative Assembly*, provide timelines for the implementation of these recommendations, except where the committee has already specified timelines.**

CONCLUSION

As expressed in Motion 86, the mandate of the Special Committee had a specific focus on electronic records:

AND THEREFORE BE IT FURTHER RESOLVED that the committee study the missing records referred in the Information and Privacy Commissioner's order and the current practices related to electronic records and security;

Throughout its consultations and deliberations, the Special Committee viewed its work through the lens of the 2016 Recorded Information Management (RIM) Strategy and Three Year Plan, investigating the evolution of information management within government, assessing the current environment, and considering how best to provide for the future.

On that basis, the Special Committee believes that adoption and implementation of its recommendations will achieve the following goals:

- ▶ Public records are created, identified, and managed and appropriately stored or destroyed according to approved retention schedules;
- ▶ Electronic public records, including digital recordings, electronic mail, digital communications, and social media records, are controlled, preserved, and made accessible according to retention requirements;
- ▶ Government transparency and accountability are increased by ensuring that public records are easily accessible regardless of format or location for as long as required by records retention schedules;

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- ▶ All public records are preserved in an appropriate environment; and
- ▶ Human, technological and financial resources are strategically aligned to achieve the outcomes of a three year plan (2021-2023) for recorded information management in Prince Edward Island.

The Special Committee on Government Records Retention is grateful to everyone who contributed to its consideration of recorded information management by the Government of Prince Edward Island.

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APPENDIX A

WITNESSES

The following table lists the witnesses who appeared before the Special Committee at its meetings related to this report. Transcripts of all public meetings are available on the web site of the Legislation Assembly of Prince Edward Island: www.assembly.pe.ca.

Organizations and Individuals	Meeting Date
Office of the Auditor General of Prince Edward Island Jennifer Bowness, CPA, CA Senior Manager of Performance Audit Darren Noonan, CPA, CA, Auditor General	August 26, 2020
As an individual B. Jane MacAdam, CPA, CA, former Auditor General	
Office of the Information and Privacy Commissioner of Prince Edward Island Denise Doiron, Information and Privacy Commissioner	August 27, 2020
As an individual Karen Rose, former Information and Privacy Commissioner	
Information Technology Shared Services, Government of Prince Edward Island John Brennan, Director, Business Infrastructure Services Scott Cudmore, Director, Enterprise Architecture	September 16, 2020
Dept. Of Education and Lifelong Learning, Government of Prince Edward Island Bethany MacLeod, Deputy Minister Jill MacMicken-Wilson, Provincial Archivist	September 25, 2020
Information Technology Shared Services, Government of Prince Edward Island John Brennan, Director, Business Infrastructure Services Ed Malone Director, Strategic Initiatives	October 14, 2020
Precision Digital Imaging Services, Inc. Juliana MacEwen	October 23, 2020

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<p>Innovation PEI Brad Mix, Senior Director of Business Attraction</p>	<p>October 28, 2020</p>
<p>Dept. of Justice and Public Safety, Government of Prince Edward Island Bobbi-Jo Dow Baker, Solicitor, Access and Privacy Service Office</p>	
<p>As an individual Melissa James Chris LeClair</p>	<p>November 6, 2020 (morning)</p>
<p>Dept. of Economic Growth, Tourism and Culture, Government of Prince Edward Island Erin McGrath-Gaudet, Deputy Minister</p>	<p>November 6, 2020 (afternoon)</p>
<p>Department of Finance, Government of Prince Edward Island Honourable Darlene Compton, Minister</p>	<p>November 20, 2020</p>
<p>Treasury Board Secretariat, Government of Canada Sonya Read, A/Assistant Secretary, Digital Policy and Services Robert Trottier, A/Director General Digital Policy</p>	<p>November 24, 2020 (morning)</p>
<p>Library and Archives Canada Dara Price, Director General, Archives Branch</p>	