

ADOPTION ACT REVIEW FINAL REPORT

August 22, 2018



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EXECUTIVE SUMMARY

A number of Canadian jurisdictions have amended legislation to achieve an increasingly more open approach to adoption records. In response to requests for improved access to identifying information in adoption records, the government of Prince Edward Island announced it would facilitate a public discussion on whether or not the PEI *Adoption Act* should be amended to allow for the opening of sealed records. An Advisory Committee was tasked with facilitating the public engagement process, which heard from approximately 145 Islanders and non-Islanders through public consultations, Indigenous engagement sessions, one-on-one confidential meetings, stakeholder consultations and written submissions.

“I wanted to consider the original intent of having closed adoption records. Was it to shield parties from shame and embarrassment in an earlier era when religious and societal norms prevailed? Was it to protect parties from remorse in both relinquishing parental rights and responsibilities or in adopting a child? Confidentiality could ensure that no one knew of an indiscretion or indeed, could change their mind easily and either party demand that a child be returned to the birth family. The fact that the topic of opening adoption records is being considered today signals perhaps a shift in thinking more reflective of society’s acceptance of openness in this century.” (Participant)

The Advisory Committee received representation in the data collected from each of the three parties to an adoption: adult adoptees, adoptive parents and birth parents. From the data, major themes emerged:

1. Personal trauma experienced by parties to historic adoptions;
2. Access to personal, identifying or medical information versus the right to privacy;
3. Mitigating potential harm through appropriate measures; and,
4. Resources required to support change.

Personal trauma experienced by parties to an adoption

Feedback provided by participants on the question of whether adoption records should move towards more open access was intensely personal and emotional and especially sensitive for parties involved in adoptions. Examples of challenges faced which lead to experiences of trauma were: placing a child for adoption; children growing up knowing they were adopted; adoptive parents struggling with a lack of information about the child’s early life; birth parents wondering whether the child grew up well; adult adoptees and birth parents searching for information and trying to reconnect; and fear of being contacted when no relationship is wanted.

Access to information versus the right to privacy

The Advisory Committee heard from advocates in favour of moving towards more open records and advocates in favour of maintaining closed records for parties impacted by adoption. Participants advocated the movement to open adoption records is grounded in large part by the fact that societal attitudes have changed. The most common reasons given for moving towards open records were: access to personal records; access to medical information; and, finding family connections and personal closure. Other participants advocated for identifying information held in adoption records to remain confidential unless there was consent to release the information. Those who opposed the opening of

records cited reasons related to the right to privacy, that no contact was desired, and that the agreement at the time of the adoption should not be changed retroactively.

Mitigating potential harm

Many participants, whether for or opposed to open records, expressed a high degree of concern about the possibility of harm which could come from open records. The retrospective nature of the potential amendments caused concern. Cautionary advice was offered in terms of ensuring consideration is given to the fact that PEI is a small jurisdiction. Others requested that consideration be given to unintended consequences that might occur for populations characterized by age, socio-economic status, gender, lineage and ethnicity. Additional professional services were identified as required to support Islanders impacted by adoptions in order to successfully navigate any change to the current legislation. Participants also noted the most predominant voices were those that favored open records, as those who opposed were not as vocal nor organized and some desired anonymity.

The government has a duty, if changing public policy, to do no harm or to mitigate harm. There is a need for care and caution for the three parties' to an adoption well-being which must be considered in a response to the public consultation process and any subsequent legislative amendments. Furthermore, appropriate resources, human, financial and technological, must be in place to respond to any legislative changes. Outlined below is a range of potential options developed for consideration by Department of Family and Human Services with accompanying recommendations.

Option A: Status Quo Maintained

Recommendation One

The Advisory Committee recommends the status quo not continue and consideration be given by legislators to amending the Adoption Act to enhance disclosure of and further access to identifying information held in adoption records, than is presently permitted under the current legislative framework.

Option B: Enhancements to Current Post-Adoption Services

Recommendation Two

The Advisory Committee recommends that:

- a) Additional human, administrative, and technological supports be provided to improve the speed and timeliness in which Post-Adoption Services staff can respond to applications for active searches on behalf of the adult adoptee, as well as reciprocal searches where there is a match on behalf of the adult adoptees and birth parents;
- b) Through amendments to the *Adoption Act*, an active search option be made available to the birth parent, similar to that currently available to the adult adoptee; and
- c) The Department of Family and Human Services develop and implement a comprehensive public education component to inform the public of changes to the *Adoption Act*.

Option C: Legislative Changes to Prospectively Amend the *Adoption Act*

Recommendation Three

The Advisory Committee recommends that legislative amendments to the *Adoption Act* be made to enable the following:

- a) Identifying information of adult adoptee and birth parent is accessible, upon application, for adoptions finalized following amendments to the *Adoption Act*.
- b) All adoptions finalized prior to amendments to the *Adoption Act* require the mutual consent of both parties for release of identifying information. Existing rules remain the same for adoptions finalized prior to proposed legislative changes, with enhanced processes established in legislation to support the release of current medical information and an active search option available to a birth parent.
 - i. Enhancements to a medical information search be explored between Department of Family and Human Services, Adoption Services, and Health PEI and action be taken through legislative amendments to support the obtaining of current medical information for adoptees from birth parents.
 - ii. Birth parents are afforded a similar opportunity to access identifying information as that of adult adoptees under the current *Adoption Act*. Release of information under the active search option is subject to the consent of the adult adoptee. Birth parents have the support of professional Post-Adoption Services Consultant and staff in a facilitated and supported search for the adult adoptee.
- c) The Department of Family and Human Services develop and implement a comprehensive public education component to inform the public of changes to the *Adoption Act*.

Option D: Legislative Changes to Retroactively Amend the *Adoption Act* - Both Veto and No Contact Provisions

Recommendation Four

The Advisory Committee recommends that Option D not be implemented until:

- a) A comprehensive overview of the impact on parties of past adoptions of similar legislative changes in other Canadian jurisdictions is conducted by the Department of Family and Human Services;
- b) Given the unique nature and size of PEI, the services of policy makers who have substantive experience in policy development and evaluation of the differential impact of public policy and legislation on disparate groups and populations apply a gender and diversity lens on options presented herein to ensure that potential unintended consequences are considered and evaluated before changes in public policy are implemented and legislation is enacted; and
- c) The options presented herein are reviewed by an all-party Committee of the Legislative Assembly.

Option E: Legislative Changes to Retroactively Amend the *Adoption Act* - Contact or No Contact Provisions Only

Recommendation Five

The Advisory Committee recommends that Option E not be implemented until:

- a) A comprehensive overview of the impact on parties of past adoptions of similar legislative changes in other Canadian jurisdictions is conducted by the Department of Family and Human Services;

- b) Given the unique nature and size of PEI, the services of policy makers who have deep experience in policy development and evaluation of the differential impact of public policy and legislation on disparate groups and populations apply a gender and diversity lens on options presented herein to ensure that potential unintended consequences are considered and evaluated before changes in public policy are implemented and legislation is enacted; and
- c) The options presented herein are reviewed by an all-party Committee of the Legislative Assembly.

Indigenous Engagement

Recommendation Six

The Advisory Committee recommends that:

Where any policy or legislative changes are considered by the Government of PEI affecting how identifying information in adoption records is maintained and disclosed with respect to Indigenous children, families and communities, a comprehensive formal consultation process occur between the leadership of the Government of Prince Edward Island and the leadership of the Abegweit First Nation and the Lennox Island First Nation, in advance of such public policy or legislative changes.

INTRODUCTION AND BACKGROUND

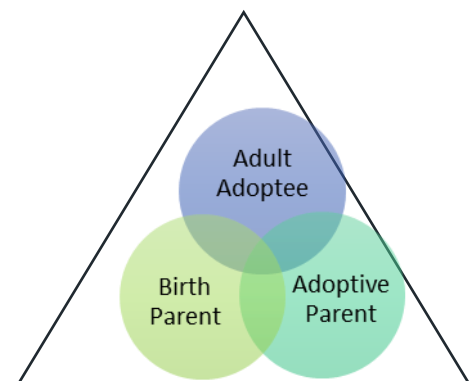
The primary purpose of the PEI *Adoption Act* R.S.P.E.I. 1988, Cap. A-4.1 (“the Act”) is to provide the provincial legislative framework for adoptions in Prince Edward Island (“PEI”) and the mandate for programs and services at Adoption Services within the Department of Family and Human Services. Adoption is a legal proceeding that creates a parent-child relationship which is recognized by law. Adoption in PEI is governed by the *Adoption Act* and the *Intercountry Adoption Act* (“Hague Convention”).

PEI has maintained adoption records for approximately 100 years. The current *Adoption Act* states adoption records are sealed, meaning that identities of adopted children, birth parents and adoptive parents cannot be released without consent of the parties. The management of adoption records in PEI is guided by two pieces of legislation including the *Adoption Act* and the *Vital Statistics Act*. The Vital Statistics office keeps a record of all adoptions on PEI in the Adopted Children Register. The information in the Register is confidential and cannot be disclosed unless ordered by the court or as set out in the *Adoption Act*.

The current *Adoption Act*, at section 2, states that the Act is to be administered with respect to the following principles:

- (a) there is a balance of rights and interests among the three parties in placement and adoption, the birth parents or parents, the child and the adoptive parent or parents, but the interests of the child must be the paramount consideration;
- (b) decisions to place and to adopt a child must be made with clear information, full awareness of the implications and careful consideration, with the benefit of knowledgeable guidance;
- (c) there should be the opportunity for openness in adoption, but a participant’s choice of anonymity should be respected;
- (d) the Director must exercise standards and controls in order to protect the rights and interests in those involved in placements and adoptions;
- (e) reliable records of placements and adoptions must be maintained;
- (f) an adopted person has a right to non-identifying information concerning his or her background and heritage;
- (g) an adult adopted person’s desire to discover his or her identity should be accommodated if possible and if it does not infringe on the right of a birth parent to maintain anonymity.

There are three parties to an adoption; the birth parent, the adoptee, and the adoptive parents. The perspectives of the three parties regarding access to information in adoption records is highly influenced by the social norms and terms of the contract that were in place at the time



the adoption was finalized, as well as each party's individual experience.

Attitudes are evolving as social norms change over time and an increasing number of Islanders who are adult adoptees have expressed an interest in greater access to their identifying information. In November 2017, the PEI government announced it would facilitate public discussion on whether or not the PEI *Adoption Act* should be amended to allow for the opening of sealed adoption records. In December 2017, the Minister of Family and Human Services established an Advisory Committee to facilitate a public engagement process to ensure that Islanders were given the opportunity to voice their perspectives and opinions. Patsy MacLean, of HR Atlantic, was asked to chair an Advisory Committee with representatives from Department of Family and Human Services, Vital Statistics and the Mi'kmaq Confederacy of PEI (the Confederacy). The members of the Advisory Committee constituted by the Minister of Family and Human Services included:

- Patsy MacLean, Chairperson, HR Atlantic;
- Matt Bourque, Post-Adoption Services Consultant;
- June McKinnon, Provincial Adoption Coordinator;
- Rona Smith, Director Child and Family Services;
- Wendy McCourt, Director of Child Protection;
- Marilyn LeFrank, Director of Child and Family Services, Mi'kmaq Confederacy of PEI;
- Kelly Peck, Practice Analyst, Family and Human Services;
- Adam Peters, Manager, Vital Statistics;
- Darlene Gillis, Senior Communications Officer;
- Penny Woodgate, Administrative Assistant.

Recognizing that being a party to an adoption is a highly personal and individual experience, the Minister of Family and Human Services, on behalf of government administration, requested that a comprehensive, inclusive and respectful consultation process be held by the Advisory Committee so that divergent views and perspectives were heard, understood and represented in a consultation report for government's consideration and deliberation.

Opening sealed adoption records to enable the disclosure of identifying information is an important public policy matter that requires careful consideration. Information obtained from the jurisdictional scan conducted during the *Adoption Act* Review indicates that seven (7) provinces and one (1) territory have moved to open sealed adoption records. The Province of Quebec did not respond to questions posed related to the jurisdictional scan.

The Department of Family and Human Services recognizes the complex balancing act required when opening sealed adoption records once adoptees reach the age of majority. It is a complex matter to balance competing interests; the desire of an individual to receive identifying information about their birth parentage and history with the right of an individual to maintain their privacy. The consultation process and the *Adoption Act* Review report comprises only one aspect of the careful deliberation required by the legislature to inform this complex multi-faceted public policy decision. Many individuals and families are affected by adoption policies and practices. It is an intensely sensitive and deeply personal issue.

REASONS FOR CONSULTATION

There has been a trend within Canadian jurisdictions, and some international jurisdictions, to move toward enhanced access to identifying information maintained in confidential adoption records for parties to an adoption; principally, adult adoptees and birth parents. The Minister of Family and Human Services and the Department of Family and Human Services has the responsibility for the administration of the *Adoption Act*. In response to requests for improved access to identifying information maintained within confidential adoption records, from people living within PEI who have been impacted by adoption, the Minister of Family and Human Services sought to better understand emerging and diverging perspectives through a public consultation process.

CHANGING CANADIAN NORMS AND CALLS FOR OPENING RECORDS ON PEI

The PEI government recognizes that societal attitudes about adoption have changed over time, and an increasing number of adults who are adopted want to know about and meet their birth parents. While not all adults who are adopted share this desire, many adult adoptees indicate that they have a need to fully understand themselves and their lives by knowing their original family. Origins Canada, a federal not for profit organization, and Open Records PEI, a provincial organization advocating for opening sealed adoption records, have been advocating for the PEI government to change how the province maintains adoption records in PEI by granting adult adoptees and birth parents access to identifying information contained in original birth registration and adoption records.

Origins Canada is a federal non-profit organization providing support, resources, research and education to persons separated by adoption. It also assists governments, and provides educational workshops for mental health professionals about adoption trauma. Origins was founded in Australia in 1995.

Birth parents, and others, affected by adoption processes also expressed a need for greater openness and access to information. There is no consensus amongst parties to an adoption whether that be adult adoptees, birth parents or adoptive parents that adoption legislation should be amended to permit the sharing of identifying information. Recognizing that being a party to an adoption is a highly personal and individual experience the Minister of Family and Human Services, on behalf of government administration, requested that a comprehensive, inclusive, and respectful consultation process be held so that Islander's divergent views and perspectives be heard, understood and represented in a consultation report, most specifically persons impacted by adoption.

FOCUS ON HISTORIC ADOPTIONS VS FUTURE

It should be noted that throughout consultations regarding changing the way adoption records are handled on PEI, conversations focused primarily on historic adoptions. In general, those consulted felt that for future adoptions there were few areas of concern, as all parties to the adoption would be aware of the terms of the adoption. More specifically, they would know that if legislation was amended, information would be released when the adopted child reached the age of majority and they would know what the terms of the agreement were at the time the adoption took place.

HISTORICAL CONTEXT OF ADOPTIONS ON PEI

The Advisory Committee learned throughout the consultation process that social norms and historical adoption practices conducted during the post-war era in Canada and PEI significantly affected the lives of birth parents and adult adoptees.

INFLUENCE OF SOCIETAL NORMS AND SOCIAL SERVICES PROGRAMMING IN POST-WAR ERA (1950-1970)

The Advisory Committee acknowledges the contribution of Dr. Heidi MacDonald in her dissertation entitled *The Sisters of St. Martha and PEI Social Institutions 1916-1982* in partial fulfilment of the requirements for the Degree Doctor of Philosophy, University of New Brunswick, 2000.¹ *Chapter 7: Hanging On: Social Work in the Post War Era, 1950-1970* of Dr. MacDonald's dissertation provided insight into the influence of social norms on unwed mothers in the post-war era, the effect of church sponsored social programming, and the limited availability of government funded social programming on adoption practices in PEI. Dr. MacDonald is presently an Associate Professor at the University of Lethbridge, Alberta in the Department of History, Faculty of Arts and Science. The Advisory Committee was directed by a participant in the consultation process to the historical context of adoption practices in PEI highlighted in aspects of Dr. MacDonald's thesis and found in Chapter 7 of her dissertation which are outlined below.

Historically, according to the terms of Canadian Confederation, social welfare was primarily a provincial responsibility. Until World War I, government intervention in welfare remained limited to regulating the workplace and required a minimal financial commitment from the federal government. Provincial governments before World War II supported social welfare in a minimal way according to what they could afford. Generally, early 20th century governments left the care of the impoverished to voluntary, often church sponsored, agencies.²

By 1946 the pillars of the modern welfare state had been legislated: workers compensation (1914), old age security (1927), unemployment insurance (1941), family allowances (1944), and Veteran's rehabilitation (1945). In some provinces, voluntary organizations which had previously helped impoverished families were replaced by government sponsored and regulated programs and trained social workers.³ It was two decades after World War II before provinces were affected by significant change in social welfare policy.

¹ MacDonald, Heidi, (2000). *The Sisters of St Martha and Prince Edward Island Social Institutions, 1916-1982* (Doctoral dissertation). Retrieved from <http://www.collectionscanada.gc.ca/obj/s4/f2/dsk2/ftp03/NQ68169.pdf>

² Ibid. P 332

³ Ibid. P 339-340

The ability of the Province of PEI to administer social welfare was limited. When the Sisters of St. Martha took over St. Vincent's Orphanage from the Sisters of Charity in 1925, the Sisters continued the established practice of matching children whose parents were unable to provide them with a home, with couples who could not have children of their own. St. Vincent's was one of the Children's Aid Societies approved by the government under the *Child Protection Act* of 1910. The directors of the orphanage, the Sisters of Charity from 1910 to 1925 and the Sisters of St. Martha thereafter, were the legal guardians of those children who were wards of the state.⁴

By the mid-1940s, the Sisters of St. Martha possessed more experience in offering social programming than any comparable PEI organization. The Department of Health and Welfare was created in PEI in 1946. Responsibilities of the Department were limited to administering Old Age Pensions and Mother's Allowances. In the 1950s the Department did not have field staff in the area of social work.⁵

Federal and provincial governments began to plan more comprehensive social welfare programs in the post-War era (1950-1970). The Sisters of St. Martha were well entrenched in social work through the Roman Catholic Diocese by this time.⁶ Island Roman Catholics sought assistance from the Sisters at a rate similar to what they had before World War II, as historically had been their practice. The Sisters maintained significant influence and control over social welfare for Island Roman Catholics. A few Sisters played significant leadership roles in creating and directing the new family welfare system in PEI through negotiations with government.

By the time World War II ended, two Sisters with the Sisters of St. Martha had finished their professional training in social work.⁷ They became widely known as PEI's first trained social workers, as they worked in the field. The Diocese's Social Service Department, formerly connected to the Charlottetown Hospital, was transformed into the Catholic Family Services Bureau in 1948. It was an independent, private institution with a constitution, by-laws and a Board of Directors. There was no parallel Protestant Welfare Bureau until 1957.⁸

The Bureau was one piece of the Sisters of St. Martha's social welfare programming. They operated the province's most prominent Roman Catholic social welfare institutions or agencies; including, the Charlottetown Hospital, St. Vincent's Orphanage, and the Catholic Welfare Bureau. Consequently, they were able to provide a more cohesive program of social services than Protestant agencies.⁹ The Sisters

⁴ MacDonald, Heidi, (2000). *The Sisters of St Martha and Prince Edward Island Social Institutions, 1916-1982* (Doctoral dissertation). Retrieved from <http://www.collectionscanada.gc.ca/obj/s4/f2/dsk2/ftp03/NQ68169.pdf> (371n80)

⁵ Ibid. P 341

⁶ Ibid. P 327-329

⁷ Ibid. P 345

⁸ Ibid. P 349

⁹ Ibid. P 351

continued their control of the Roman Catholic social institutions in the three decades following World War II.

Throughout the consultations undertaken during the *Adoption Act* Review, numerous references were made by parties affected by adoption on the influence of the Roman Catholic institution(s) , with reference to the role a particular sister played in adoptions in PEI. Dr. MacDonald states in her post-doctoral thesis:

“one of the Sisters became the most outspoken and most active social worker in PEI. She had four years of experience as a public school teacher in Kinkora and eight years as a director of St. Vincent’s Orphanage before she embarked on a Master of Social Work degree in 1955. She set the tone for much of the Diocese’s social work in the following decades .”¹⁰

In her thesis, Dr. MacDonald indicates that the Sisters of St. Martha put their newly acquired social work education into practice in developing new childcare and adoption programs. They opened a second social welfare bureau in Summerside, PEI, in 1956. The Prince County Family Services Bureau’s primary purpose was childcare, with general welfare as the secondary purpose.¹¹ The Prince County Family Services Bureau became involved in arranging and facilitating adoptions and, by the mid-1960’s, were placing 100 children annually. Before the establishment of the Prince County Family Services Bureau, all adoptions were coordinated through the Catholic Family Services Bureau in Charlottetown, where many unwed expectant mothers approached the Bureau for assistance. The Sisters also coordinated foster home placements for some children in the orphanage, although the number of placements were not great.¹²

One Sister’s influence on social work in PEI was so great that she often worked independently of the rest of the Sisters of St. Martha, in terms of managing both programs and the funds. In a footnote to this statement in her thesis Dr. MacDonald states:

“For example, as an overseer of the Congregation’s adoption program (one Sister) administered a fund to which adoptive parents donated a significant amount of money, and from which she provided money to Islanders whom she saw as needy, and to her favourite projects.”

The Sisters placed an increased emphasis on adoptions after World War II, which according to (one Sister), was due to the stark rise in illegitimate births. Beginning in the 1950’s the Sisters displayed a

¹⁰ MacDonald, Heidi, (2000). The Sisters of St Martha and Prince Edward Island Social Institutions, 1916-1982 (Doctoral dissertation). Retrieved from <http://www.collectionscanada.gc.ca/obj/s4/f2/dsk2/ftp03/NQ68169.pdf>. P 364

¹¹ Ibid. P 369-370

¹² Ibid. P 371-373

preference for placing infants in American homes. Placements were made in Minnesota, New York, New Jersey and Massachusetts.¹³

A former Deputy Minister confirmed in an interview with Dr. MacDonald that (one Sister) did have such a discretionary fund.¹⁴ Dr. MacDonald indicates that representatives from the provincial government's Department of Social Services were often uneasy with the Sister's activities. The Deputy Minister regularly disagreed over how best to deliver social services to those who needed them.¹⁵ They expressed a deep concern about the Sister's international adoption practices, in the 1960's, that involved the acceptance of significant financial donations from American couples who adopted Island children.¹⁶

Dr. MacDonald goes on to state that the Deputy Minister's view was that it was better to place a child in an Island Protestant home if a Roman Catholic home was not available, rather than place an Island Roman Catholic child in the United States. The Deputy Minister was against international adoption as it complicated the child's search for his/her birth parents in adulthood. Apparently, identification of the child and birth parents was a significant part of why the Sister preferred American adoptions. The preference was that a child be placed outside of PEI, nationally and internationally, where the likelihood of the identification of the child and the birth parents was diminished.¹⁷

Adoptions became the main work of the Prince County Family Services Bureau. In 1965, a separate Foundation, affiliated with the Prince County Family Services Bureau, to coordinate adoptions was created in New Jersey. This Foundation was established in New Jersey by adopting couples who wished to repay the Sisters of St. Martha. This arrangement enabled the supervision of the placement of the children to be administered by a lay executive director at the Foundation in New Jersey and enabled the placement of a number of PEI children internationally.¹⁸

The bulk of adoptions occurring in the 1950's to the mid-1970's in PEI were arranged by the private sector agencies. It was the practice of the Catholic Family Services Bureau and the Prince County Family Services Bureau to place Island born and rooted babies with adoptive families in the Eastern New England States, especially with families in New York and New Jersey. Dr. MacDonald indicates that numerous factors in the 1970s, including better social welfare and increased societal acceptance

¹³ Ibid. P 374

¹⁴ MacDonald, Heidi, (2000). The Sisters of St Martha and Prince Edward Island Social Institutions, 1916-1982 (Doctoral dissertation). Retrieved from <http://www.collectionscanada.gc.ca/obj/s4/f2/dsk2/ftp03/NQ68169.pdf>. P 329-330

¹⁵ Ibid. P 330

¹⁶ Ibid. P 383-384

¹⁷ Ibid. P 383-384

¹⁸ Ibid. P 383-384

contributed to fewer single mothers considering adoption. The Sisters of St. Martha remained in adoptions work longer than most agencies.

Dr. MacDonald indicates that well into the 1960's the most compassionate and practical social workers believed the best help for a single expectant mother was to hide her from the critical gaze of her friends and neighbours for the duration of her pregnancy. By sending girls to Halifax or Saint John it was believed they were giving expectant girls a second chance.¹⁹ The Sisters of St. Martha opened St. Gerard's Home for unwed expectant mothers in Charlottetown in 1965. The sisters remained arms-length from its daily operation. Up to that point they had an arrangement with the Sisters of Charity of Halifax who had administered the Home of the Guardian Angel.²⁰ Insight into the stigma of being an unwed mother during that time period can be gained from (one Sister's) words highlighted in Dr. MacDonald's dissertation:²¹

"In the [Catholic Welfare] Bureau's efforts to protect these girls and their families, we do everything possible to keep their plight unknown to their friends and neighbours ... to effectively carry out our program we are dependent on the Home of the Guardian Angel, Halifax."

1700 unwed mothers were served at St. Gerard's between 1965 and 1987. St. Gerard's home was acknowledged by the first Director of Child Welfare, Eugene MacDonald, in a 1966 Report to the Deputy Minister of Welfare and Labour for providing "excellent accommodations where unwed mothers can receive counselling, education and medical services".²²

The website of the Catholic Family Services Bureau indicates that a support group for single mothers and their children began in 1982. In addition, Martha Residence, providing aftercare program to assist young mothers operated from 1982-1985. The Department of Health and Social Services now responds to these needs. Childbirth education classes designed for expectant mothers were offered from 1977 to 1994 by Pownal House, home of the Catholic Family Services Bureau.²³

The current role of the Catholic Family Services Bureau has evolved into a core service area of professional counselling to individuals, couples, parents and children, adolescents, families and groups. The agency also serves as an information and referral agency and continues to act as an advocate for families by intervening and speaking out on important issues. The agency continues to make its services accessible to Islanders no matter where they live in PEI.

¹⁹ MacDonald, Heidi, (2000). The Sisters of St Martha and Prince Edward Island Social Institutions, 1916-1982 (Doctoral dissertation). Retrieved from

<http://www.collectionscanada.gc.ca/obj/s4/f2/dsk2/ftp03/NQ68169.pdf>. P 393

²⁰ Ibid. P 388

²¹ Ibid. P 389

²² Ibid. P 396

²³ "Our Roots", <http://www.catholicfamilyservicesbureau.com/our-roots.html>

The Advisory Committee was not provided with documentation that offered a similar extensive history for the services provided by the Protestant Family Service Bureau and the Prince County Family Service Bureau during post-World War II (1950 to 1970's). Historical information with respect to these agencies is limited to what was found on the website of the Family Service PEI at the link *Our History*. The Advisory Committee is aware that for the period of 1950 to the mid-1970's the majority of adoptions were arranged by private sector social and child welfare agencies.

Family Service PEI first began over sixty years ago under two organizations: Protestant Family Service Bureau, located in Charlottetown, and the Prince County Family Service Bureau, located in Summerside. In the early years Protestant Family Service Bureau offered foster care services and adoption services, amongst other social programs. The demand for these programs dropped in the mid 1980's and subsequently stopped. At this time, services such as counselling were offered for single mothers with limited supports, in addition to other family centered programs. In 1993, Protestant Family Service Bureau underwent a name change, and became Community & Family Service of Prince Edward Island. Over time both agencies have undergone a variety of transformations, have offered a range of programs and have continually strived to provide necessary services to PEI communities.

In 2008, the Charlottetown agency and the Summerside agency merged together to form Family Service PEI. Family Service PEI continues to be a community leader that helps Islanders develop action plans that target the most stressful issues in their lives. As a not-for-profit, community based agency the goal is to provide credit counselling and therapeutic counselling services to all Islanders regardless of their ability to pay.

Recently, post-war adoption practices have become a focus of the Senate of Canada. The Senate held three days of hearings in Ottawa on Canada's Postwar Adoption Mandate through the Standing Senate Committee on Social Affairs, Science & Technology in March 2018.²⁴ Committee members are studying how Canada's post-war adoption mandate affected survivors. On July 19, 2018, the Standing Senate Committee released a report with recommendations entitled, *"THE SHAME IS OURS Forced Adoption of the Babies of Unmarried Mothers in Post-War Canada."*²⁵

Origins Canada, Executive Director, Valerie Andrews, presented to the Senators of the Standing Senate Committee on *Canada's Postwar Adoption Mandate for Unmarried Mothers*.

²⁴ "Survivors of postwar adoption mandate share their stories", <https://sencanada.ca/en/sencaplus/news/survivors-of-postwar-adoption-mandate-share-their-stories/> (April 9, 2018)

²⁵ "The Shame is Ours - Forced Adoptions of the Babies of Unmarried Mothers in Post-war Canada", https://sencanada.ca/content/sen/committee/421/SOCI/reports/SOCI_27th_e.pdf

Ms. Andrews, on behalf of Origins Canada, submitted,

“In post-war Canada, over sixty church run and government funded ‘homes for unwed mothers’ were operated by mainstream Christian religions including Catholic, Salvation Army, Anglican, United and Presbyterian. Having to register with a social service agency prior to admittance, mothers were put on an adoption track. These were quasi-incarceral settings where unmarried mothers were subjected to psychological coercive persuasion. ... Once placed there, it was unlikely that an unmarried mother would leave the experience with her baby. My research shows that in these facilities, adoption rates were about 95%. Surrender rates outside of these homes was also high, about 74%. This is in contrast to today, where unmarried mothers surrender their baby for adoption at the rate of approximately 2%.”

Senator Art Eggleton, Chair of the Standing Senate Committee examining *Canada’s Postwar Adoption Mandate*, and Valerie Andrews, Executive Director of Origins Canada, authored an article in the *Toronto Star* entitled, “Time to acknowledge the other baby scoop.” They stated in the article, “in the immediate postwar decades, federal and provincial governments funded draconian adoption policies that harmed non-Indigenous ‘unwed mothers’.”²⁶

LEGISLATIVE HISTORY

In 1916 the PEI *Adoption of Children Act* enabled the transfer of guardianship of a child until the child reached the age of twenty-one (21), unless sooner married. It also allowed for the transfer of guardianship to institutions.

The 1930 PEI *Adoption Act* established that an adoption be legally finalized in the Court of Chancery and required the Adoption Order be registered with Vital Statistics. The PEI Archives indicate that matters before the Court of Chancery *usually involved trusts, mortgages, estates, lunacy, and adoption where equity was required*. The Court of Chancery was abolished and its responsibilities transferred to the Supreme Court in 1974.²⁷ The 1930, PEI *Adoption Act* defined the effect of an Adoption Order which essentially diverted parental rights to the adoptive parents and established inheritance rights for the adopted child. Further, the *Act* defined consents to an adoption.

In 1948, the Provincial Government began to take over child welfare services from religious organizations such as the Catholic Family Services Bureau and the Protestant Family Services Bureau and hired its first professionally trained social worker, Eugene MacDonald. In 1951, the *Adoption Act* allowed for adoption by non-residents, and for the waiving of parental consents in such cases where the child had been in a “charitable institution” for more than a year, or the parents had “willfully neglected” their child for one year. The *Act* defined the termination of parental rights for the first time.

²⁶ Andrews, Valerie and Eggleton, Art. “Time to acknowledge the other baby scoop” TheStar.com. <https://www.thestar.com/opinion/commentary/2017/10/30/time-to-acknowledge-the-other-baby-scoop.html>

²⁷ “Prince Edward Island. Court of Chancery”, <http://www.archives.pe.ca/atom/index.php/prince-edward-island-court-of-chancery>

In 1974, the *Adoption Act* declared that either, or both, the child and the adoptive parents had to be residents of PEI. The Director (Child Protection Services) must assess and prepare a report to the Court for private and step-parent adoptions. The *Act* clearly outlined consents for adoption that must be obtained and adoption procedures. Clear language outlined the effect of an adoption. The term “Illegitimacy of the child” no longer appeared on the Adoption Order.

In 1992, the *Adoption Act* was amended to include legislative provisions enabling the disclosure of non-identifying information, identifying information and professional services support to parties of an adoption. For the first time in 1993, a Post-Adoption Disclosure Service was established. The *Act* set standards for adoption practices in both the public and private sector. It ensured that only social workers authorized under the *Act* could provide adoption related services. Standards for adoption procedures were put in place, including:

- A risk assessment is to be completed on all adoptive families;
- Birth parents are to receive professional counselling and support by an authorized social worker who would witness consents to adoption;
- Background social history and medical information on the child and the birth family is to be gathered; and
- Written non-identifying background information is to be given to the adoptive family and a copy to be filed with the Director prior to the legal finalization of an adoption.

1993 amendments to the *Act* provided for open adoptions and further defined who consents to an adoption, addressing the issue of the birth father’s rights by requiring the birth father’s consent if the identity was known. Further, the Supported Adoption program for children in the permanent care of the Director of Child Protection was established in legislation and came into effect in 2005.

CHARACTERISTICS OF CURRENT ADOPTION ACT AND ITS ADMINISTRATION

Adoption is a legal proceeding that creates a parent-child relationship which is recognized by law. There are three parties to every adoption; the adopted child/adult adoptee, the birth parent and the adoptive parent. There are three categories of adoption in PEI:

Private Adoption

A *Private Adoption* is arranged by a Licensed Adoption provider and is usually an open adoption, meaning that the birth parents and the adoptive parents are known to one another.

Intercountry Adoption

An *Intercountry Adoption* requires the prospective adoptive parents to contract with an authorized social worker in the private sector to complete their home study and contract with a private adoption agency within Canada to facilitate the adoption of a child from another country. These adoptions are finalized in the child's country of origin.

Departmental Adoption

A *Departmental Adoption* occurs when a child in the permanent care of the province is placed with an approved adoptive family and is usually a closed adoption, meaning the birth parents and the adoptive parents are not known to one another.

Fiscal Year (April 1-March 31)	Private Adoptions	Departmental Adoptions	Intercountry Adoptions	Total Court Finalized Adoptions
2013/2014	10	Less than 10	Less than 10	21
2014/2015	Less than 10	Less than 10	Less than 10	15
2015/2016	Less than 10	Less than 10	Less than 10	17
2016/2017	Less than 10	10	Less than 10	15
2017 /Jan 2018	Less than 10	Less than 10	Less than 10	14

SERVICES CURRENTLY AVAILABLE AT POST-ADOPTION SERVICES

The 1992 *Adoption Act* amendments enabled disclosure of non-identifying information, identifying information and professional services support to parties of an adoption. The amendments provided for the Reciprocal Search Register. They also provided the adult adopted person with the opportunity to request an active search and obtain professional services support through Adoption Services in seeking the identity or identifying information concerning or to make contact with a birth parent or sibling. On or about 1993, the Post-Adoption Services Consultant position was put in place as a result of these legislative amendments.

There are currently three full-time employees employed with Adoption Services, within the Division of Child and Family Services, including a Provincial Adoption Coordinator, a Post-Adoption Services Consultant and an Administrative Support Worker. Post-Adoption services offered to parties to an adoption with respect to the disclosure of information held in adoption records include the services outlined below.

Non-Identifying Information

Adult adoptees and adoptive parents can contact Post-Adoption Services for non-identifying background information about the birth family of the adopted person. If the information is available within the adoption record, the information could include details of the adoptee's birth family history, including:

- The adoptee's birth history and early development;
- Physical description of birth parents, extended family;
- Health information;
- Religion;
- Occupation;
- Education;
- Particular interests (birth mother, birth father);
- Circumstances regarding the plan of adoption.

The information currently provided through this process does not include identifying information such as names, dates of birth, or addresses of birth family members. The information may be limited and is not current, as there is no legislative mandate to maintain current information or an existing mechanism to do so. The information within the adoption record is a summary of what was provided at the time the adoption took place. The birth parent can also contact Post-Adoption Services for non-identifying information on the child placed for adoption, up to the time of adoption placement.

Reciprocal Search Register

The Reciprocal Search Register is a system where people who were affected by an adoption can register their willingness to exchange updated information and/or have potential contact with one another. Both the adult adoptee and the birth parent can register. If both parties register and a match is identified by

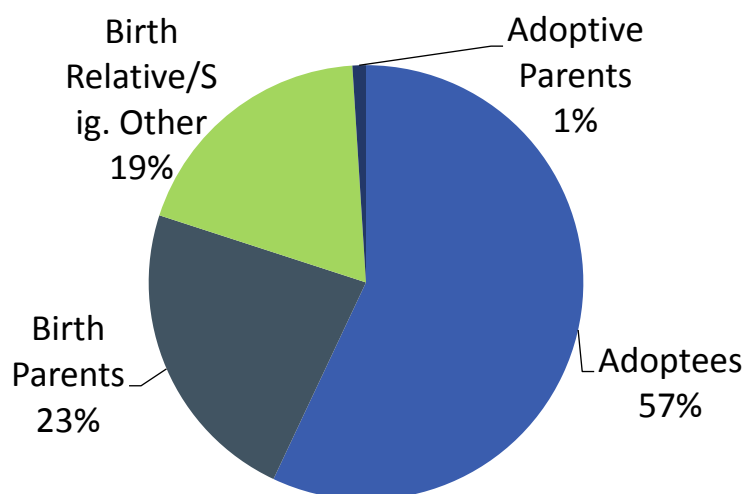
the Post-Adoption Services Consultant, the consultant begins to explore with the parties the means of contact with which the parties are initially comfortable. A reunion of the parties does not occur unless both the adult adoptee and the birth parent consent to a reunion. If the match does not involve a birth parent, for example it involves a birth sibling, aunt, uncle or grandparent, the probable or stated wishes of the birth parent is considered before a reunion is arranged. Adoptees over the age of majority, birth mothers and fathers, birth family members such as sisters and brothers, adoptive parents, and significant others may ask to have their name placed on the Reciprocal Search Register.

Active Search

Adoptees over the age of eighteen years (age of majority) may request that a search be conducted for their birth mother, birth father or birth sibling(s). Searches are undertaken for birth fathers if paternity was acknowledged by the birth father or confirmed by the birth mother at the time of the adopted person's birth or later becomes known. If the person who is being sought is deceased, identifying information is provided unless it is assessed by the Post-Adoption Services Consultant that significant harm would result. Contact may be made with extended birth family members at the request of the adult adoptee.

A special search may be requested by adoptive parents or adult adoptees to acquire medical information for the diagnosis or treatment of a serious medical condition. Confirmation by a physician in writing of the existence of such a medical condition is required by Post-Adoption Services.

Of the applications received by Post-Adoption Services for post-adoption disclosure services between 1993/4 and 2017, fifty-seven percent (57%) were received from adult adoptees, twenty-three percent (23%) were received from birth parents, nineteen percent (19%) were received from a birth relative or a



significant other and one percent (1%) were received from adoptive parents.

Staff within Post-Adoption Services indicate that parties to an adoption, the adult adoptee and birth parents apply to Post-Adoption Services for disclosure services for varying reasons that are personal and specific to each individual applicant. An adopted person may be motivated to apply for health reasons and have a need to know their genetic history for themselves and for their children. They may possess a curiosity about their birth parents, the existence of siblings or extended family members. Other adopted persons may have a deep need to better understand their roots and their identity as it relates to the birth parents – “who am I?” Some adoptees are seeking a connection with birth parents to complete a “missing piece” in their life and enhance self-understanding.

Birth parents apply for disclosure services for personal and individual reasons as well. Birth parents want to check in on the well-being of the adult adoptee. Other birth parents may wish to share health information with the adoptee. Some would like information that helps reassure them they made the right decision at the time of the adoption. Also, birth parents may want an opportunity to explain the circumstances at the time of adoption to the adult adoptee. A number of birth parents describe a need for information in the hope that it will help them confront the pain they continue to carry and assist them to move on in their lives. Some birth parents speak about their desire to seek out a relationship with the adult adoptee.

CURRENT CANADIAN CONTEXT OF ADOPTION RECORDS (JURISDICTIONAL SCAN)

A number of Canadian jurisdictions have amended their legislation to an increasingly more open approach to maintaining adoption records. From information obtained through a jurisdictional scan, the Advisory Committee learned that seven (7) provinces and one (1) territory have moved toward a more open adoption records system. A response was not received from the Province of Quebec. The jurisdictional scan revealed the following common themes across these jurisdictions.

IDENTIFYING INFORMATION

Adult adoptees applying for identifying information would receive a copy of their original birth certificate or original birth registration. Birth parents applying for the adult adoptee's identifying information would receive a copy of the adoption order or a copy of the child's birth certificate after adoption. Both of these documents have the adoptive parents names redacted. Adoptive parent's names are never released to birth parents. The names are redacted on any documentation released.

Adoptive parents have no legal authority to request any identifying information relating to birth parents or adult adoptees. Requests for identifying information and/or reunification services require involvement of the responsible department and/or Vital Statistics.

Identifying information about the birth father can be provided to the adoptee if the father is named on the original birth registration.

VETO

If the adoption was finalized prior to legislative amendments which enhanced the disclosure or access of identifying information, birth parents and adult adoptees have the option of filing a veto to prevent the release of identifying information. There is no deadline for accepting veto applications, and receipt of vetoes filed by birth parents and adult adoptees is ongoing.

If the adoption was finalized following legislative amendments, birth parents and adult adoptees are entitled to their identifying information; however, they have the option of filing varying levels of contact provisions. There is no option to file a veto for adoptions finalized post-legislation change.

If both birth parents are named on the registration of birth and one parent applies for a veto, the applicant applying for identifying information will receive the identifying information for the parent that has not filed a veto. A veto expires following the death of the party that applied to have it placed on their file. The time for the expiry of the veto varies by jurisdiction; the expiry of the veto can occur immediately, one year or two years following death of the party depending upon the jurisdiction.

Communication strategies have been established by the jurisdictions including media campaigns to advise the public of the changes to adoption legislation that opens previously sealed adoption records, enabling identifying information that was not permitted to be disclosed. Communication strategies share information on the option available to adult adoptees and birth parents to file a veto.

MEDICAL EMERGENCY – MEDICAL INFORMATION

All jurisdictions have a process to contact adult adoptees or birth parents in the case of a medical emergency if medical information is required and this is confirmed by a medical professional. This process occurs even if a veto is in place.

Information obtained throughout the jurisdictional scan is presented in more detail in Tables below.

JURISDICTIONAL SCAN TABLES - OPEN ADOPTION RECORDS*

JURISDICTIONS SCANNED²⁸:

- Yukon
- British Columbia
- Alberta
- Saskatchewan
- Manitoba
- Ontario
- New Brunswick
- Newfoundland

Open adoption records only occur when the adoptee reaches the age of majority, 18 or 19 years of age. An exception to this is Manitoba, where if the youth has emancipated from their parents they can apply at 16 years of age. None of the jurisdictions have the legislation to support or have enacted their legislation on custom adoptions.

**Open records can mean in some jurisdictions that greater access to adoption documents and identifying information on the parties can be obtained.*

TABLES CONTAINING JURISDICTION SCAN INFORMATION:

Below are four (4) tables containing information from the jurisdictional scan: three (3) tables on identifying information and one (1) table on vetos. These tables include the jurisdictions' information on the areas identified, as well as common themes on the jurisdictions with respect to those topics.

²⁸ Jurisdictions are listed in this document in order of geography from Western to Eastern Canada.

Identifying Information Table 1

Jurisdiction	Identifying documents: Application Process	Identifying documents: Information provided, if no veto
Yukon	<ul style="list-style-type: none"> • Applies to Department • Department will only go to Vital Statistics if they do not have the record on file 	<p>Adult Adoptee - registration of birth and adoption order</p> <p>Birth parent - registration of birth and adoption order</p>
British Columbia	<ul style="list-style-type: none"> • Applies to Vital Statistics 	<p>Adult Adoptee - registration of birth and adoption order</p> <p>Birth Parent – registration of birth and adoption order</p>
Alberta	<ul style="list-style-type: none"> • Applies to Department • Department may request documentation from Vital Statistics/Court if they need a clear copy 	<p>Adult Adoptee- original registration of live birth and copy of adoption order, surrender documents, birth parent details which often includes birth father identifying information, in-care records (foster parent names), medical information, etc.</p> <p>Birth Parent- original registration of live birth and copy of adoption order (with adoptive parents names removed), surrender documents and other documents contained in the records.</p>
Saskatchewan	<ul style="list-style-type: none"> • Applies to the Department who then applies for documents from Vital Statistics 	<p>Adult Adoptee- original birth registration</p> <p>Birth Parent- post-adoption birth registration</p>
Manitoba	<ul style="list-style-type: none"> • Applies to the Department • Department houses adoption records but has to apply to Vital Statistics for birth records 	<p>Adult Adoptee- pre-adoption original birth registration</p> <p>Birth Parent- pre-adoption and post-adoption original birth registration</p>
Ontario	<ul style="list-style-type: none"> • Applies to Vital Statistics 	<p>Adult Adoptee- a non-certified copy of their original registration of birth and copy of the adoption order</p> <p>Birth Parent- a non-certified copy of birth registration and adoption order</p>
New Brunswick	<ul style="list-style-type: none"> • Applies to Department who forwards application to Vital Statistics who then sends documents to the applicant 	<p>Adult Adoptee- statement of original registration of birth and copy of the adoption order</p> <p>Birth Parent- adoption order</p>
Newfoundland	<ul style="list-style-type: none"> • Applies to Vital Statistics 	<p>Adult Adoptee- adoption order and original birth registration</p> <p>Birth Parent- amended birth certification and adoption order with the adoptive parents names removed.</p>

Identifying Information Table 1

Common Themes on Identifying Information

Adoptees applying for the identifying information would receive a copy of their original birth certificate or original birth registration.

Birth parents applying for the child's adopted identity would receive a copy of the adoption order or a copy of the child's birth certificate after adoption. Both of these documents have the adoptive parents names redacted.

Adoptive parent's names are never released to birth parents- names are redacted on any documentation released.

Adoptive parents have no legal authority to request any identifying information relating to birth parents or adult adoptees.

Requests for identifying information and/or reunification services require involvement of the Department and/or Vital Statistics

***The term Department is used to identify any division within the jurisdiction's Child and Family Services division, most often (Post) Adoption Services.*

Identifying Information Table 2

Jurisdiction	Post Adoption Searches	Post Adoption: Non-Identifying Information	Post Adoption: Passive Registry
Yukon	<ul style="list-style-type: none"> Yes, will search for adult adoptee, birth parent, siblings. 	Applicant can apply for their file with redacted identifying information through a different program area.	Yes. Adult adoptees, birth parents, siblings, and adult relatives of adult adoptee can apply to be placed on this registry.
British Columbia	<ul style="list-style-type: none"> Yes, registry will actively look for the adoptee- requires identifying documentation to qualify for the active reunion search program. 	Yes, they will receive their child in care file with identifying information redacted.	Yes, if both the birth parent and the adoptee put their name forward and if there is a match at any point they will provide the other person's information.

Identifying Information Table 2

Jurisdiction	Post Adoption Searches	Post Adoption: Non-Identifying Information	Post Adoption: Passive Registry
Alberta	<ul style="list-style-type: none"> No 	<p>Non-identifying information is provided on the extended birth family members along with identifying information on the birth parent or adopted person. If a veto has been registered, only non-identifying information on the person who submitted the veto is released.</p> <p>Birth parents of a minor adopted child can receive limited/basic non-identifying information on the adoptee/adoptive parents of their birth child. Adult siblings can receive limited/basic non-identifying information on the adoptee/adoptive parents of their birth sibling.</p>	<p>Yes, adult adoptees, birth parents, adult siblings, extended birth family members*, adoptive parents on behalf of minor adoptee, descendants of deceased adopted person, members of the same Indian Band*, adoptive parent/adult adopted sibling of a deceased adopted person.</p> <p>*Note - an extended birth family member or Band member must have consent of birth parent(s) or verify the birth parent is deceased, unable to be located or incapable of providing consent.</p>
Saskatchewan	<ul style="list-style-type: none"> No- Birth father searches if the birth father is not named on the birth registration, but named on file. For family connection purposes, also do sibling searches for adopted children under 18. Birth parents need to consent to the reunion between the adoptive families of the children. 	<p>No longer provides non-identifying summary. Applicant can apply for full file disclosure with identifying and third party information redacted.</p>	<p>Yes, there is a voluntary contact registry. Immediate, extended family members or former caregivers or foster parents can apply.</p>
Manitoba	<ul style="list-style-type: none"> The Department will encourage applicants to search on their own however, if they are not successful, they will try to provide some assistance. 	<p>Yes, will receive a non-identifying summary. If there is a thorough social history on file the Department will provide that as well. The Department redacts the following: names, DOB, exact places of birth, third party information (social worker, doctor, exact places of work etc.)</p>	<p>N/A</p>
New Brunswick	<ul style="list-style-type: none"> The Department will encourage applicants to do their own searches but will assist once they have reached the point of frustration. Birth parents can search for adult adoptee. Adult adoptee can search for birth parents and siblings. 	<p>Yes, will provide non-identifying information in summary form.</p>	<p>Yes, the registry contains adoptees, birth parents, adoptive parents, siblings of adoptees who could have also been placed for adoption or siblings raised by the birth parents, biological grandparents, aunts, uncles and cousins of the adoptees.</p>

Identifying Information Table 2

Jurisdiction	Post Adoption Searches	Post Adoption: Non-Identifying Information	Post Adoption: Passive Registry
Newfoundland	<ul style="list-style-type: none"> An adult adopted person can search for birth parents, birth grandparents, adult birth or adopted sibling and other adult birth or adopted relatives. <p>A birth father who is not named on his birth child's original birth registration but where paternity was otherwise established may apply to the provincial director for assistance in locating his adult birth child. Paternity shall be considered otherwise established where:</p> <p>a) there is evidence related to how he had supported, maintained or cared for the child under a court order prior to the adoption; and/or</p> <p>b) the birth mother named him as the birth father and he acknowledged paternity; and/or</p> <p>c) he signed the consent to adoption or is named on a court document as the father of the child.</p> <p>An adult birth sibling of an adopted person may apply to the provincial director for assistance in locating his/her adopted sibling if their mutual parent(s) is/are deceased.</p> <p>An adult child or grandchild of an adopted person who is deceased may apply to the provincial director for assistance in locating adult birth or adoptive relatives of the deceased.</p>	The applicant must provide a government issued photo ID and current birth certificate in order to obtain a non-identifying summary.	N/A

***The term Department is used to identify any division within the jurisdiction's Child and Family Services division, most often (Post) Adoption Services.*

Identifying Information Table 3

Jurisdiction	Birth Fathers Not Listed on Birth Record
Yukon	<ul style="list-style-type: none"> No, cannot release identifying information, information can only be disclosed to individuals named on the birth registration.
British Columbia	<ul style="list-style-type: none"> No, cannot release identifying information. Information can only be disclosed to individuals named on the birth registration. The Department will do a search if the birth father is listed on the adoption file but will not disclose identifying information unless by consent.
Alberta	<ul style="list-style-type: none"> Yes, can provide the birth father name to an adoptee (or descendant of a deceased adoptee) if it is contained within the records or is different from name listed on registration of birth- it falls within legislation as definition of a biological father. AB can provide both the legal and/or biological father names, even if the birth father was unaware of the birth or the adoption. AB recognizes that the birth father name provided by the birth mother at the time of the adoption may/may not be accurate.
Saskatchewan	<ul style="list-style-type: none"> If birth father named on file but not on birth registration, the Department will locate the birth father to ask three questions to confirm his identity and ask for willingness of contact. Identifying information can only be shared with consent.
Manitoba	<ul style="list-style-type: none"> No, cannot release identifying information. Information can only be disclosed to individuals named on the birth registration. There are two exceptions: if the birth father is 101 or one year deceased.
Ontario	<ul style="list-style-type: none"> No, cannot release identifying information. Information can only be disclosed to individuals named on the birth registration. Prior to 1980, if the mother and father were not married, the father was not allowed to be listed on the birth registration, causing issues for both birth fathers and adult adoptees wanting to apply for their identifying information.
New Brunswick	<ul style="list-style-type: none"> If birth father named on file but not on birth registration, the Department will try to locate the birth father. The birth father whose name is on file and has already been contacted and refused to establish contact, will not be contacted again even if the adoptee requests another search for them. Without consent their identifying information cannot be disclosed.
Newfoundland	<ul style="list-style-type: none"> The Department can assist a birth father as indicated above. If not listed on birth certificate can provide a non-identifying summary and search services where paternity was established as listed in Table 2.

Identifying Information Table 3

Common Themes on Identifying Information – Birth Father

Identifying information about the birth father can be provided to the adoptee if he is named on the original birth registration.

In some jurisdictions, birth father identifying information can be provided if the birth father is named anywhere in the records, not just the original birth registration, as long as he has not registered a veto.

***The term Department is used to identify any division within the jurisdiction's Child and Family Services division, most often (Post) Adoption Service*

Veto Table 1				
Jurisdiction	Where the Veto's are Housed	Veto Expiry	Ability to Update Information (Medical) to Veto****	Grandfathering in a Veto Based on Historical Refusal of Contact by Adult Adoptee or Birth Parent
Yukon	Department	Two years after death	Can place medical information on veto at the time of application, however cannot update the information at a later date	No, cannot "grandfather in" a veto based on historical refusals ***
British Columbia	Vital Statistics	Two years (pay for first search and Vital Statistics will do a free search every year thereafter, called "blind death search")	Can update notes or health information on veto	No, cannot grandfather in a veto based on historical refusals
Alberta	Department	Upon death (applicant has to prove the individual is deceased)	Can add any information to the veto (such as medical health information) at any time. An individual can submit a "contact preference", however it is not binding.	Yes, will honor historical refusals as a veto
Saskatchewan	Department	Upon death (applicant can apply every five years to see if individual is deceased)	Can update medical information on the veto form	If a historical request was made for an option prior to April 1, 1997 to not release identifying information, the request will be honored and will have the same legal effect as a written veto.
Manitoba	Department	One year after death (Department will apply to Vital Statistics to see if individual is deceased)	Veto's contain a medical checklist that can be updated anytime	Yes, will honor historical refusals as a veto
Ontario	Vital Statistics	Upon death (applicant has to prove individual is deceased)	Can update medical information on the veto	No, cannot grandfather in a veto based on historical refusals
New Brunswick	Department	One year after death (applicant has to prove individual is deceased)	Can add any information to the veto	No, cannot grandfather in a veto based on historical refusals
Newfoundland	Vital Statistics	One year after death (can re-apply but have to pay a fee for each application)	Can file a letter with veto	No, cannot grandfather in a veto based on historical refusals

***The term "to grandfather in" in Veto Table 1 means to honour historical refusals regarding the release of identifying information where refusals were made prior to amendments to legislation and to treat the historical refusals as if a veto under the amended legislation has been filed.

Veto Table 1

Common Themes on Vetos

If both birth parents are named on the registration of birth and one parent applies for a veto, the application applying for identifying information will receive the identifying information for the parent that has not filed a veto.

If the adoption was finalized pre-legislation change, birth parents and adult adoptees have the option of filing a veto to prevent the release of identifying information. There is no deadline for accepting these veto applications, it is ongoing.

If the adoption was finalized post-legislation change, birth parents and adult adoptees are entitled to their identifying information however they have the option of filing varying levels of contact provisions. There is no option to file a veto for adoptions finalized post-legislation change.

Communication strategies including media campaigns used to advise the public of the changes to legislation, including their option to file a veto.

A veto expires following the death of the party that applied to have it placed on their file. This expiry occurs immediately, one year or two years following death.

All jurisdictions have a process to contact adult adoptees/birth parents in the case of a medical emergency if medical information is required and this is confirmed by a medical professional. This process occurs even if a veto is in place.

***The term Department is used to identify any division within the jurisdiction's Child and Family Services division, most often (Post) Adoption Services.*

*****This information would be disclosed to the applicant applying for their identifying information.*

JUDICIAL CONSIDERATION

The Advisory Committee learned during the cross-Canada jurisdictional scan that when the Province of Ontario enacted amendments to the *Vital Statistics Act* to retroactively open adoption records that had up to that point in time been maintained as confidential records, three (3) adult adoptees and a birth parent brought an application to the Ontario Superior Court of Justice asking for the court to declare the provisions of the *Vital Statistics Act*, as amended, to be unconstitutional and be set aside as unconstitutional on the basis that they violated Section 7 of the *Canadian Charter of Rights and Freedoms* (the "*Charter*"), being the right to life, liberty and security of the person. A summary of the case is outlined below.

The following case summary illustrates how the initial legislative amendments which provided for a more open adoptions records system in the Province of Ontario, was judicially considered in the context of the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982* (the “*Charter*”).

PARTIES AND POSITIONS

The case before the Ontario Superior Court of Justice arose in response to amendments to the *Vital Statistics Act* in Ontario. The amendments retroactively opened previously confidential adoption records and allowed access to identifying information to an adult adoptee or birth parent, without consent of the person being identified. The Applicants in this matter were three adult adoptees and a birth parent who brought an application forward asking the court to declare that provisions of the *Vital Statistics Act*, as amended, were unconstitutional and should be set aside on the basis that they violated Section 7 of the *Charter*, being the right to life, liberty and security of the person.

Until the amendments, the Applicants lived their lives on the assumption that their birth and adoption records, including their personal identifying information, would remain confidential and closed. Post-amendments, the Applicants asked the court to consider whether retroactively disclosing confidential information breached the *Charter*; whether there was a protected *Charter* right to privacy from disclosure of personal information; if there was a right to privacy, had the right been denied and if so, is it justified in a free and democratic society.

The Applicants were not against the registration and record of future adoptions being opened, rather, they were opposed to the retroactive application of the legislation as it was amended. While the Applicants expressed empathy for those searching adoptees or birth parents to gain access to information, their position was it is not a *Charter*-protected right to have that information. The Applicants further believed a “no contact” provision would not provide much comfort as their information would still be disclosed. A “no contact” provision would be “meaningless” to the Applicants as their concerns were not about contact, rather their concerns were about the disclosure of their identifying information.

The Respondent in this matter was the Attorney General of Ontario who carried the opinion of the province that the new law balanced the need for those who sought access to information and those who sought protection of privacy. It was the Respondent’s position that the new law did not infringe on the *Charter* rights of individuals.

Foundations

While analyzing the evidence, Justice Belobaba found there to be ten (10) helpful foundations that he followed, those being:

1. The movement to open adoption records is provided in large part by the fact that social attitudes have changed. In the past, the need for secrecy in adoptions was led by the stigma of illegitimacy, the shame of birth mothers and the shame of infertility of adoptive parents;
2. The fact that birth and adoption information is intensely private information and the release of this sensitive information may still cause great harm;
3. The protection of privacy is a fundamental value in modern democracy. The Supreme Court sees all information about a person as fundamentally their own, for them to share or retain as they see fit;
4. Adoption records may be accessed through a variety of means, such as Parent Finders, however the opening of government records is the preferred, most reliable and most efficient method of obtaining the information;
5. Both adoptees and birth parents, interested in the other, have compelling reasons for doing so — usually involving answering questions about their personal identity;
6. The impact on the lives and those of the families of adoptees and birth parents who do not want to be found is significant. However, unlike the searching population, those that would prefer to remain anonymous do not have lobby groups and loud voices of support;
7. There has been little to no studies conducted on the non-searching population, which makes the social science evidence appear inconclusive;
8. The population that the Applicants represent in this case, being the non-searching population, are among a small minority. Data collected indicates that those in the non-searching and non-consenting group, of all of the adoptees and birthparents, is a very small percentage;
9. The Applicants have established a reasonable expectation of privacy. This reasonable expectation of privacy has been held in the Supreme Court of Canada to exist over adoption records;
10. Considering the way the amendments to the legislation read, Ontario is the only jurisdiction in North America that gives a retroactive, unqualified right to obtain confidential identifying information of an adopted person or birth parent without the consent of the individual. This is the case, while other provinces have ensured a choice for individuals to use a veto in disclosing their information.

Section 7 Charter Right

Justice Belobaba found that the Applicants' rights to liberty as set out in section 7 of the *Charter* and as interpreted by the Supreme Court of Canada in *R. v. O'Connor*, [1995] 4 S.C.R. 411, has been infringed. His Honour was persuaded by the points that all information about a person is fundamentally their own and that the facts surrounding an individual's adoption belonged to that person, regardless of how that information was stored. In terms of the protection of the security of the person contemplated under section 7, Justice Belobaba found that while there was no individualized medical assessments on the impact of disclosure, he commented that it may well be possible for a court to find that the disclosure would cause serious state-imposed psychological stress on those wishing to remain anonymous.

While Justice Belobaba did iterate that the right to privacy is not an absolute right, he found that an individual's right to privacy is a principle of fundamental justice and it had been contravened with the amendments to the legislation. The issue with the legislation as it was written was in permitting the release of the Applicants' personal information to third parties, without their consent, which denied the Applicants the ability to control their personal and confidential information.

While conducting the analysis of whether the amendments interfere as little as possible with the guaranteed right of privacy, the Judge looked to the approaches taken by other provinces. He raised the point, again, that no other province reformed its adoption legislation to allow retroactive disclosure without providing a veto. He further highlighted the situation in Saskatchewan where adoptions that take place after the law was amended have a veto option to disclosure while adoptions that took place prior to those amendments still require mutual consent of disclosure.

The Judge's opinion was that neither a "no contact" provision nor the possibility of non-disclosure being granted from a Board would eliminate the breach of the section 7 right. He reiterated throughout the decision that the issue is information disclosure without the parties consent, not contact itself. He ultimately found that the options, as they were proposed in the amended legislation, did not minimally impair right to privacy and he declared the legislation to be invalid and of no force or effect.

METHODOLOGY

The Advisory Committee developed an approach to consultation, which included a variety of methods, taking into account the private and personal nature of adoption and the potential sensitivities for parties that have been impacted by adoption. An overarching principle for the Advisory Committee was that the consultation process and the subsequent consultation report accurately capture and reflect the voices of those who stepped forward and shared their stories. This was important so that Advisory Committee members could relay participants' intensely personal experiences and perspectives to the Minister of Family and Human Services, government administration and legislators. Participants chose one or more of the various methods of consultation offered by the Advisory Committee most suitable to a person's specific situation or level of comfort and safety. The method chosen depended upon whether the participant was a person impacted by adoption, a professional service provider who interacted with parties to an adoption, or participants interested in public policy that under-pinned adoption legislation. Participation looked different based upon whether a person wanted their identity known throughout the consultation, or not known, and whether people had positive or negative experiences interacting with people representing publicly funded services. Participants chose to attend a public consultation, a one-on-one confidential meeting, a small stakeholder group meeting, or to submit a written submission. For some, maintaining their anonymity or ensuring the confidentiality of information shared was an important factor.

ADVISORY COMMITTEE PROCESSES

On November 1, 2017, the PEI Government announced a review of the PEI *Adoption Act*. Respecting the rights and sensitivities for the three (3) parties to an adoption, the review is to provide opportunities for all voices to be heard, to include opportunities for public engagement through facilitated meetings, written submissions and private one-on-one group sessions. A final consultation report shall be submitted, complete with jurisdictional scan, to the Minister of Family and Human Services by end of August 2018.

FUNDAMENTAL FUNCTIONS

In November 2017, the Advisory Committee began its work on the *Adoption Act* review process. To start, Advisory Committee members discussed their role and agreed on the fundamental functions of the Advisory Committee:

- Conduct a documentary review of relevant changes in adoption legislation in Canadian jurisdictions (related to opening sealed adoption records);
- Conduct facilitated discussions and key contact meetings with interested parties and key stakeholders to obtain their views on adoption records pursuant to the PEI *Adoption Act*;
- Consolidate findings arising from all facilitated discussions, written submissions, key contact meetings and confidential sessions into a final written report to be submitted to the Minister of Family and Human Services; and

- Present the final report of the *Adoption Act* public engagement process to the Minister of Family and Human Services.

OPERATING PRINCIPLES

After determining the fundamental functions of the Advisory Committee, the Advisory Committee members turned their minds to operating principles to fulfill these functions. Operating principles were established in the Terms of Reference (Appendix “A”). The Terms of Reference outline Advisory Committee activities as well as the roles, responsibilities and expectations of Advisory Committee members.

In order to steer the activities of the review process, the Advisory Committee agreed to meet on a regular basis over the course of the review process. For efficiency and effectiveness, smaller working groups of Advisory Committee members were established to plan and implement Advisory Committee activities over the course of the review process including working groups on conducting jurisdictional scans; communications to the public about the review; holding small group and one-on-one private meetings; and organizing Indigenous engagement sessions.

In anticipation of the consultation process, the Advisory Committee members established a fundamental operating principle to steer their work with respect to determining specific processes and procedures:

“The Advisory Committee shall make every effort to create opportunities for public input and participation in the *Adoption Act* Review consultation process including communities, organizations, groups and individuals.”

To fulfill this principle, the Advisory Committee determined that it was important that consultations be conducted in a safe, respectful, and comfortable atmosphere which would allow individuals to share their views regarding the *Adoption Act*. The Advisory Committee understood there are divergent experiences and perspectives amongst adult adoptees, birth parents and adoptive parents. To this end, Advisory Committee members agreed to listen attentively and neutrally during the consultations.

COMMUNICATIONS

As mentioned above, the Advisory Committee was committed to conducting a respectful, comprehensive and inclusive consultation process that attracted input from a diverse range of Islanders, including stakeholder groups, and individuals such as adult adoptees, birth parents, adoptive parents, foster parents, government partners, Indigenous governments and organizations, and community partners.

Furthermore, the Advisory Committee was in favour of providing a range of options for people to participate in the review process. In order to communicate the various opportunities for participation to Prince Edward Islanders, a communications strategy was developed and implemented. Communication objectives were developed, target groups and key interested parties were identified, and communication activities and the timing of such activities were planned.

As part of the communication strategy, a news release (Appendix “B”), was distributed on February 22, 2018, announcing the *Adoption Act* review, the composition and the mandate of the Advisory Committee. The news release also advised of the public consultation schedule and invited Islanders to attend to share their ideas and concerns about the operation and administration of the *Adoption Act*. The news release discussed the background for the review.

The news release advised individuals and groups of the various opportunities for Islanders to participate in the review, including:

- attendance at a public consultation;
- forwarding a written submission, using mail or email, to respond to a set of guiding questions;
- requesting a specific group meeting with Advisory Committee representatives; or
- requesting a private and confidential meeting with a member of the Advisory Committee.

To facilitate communication of its activities, the Advisory Committee created a website: https://www.princeedwardisland.ca/en/information/family-and-human-services/give-input-adoption-act-review#utm_source=redirect&utm_medium=url&utm_campaign=adoption-act-review.

In addition to the above, the website also included a background document (Appendix “C”). This document included background information and provided guiding questions to be discussed in the private and public consultations.

A mailing address was provided for the submission of written feedback. Additionally, an email address was established to receive electronic submissions: adoptionactreview@hratlantic.ca. This email address was shared on the website along with a telephone number for individuals or groups wishing to contact the Advisory Committee for information regarding the review or to arrange a private one-on-one or small group consultation.

CONSULTATIONS

The Advisory Committee held a number of public, stakeholder and community partner, private, group and one-on-one consultations. Details on these consultations are provided below.

PUBLIC CONSULTATIONS

Public consultations were organized by the Advisory Committee to obtain information from the general public regarding views on the *Adoption Act* and to share information on the current services performed pursuant to the *Act*. Five (5) public consultations were held across PEI from February 22 – March 12, 2017. Simultaneous translation service (French/English) was available at the Summerside consultation. In total, forty-four (44) people attended the public consultations.

Date	Location	# Participants
February 22, 2018	Summerside	4

Date	Location	# Participants
February 26, 2018	Charlottetown	20
February 28, 2018	Montague	13
March 1, 2018	Souris	5
March 12, 2018	O'Leary	2

Each consultation began with introductory remarks from the Chairperson of the *Adoption Act* Review Advisory Committee. Introductory remarks were followed by a presentation by the Post-Adoption Services Consultant entitled *PEI Adoption Act Review: Open Records* (Appendix “D”). The presentation provided an overview of Adoption Services within the Division of Child and Family Services which is responsible for providing adoption and post-adoption services within the province. The presentation also included a historical background of adoptions on PEI, as well as recent statistical information on the type and number of adoptions finalized, in addition to details regarding the various processes and services currently offered by the Department.

Following this presentation, participants were invited to engage in a group discussion on questions specific to the benefits and challenges of opening adoption records on PEI (Appendix “E”). Advisory Committee members attended each session to provide facilitation services and support to the public consultation process. Each consultation was approximately two hours in duration.

STAKEHOLDER CONSULTATIONS

To provide an opportunity for interested community partners to participate in the review process, the Advisory Committee organized distinct consultations for the following groups:

- Members of the Legal Community and Licensed Adoption Providers;
- Community Service Providers including Community Legal Information Association (CLIA), Catholic Family Services Bureau and Family Services PEI;
- Judiciary of the Supreme Court;
- Foster Parents;
- Open Records PEI and Origins Canada.

The Advisory Committee sent written invitations (Appendix “F”) to community partners advising them of the *Adoption Act* review and inviting them to attend one the scheduled partner consultations or to provide written submissions.

Each stakeholder consultation began with introductory remarks from the Chairperson of the *Adoption Act* Review Advisory Committee. As part of these consultations, the presentation entitled *PEI Adoption Act Review: Open Records* was delivered by the Post-Adoption Services Consultant. Discussions were

held in a small group format. Each partner consultation was approximately two hours in duration and a total of thirty (30) participants attended the community partner consultations including lawyers, licensed adoption providers, foster parents, social workers, counsellors, members of the Judiciary, various community organizations and service providers.

Child and Family Services staff deliver front line services pursuant to the *Adoption Act*, therefore, to respect their unique vantage point, the Advisory Committee organized a consultation to solicit the input of Child and Family Services staff on their views regarding the *Act* and its implementation. Staff were also invited by the Chair of the Advisory Committee to provide a written submission in addition to the consultation session. A small group format was used to obtain staff input as well as guiding questions developed to support the process. Eight (8) Child and Family Services staff attended the session, along with the Director of Child Protection and the Director of Child and Family Services, who are also Advisory Committee members.

The Vital Statistics office in PEI, pursuant to the *Vital Statistics Act*, maintains a record of all adoptions on PEI within the Adopted Children Register. The Advisory Committee organized a consultation with the staff of Vital Statistics at their office in Montague PEI. A similar format was used as with the consultation session for Child and Family Services staff. Five (5) participants from the Vital Statistics office attended, along with the Manager of Vital Statistics who is also an Advisory Committee member.

PRIVATE GROUP AND INDIVIDUAL CONSULTATIONS

Another consultation option provided was individual or small group meetings. Consultations were scheduled upon request, and were held at the Jones Building in Charlottetown, PEI and the HR Atlantic office in Charlottetown, PEI. This more private method of sharing opinions allowed participants an opportunity to sit with the Chair of the Advisory Committee and the Director of Child and Family Services. One meeting was held with only the Chair in attendance with the participants. A total of eleven (11) private consultations took place from February 28 – April 25, 2018, with fourteen (14) participants attending.

WRITTEN SUBMISSIONS

As mentioned above, the news release of February 22, 2018, invited individuals and groups to provide input to the Advisory Committee through various means including written submissions. The written submissions could be provided by email or regular mail by using guiding questions provided online. A total of forty-four (44) written submissions were received from a wide range of people. Written submissions were received from adult adoptees, birth parents and adoptive parents living on PEI, as well as people living in other Canadian provinces and outside of Canada. Written submissions proved to be a favoured approach to participation in the *Adoption Act* Review. It offered anonymity for some participants and confidentiality for others.

A NOTE ON PUBLIC ENGAGEMENT

The level of engagement and committed participation of the public was noted by the Advisory Committee. To illustrate the strong and varied public engagement on this review, the Advisory Committee took note that representatives from Open Records PEI were highly engaged and attended four out of five public consultations in addition to a small group meeting with the Advisory Committee. Further, the Advisory Committee received submissions from parties affected by adoptions who currently live in the United States and other Canadian provinces as well as those living in PEI. Public engagement offered options for people who wished to remain anonymous yet also wished to have their views known. The Advisory Committee observed, throughout the consultation process, that the voices of parties to an adoption who did not wish to be found by another party to the adoption, or search for the other party, were not as vocal or heard as frequently; nonetheless, these voices brought forth important and compelling viewpoints.

The public engagement elicited a response from participants that, for some, offered the opportunity to speak about a deeply personal experience of loss (loss of a child, loss of identity and genetic connection, loss of fertility) that remains fraught with personal trauma. For some the personal trauma has been buried, for others it has been reconciled, and yet for others closure remains elusive. Other participants spoke of positive experiences and the importance of not having their lives disrupted as they presently exist.

Based on the various methods of consultation - public sessions, group and individual meetings, and written submissions - it is estimated that approximately one-hundred and forty-five (145) Islanders and non-Islanders have participated in this review process.

The public engagement on the *Adoption Act* review also attracted attention in the media. A number of articles and opinion pieces were featured in local newspapers. Radio and social media also featured views and perspectives of parties affected by adoption.

INDIGENOUS ENGAGEMENT

The *Adoption Act* recognizes the unique cultural heritage of Indigenous children and youth. To ensure an inclusive engagement with PEI's Indigenous community, the Advisory Committee organized engagement sessions on the Abegweit First Nation Reserve in Scotchfort and on the Lennox Island First Nation Reserve in Lennox Island. The Indigenous engagement incorporated aspects of Indigenous culture including an opening and closing prayer by an elder of the community. A total of eight (8) people participated in these sessions. An invitation was also extended to Indigenous people living off Reserve to attend the engagement sessions held on Reserve or alternatively at a meeting to be held at a later date at the Charlottetown office of Mi'kmaq Confederacy of PEI (the Confederacy). One person participated in the Indigenous off-Reserve session.

While the number of people attending the engagement sessions was low, the conversations held between Advisory Committee members and participants was rich and under-scored the impact that historical adoption practices have had on Indigenous communities and Indigenous people living on PEI. The legacy of historical adoption practices has profoundly impacted Indigenous people and communities. The need for healing through reconciliation was a predominant theme.

KEY CONSIDERATIONS

Prior to exploring the major themes within the consultation data, the Advisory Committee would like to draw some points to the reader's attention.

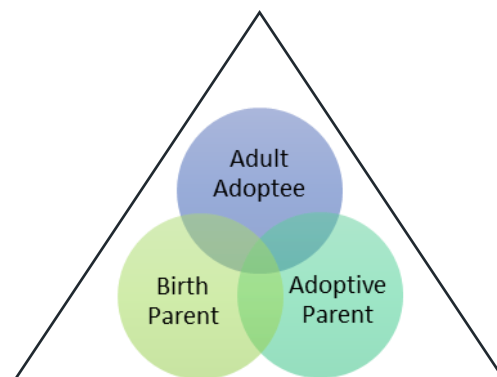
Firstly, during the consultation process, we heard varying opinions on whose voices should count the most. The Advisory Committee endeavoured to consult with a wide variety of parties who had experienced different roles within the adoption process, including stakeholder groups. The process also welcomed written submissions from the public as well. Within the reporting of themes, the Advisory Committee has, for the most part, not separated the data based on what party or group submitted it, whether they were an adult adoptee, or a stakeholder group for example. Yet, as will be explored further, there were individuals who felt that more weight and consideration should be given based on role.

Additionally, during the analysis of consultation data, it became apparent that there were varying levels of information around many of the key concepts and terms regarding opening adoption records. The Advisory Committee would like readers to be aware of what areas people were uncertain. The level to which there was variation in the depth of understanding reflects that even those who were interested and engaged in the topic, held different understandings of and what could or would be changed if records were to become more open.

PARTIES IN AN ADOPTION

Perspectives have been shaped and influenced by experiences. When the Advisory Committee asked people to give their input on whether the PEI government should move towards more open access to information about adoption records, people provided their opinions, as well as the reasons they held those views. The Advisory Committee members were continually impressed by the candor of participants and their willingness to share their personal experiences. We heard many personal histories and stories of adoption from different perspectives.

Consultation questions were developed to illicit feedback on how either increasing access to records would impact the three parties to an adoption (birth parent, adoptive parent, adult adoptee) and also how maintaining the current method of record storage would impact the same three parties. However, there were opinions shared on which of three parties should be given the priority.



From many people, we heard that the voice and the needs of the adult adoptee were the most important perspectives within this consultation, and that they should be given the most weight.

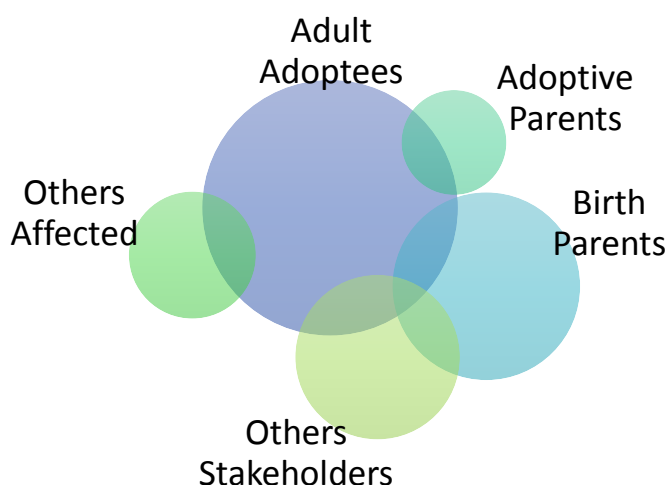
In contrast, others spoke passionately that there were two key perspectives which should be given priority and added that birth parent's voices should also be given a strong voice in consultations. There were passionate voices of birth mothers who advocated strongly for the opening of adoption records.

"I sincerely hope the voices of natural [birth] mothers and their lost children are given more credence in this review than any other person. In my humble opinion, the members of the public not touched by adoption in their family would for the most part be surprised that records are sealed ... or [would] have no opinion one way or another as they have no concept of the depth of loss these secrets cause."
(Participant)

Within the consultation process we also heard, from a lesser degree, from adoptive parents. These parents were concerned that their voices and concerns were being underrepresented, and therefore felt it was important to come forward to share their opinions. They spoke of how they, as the parents who had raised adult adoptees and cared deeply for them, had a unique point of view which should not be overpowered.

"It seems that adoptive parents' voice has been lost in public discussions which is concerning."
(Participant)

In contrast to the perspective that there were three parties to an adoption who were equally important, within the consultation data the Advisory Committee heard a multitude of different voices. Adult adoptees and birth parents shared their opinions, as did others affected by adoptions such as the spouses and children of adult adoptees. In addition, stakeholder groups also weighed in on proposed changes. Within the consultation data, one thing was clear: with such a personal issue, consensus on how changes should occur is not possible as there are many differing perspectives as illustrated below.



LACK OF INFORMATION OR CLARITY ON ISSUES

Throughout the consultation process, the Advisory Committee noted that there was a high degree of uncertainty around key issues or topics of discussion. Different understandings of key topics of discussion within public consultations meant that participants held different opinions on what terms meant. It often took a number of questions to and responses from Advisory Committee members for participants to reach a mutual understanding of the key terms, “closed records” and “open records”, and in fact across jurisdictions, including PEI, what these terms meant in actual current practice. It was noted that the same uncertainty was also present within many of the written submissions as well. The main areas where participants either specifically expressed that they were unclear, or demonstrated that they held an incomplete or inaccurate understanding of a concept or term were:

- What does “open records” mean?
- What information is released if opened?
- What is a veto?

Though the Advisory Committee provided a Backgrounder with information, and at public consultations a brief presentation was made, it remained clear that there was a great deal of uncertainty about many of the key terms and concepts surrounding adoption records. This presented challenges during data analysis, as submissions would discuss benefits or challenges of maintaining closed records, or moving towards more open records, with inaccurate understandings of the scope or range of the services provided under each option.

An example of how inaccurate understandings of key concepts affected the data was with respect to medical records. There were many participants who stated that one of the key benefits to opening the records would be access to family medical information of the adopted child. Currently, a summary of non-identifying information which is known up to finalization of the adoption is provided to the adoptive parents. Yet, many people discussed how valuable the information would be for adoptive parents to refer to *while raising* the adopted child. There was a misunderstanding that with open adoption records identifying information would be released to the adoptive parents immediately following the finalization, rather than to the adult adoptee at the age of majority. However, within other jurisdictions, open records still require an adoptee to wait until the age of majority prior to accessing their records. This inaccurate interpretation of what open records may mean greatly impacted what some believed the advantages of open records could be. Additionally, others with this understanding also reflected on the possible harm which could come to the child or adult adoptee if the records were open.

The above example, provides the reader with a sense of the challenges interpreting the data from the *Adoption Act* consultations. With various parties to an adoption, different stakeholder groups, wide ranging perspectives on what or how the legislation could change, adding in uncertainty around what the concept of “open records” actually could mean created a complex range of perspectives for analysis.

CHALLENGES TO THE CURRENT SYSTEM

Prior to exploring what participants expressed about the potential for records to move towards being more open, it is important to note that there were two major challenges raised by participants about attempting to maintain the current system of closed records; specifically identified as technological advances and the small size of PEI .

With respect to technological advances people have said,

“If we don’t permit a process with resources, people may resort to another arena that does not offer supports for people. If the system is too closed people will find other ways to make contact.” (Participant)

In addition to advances in technology making information more accessible, an additional challenge to maintaining closed records was the small size of PEI. The Advisory Committee heard stories of information inadvertently being shared with individuals, and other stories of people uncovering identities of individuals simply from distinct characteristics revealed in their non-identifying information.

SMALL SIZE OF PEI

Consultation participants agreed that PEI is a unique jurisdiction because of its small size. Participants posed arguments which supported maintaining the status quo in favour of protecting privacy interests of parties to an adoption and, alternatively, participants advanced arguments for moving toward enhanced disclosure of identifying information of parties to an adoption, because PEI is so small. Proponents for amendments to the legislation indicated PEI’s small size sometimes makes it possible to identify parties in an adoption either due to personal characteristics, or the historic information about people. Advocates of open records outlined the frailties of the current system of maintaining records. They cited PEI being a small jurisdiction with a small population as a rationale for enhancing access to identifying information. They expressed a concern that a person could be dating a relative if they did not know their personal history and biological background information.

“When your children are grown up especially and start dating they may not know they are family, someone they are related to. Information is important. PEI rural community is small and difficult at best of times when we know each other.” (Participant)

The idea of potentially dating or marrying a relative was a fear among some adult adoptees, many of whom had heard stories of such and did not want it to happen to them.

“I am young, and I am dating, and I know I have a brother somewhere that my mom gave up for adoption, and I don’t want to date my brother – we don’t want incest because we don’t know who we are.” (Participant)

For some, PEI’s small size poses a compelling reason for legislative changes to be made similar to those in other jurisdictions to ensure parties to an adoption have identifying information that helps inform critical personal choices in their lives. Others presented that PEI’s small size could inadvertently lead to unintended consequences and resultant harm if legislative changes are made to enhance access to personal identifying information that has historically been maintained as confidential. The degree to

which people in PEI are closely connected by geography, lineage, and a sense of community by virtue of its small size adds a layer of complexity. It poses challenges both for the effectiveness of the current system of maintaining confidential adoption records and the development of legislative amendments enhancing access to identifying information going forward.

DNA TESTING

Among those who were searching for family connections, many had noted that they used DNA testing sites to learn about their genetic background and connect with biological family members. A participant described being abandoned as an infant and therefore had no information available to begin searching until using a DNA analysis service.

“I was left with no trace or names to find my biological family, and I found them due to a commercial DNA test through 23andme.com.” (Participant)

The advances in technology which have enabled affordable DNA testing were described as barriers to maintaining the current system of adoption records where information is kept confidential. The overarching theme was that with the availability of these services, a system of closed adoption records would simply no longer work well.

“In this day and age with the internet, it is harder and harder to hide. It is better to get with the times and open the records.” (Participant)

Many people described how they were able to make contact with extended family members who had also used the services of sites like ancestry.ca. These websites indicate that after they have analyzed a sample of DNA, they may enable potential contact to be made with other relatives who have also participated in the program, through information sharing. For individuals who have been adopted, this service enables them to connect with more extended family members, and backtrack to uncover their biological parents. Also, birth parents searching for adult adoptees would have the opportunity to connect if both parties had submitted DNA samples.

SOCIAL MEDIA SEARCHES

In addition to searches for family members through DNA results, the Advisory Committee heard that in the search for reunification between parties separated by adoption, many currently resort to searching via social media, using sites like Facebook. Birth parents or adult adoptees post an image of themselves holding a sign with any identifying information they may have about the party they are searching for, and request that their friends share the post, and contact them if they have any information which may lead to the location of the person they are seeking.

“Social media is the only tool we have now, and we have to tell strangers our intimate details to try to find our information. We should not have to jump through 11 hoops to get our information.” (Participant)

We heard that this tactic has been successful for some. Yet, it makes ones' search fully open and public, sharing personal information with the world in the hopes of finding a connection.

There were those who believe that,

[“Private personal boundaries are over-stepped on Facebook.” \(Participant\)](#)

The Advisory Committee was told a story of one birth mother whose identity was uncovered by their adult child by making an appeal on social media. This person expressed how unsettling the experience was. The birth mother’s identity was publicly revealed on social media, and in a rural PEI town this meant that the news would quickly spread among neighbours, and more importantly to the family. With children who had not known they had an older half-sibling who had been adopted, the birth mother had mere hours to prepare herself to share the news with her family. Though ultimately there was a happy reunion and development of a relationship, the circumstances surrounding the reunion facilitated by social media were very challenging.

Therefore, social media present challenges to maintaining the current system of closed records. People have said that they would prefer to receive information without resorting to social media as a means to connect with family.

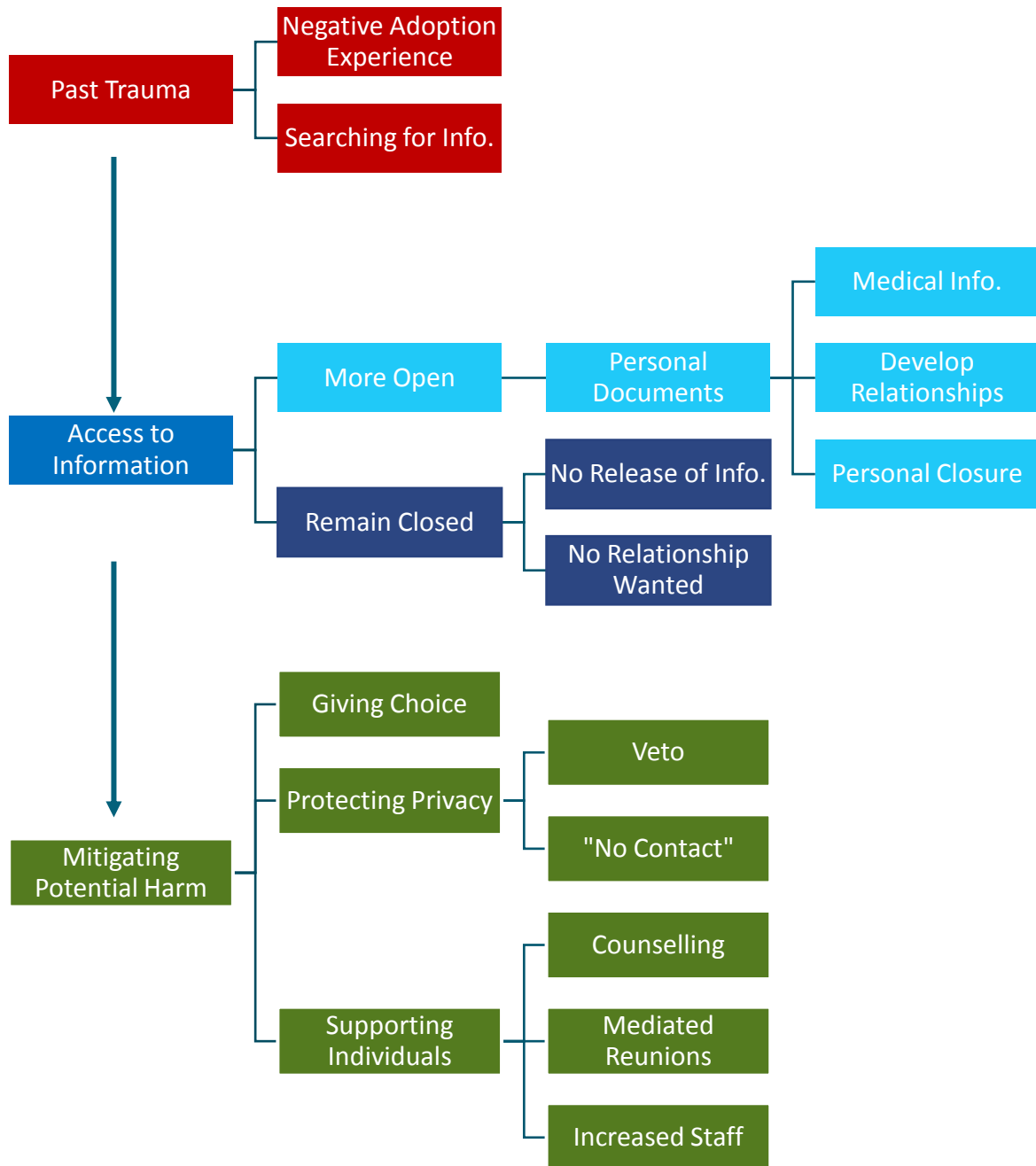
[“I can see a benefit in certain situations where we see family members going to newspapers and social media to try and find people. It \(sharing identifying information through more open records\) would be much more respectful, dignified way to help people.” \(Participant\)](#)

INADVERTENT DISCLOSURE

Another way in which the Advisory Committee heard that people found identifying information when they were not searching, was through glitches occurring when they were accessing certain Federal Government services. The Advisory Committee heard about situations where adult adoptees seeking specific government services had experienced challenges when using the legal names they were given through adoption. These participants told the Advisory Committee that they were given their birth name at the time they were accessing a specific government service, even though they had not been seeking that information. The government service possessed identifying information in their records which linked the adult adoptee to their given name and surname at birth, rather than their given name and surname at the time their adoption was finalized and inadvertently disclosed the information to the adult adoptee.

ANALYTICAL FRAMEWORK OF MAJOR THEMES

During the consultation process, there were many personal experiences shared from a diverse range of perspectives on adoptions. Emerging from the data, the Advisory Committee developed a framework of major themes to help guide this consultation report.



THEME: PERSONAL TRAUMA

Although it was not specifically referred to, an overarching theme within all forms of data collection for this consultation process was the deeply personal nature of adoption, along with experiences of trauma. Personal stories were shared of the challenges faced throughout the entire adoption process:

- placing a child for adoption;
- children growing up knowing they were adopted;
- adoptive parents struggling with a lack of information about the child's early life;
- birth parents wondering about whether the child grew up well;
- searching for information and trying to reconnect; and
- fear of being contacted by other parties to an adoption when no relationship is wanted.

Each of the topics above were examples which were provided of how the adoption process was a very personal, and emotional experience for many people involved. People expressed the sorrow of not connecting with the person for whom they were searching.

"It is so sad for the many people who are old and have searched and never found." (Participant)

Another source of trauma for parties involved in adoptions were reunions with family members that for one reason or another, were not successful. Personal stories were shared of adult adoptees who reached out to birth parents, only to then decide that they did not wish to have any further relationship or contact. We heard that this can be re-traumatizing for a birth parent, to experience rejection by an adult child.

The same situation can take place with roles reversed. Participants told of stories of adult adoptees, who after a lengthy search for information, and with the ultimate goal of gathering detailed health and family medical history contacted a birth parent, only to be told that they did not want any relationship. Others shared family stories of unsuccessful reunions where birth parents and grandparents "rejected" the adult adoptee and their attempts to connect. These experiences were described as traumatic for those involved.

"I see this full picture: struggles of mothers, struggles of adult adoptees." (Participant)

Within the discussion of adoption records, there were fears of:

- Never finding the other party in the adoption when searching; and
- Being found by another party to the adoption, when not wanting to be found.

Ever present within discussions by those who were thoughtfully considering and weighing the opportunities and challenges which would be presented if adoption records became more open, was the underlying potential for harm which could arise as a result of changing (or not changing) the way adoption records are maintained on PEI.

BIRTH MOTHERS

Though it should be noted that not all birth mothers experienced the adoption process in this way, we heard many stories of birth mothers (also referred to as natural mothers by participants) who had negative experiences of adoption on PEI. Briefly explored in the “Historical Context of Adoptions on PEI” section of this report, several participants indicated that when a pregnant woman arrived at a church-run institution for unwed mothers, supports provided were exclusively related to adoptions, rather than enabling the woman to keep and raise her child. Many women shared the feelings and beliefs that they had been coerced into the adoption process, and that they had never been truly given a choice in the matter.

“Grief is not associated with mothers who lost their children through adoption. Over the years, I have heard from people, ‘You made your bed, you lie in it.’ This has made this even harder to deal with since I did not get any other choice but to relinquish and was systematically groomed to give her away no matter what I wanted or tried to do.” (Participant)

Birth mothers shared personal stories of how they felt when their child was placed for adoption, and highlighted that it caused a significant source of pain and suffering. Many of these individuals reported that they carried this trauma with them on a daily-basis and it had shaped or altered their lives.

“Some mothers were told their babies died, not allowed to identify sex of child, [babies were] ripped from mother’s in hospital rooms. These mothers are suffering from PTSD, depression, anxiety. Birth mother/ adoptees – traumatized people so we must tread carefully.” (Participant)

There were those who came forward to share their experiences of wondering about the fate of the child after the adoption had taken place. A participant shared feelings related to the uncertainty they felt following the adoption.

“The sentence of never knowing where she was: Was she being taken care of? Did they love her? Was she healthy? and the big one was, was she alive? I used to think surely if something would happen to her I would know; that the agency would tell me, but after many years working with adoptees and mothers, I have met countless adoptees that had deaths in their families where their adopted siblings had passed away, and the natural mothers were never told. This remains a fear for many every day. I would hope that compassion would step in and they would allow these mothers to grieve. But I know this doesn't always happen.” (Participant)

A topic of discussion within the theme of trauma was the shame which was put upon birth mothers. Key sources of shame were said to be religious institutions, family, and community. As has been previously explored in the “Historical Context of Adoptions on PEI” section, during the time at which many adoptions on PEI were finalized in the recent past, pregnancy out of wedlock was considered taboo.

“Religion was huge and if you were Catholic you were forced to give up [your child].” (Participant)

The Advisory Committee heard personal stories of women feeling shamed during their pregnancies. Following the birth, the mothers were essentially told to forget about the existence of the child, and that

it was in everyone's best interest for them not to interfere in the lives of the adoptive family and child. Those who contributed to discussions on shame related to adoptions have pointed out that with changing societal norms, there is no longer the same stigma or shame attached to either having a child when unmarried or placing a child up for adoption.

"We can not go back in time, nor do we want to. Moving forward is the logical, most beneficial way that PEI should in fact move, when the topic of opening records is concerned. Days of being shamed as a teenage mom, should be buried in the past where they belong." (Participant)

Feedback provided during consultations about whether adoption records should move towards more open access was highly personal and emotional. The topic is especially sensitive for those involved, and the need for care and caution for the well-being of the parties involved should be considered at every step; including, the response to the consultation process and subsequent possible legislative amendments.

ADULT ADOPTEES

Though there were participants who came forward during the consultation process to share positive stories of adoption, the Advisory Committee also heard stories from adult adoptees related to their feelings of seeking personal closure as a result of their adoption. The theme of personal trauma was touched upon by several of the participants who had been adopted, and had a great desire to learn from information about their biological family, held within adoption records.

"Just because the child is placed in an environment with new parents and a family history of its own, does not mean that the child will automatically feel connected to that family. It takes a great deal of work to address the scars of abandonment that may transcend rational thought for a child who has been adopted." (Participant)

We heard a great deal of pain and frustration on the part of adults who had been adopted and were seeking their information, but had not been successful in their search for birth parents.

"The reason I want the records open is not only for myself but for the thousands still searching they have the right to know about themselves it's not fair or just to hold information regarding them from them, they need closure. Some died without knowing, some found them too late and their birth mom had died." (Participant)

There were participants who believed that they would receive personal closure from accessing adoption records, and mentioned that they felt personal trauma stemming from having been adopted as a child.

"... feeling like I never fit in, not knowing where I come from or even the circumstances surrounding my adoption. I've spent a lifetime confused suffering with anxiety and depression emotional trauma and a constant longing to at least know who my siblings are... I'm tired of being alienated from family, regardless if they want to know who I am or not." (Participant)

The desire to connect with family was shared by a number of adult adoptees who shared their personal experiences with the Advisory Committee. The testimony of adult adoptees who shared that, for many people, there were a great number of reasons which would support the opening of adoption records.

“[Opening records] Would address certain things for the adult adoptee:

Feelings of abandonment

Memory issues

Attachment issues

Low self-esteem

Fantasize – movie star is our Mom?

Look for their parents in a crowd

Goes back to trauma of adoption and it affects moms and adoptees differently

Open records (medical info is important)

Stigmatizes as physicians write ‘adopted’ on medical charts

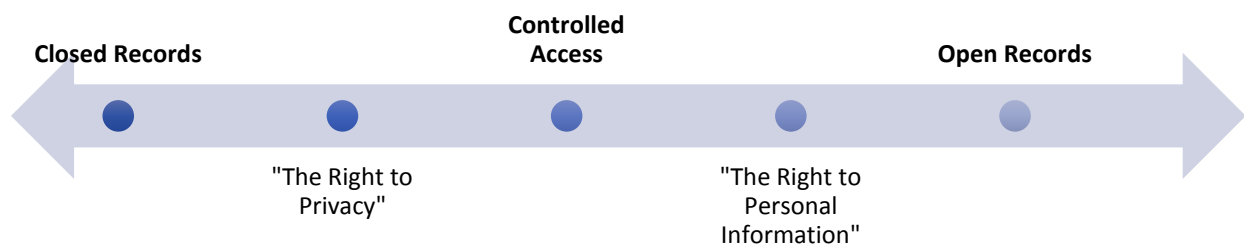
Healing ... can overcome the trauma.”

(Participant)

THEME: ACCESS TO INFORMATION

Participants raised a major theme in the *Adoption Act* Review community consultations; access to information. Feedback was specifically sought by the Advisory Committee on what public perceptions were around the opening of sealed adoption records. It is therefore unsurprising that the major topic of conversation was access to information, and the degree to which various parties in an adoption ought to have access to personal identifying information.

The majority of participants presented their perspective using current language of “open” versus “closed” records, yet the Advisory Committee would propose rather, that there is a sliding scale with varying levels of access to information. On one end of the continuum, “closed” and controlled access to information, moving towards fully “open” and unmediated access to all adoption records, as illustrated below.



Along the spectrum of access to information, there were no clear distinctions between the level of access requested and the role of the individual within an adoption. That is to say, many unaffected by adoption would wrongfully assume that birth mothers wished for records to remain closed, and adult adoptees wished for them to move towards open. However, there were advocates for open AND closed among all parties in an adoption (birth parents, adoptive parents, and adult adoptees) highlighting the inherently personal and sensitive nature of this social policy issue.

Compelling support for both maintaining closed records and moving towards more open records were provided by supporters for each. Additionally, from both ends of the spectrum arguments were made based on the rights of the individual, highlighting the deeply personal nature of the issue.

Among those wishing for increased access to information, proponents expressed that adoption records were their personal information, to which they had a right. The other major reasons given for increased access to information were to gain knowledge of one’s own medical history and family history of illness, to find biological family members and develop relationships, and also to find personal closure.

On the other end of the continuum persons who opposed greater access to adoption record information cited the belief that they had a right to privacy. Among participants who were not searching for information, they frequently mentioned that they had no desire to connect with other parties within the adoption.

1. OPEN RECORDS - RIGHT TO ACCESS INFORMATION

“The benefits of opening the records in PEI are many. Perhaps the strongest one is that as adults, we should all be given the choice to know who we are, where we have come from, medical histories, family ties etc. Having a sense of belonging and developing positive, healthy relationships is an outcome that can only be reached if we have all the puzzle pieces.” (Participant)

A diverse range of voices spoke to the benefits of moving towards opening adoption records. The Advisory Committee was surprised at the number of written submissions received from participants living both off-Island and from other parts of Canada, as well as internationally primarily from the North-Eastern region of the United States. As a deeply personal issue, persons who submitted their opinions in the consultation process presented strong arguments supporting increased access to adoption records.

Each of the reasons for opening adoption records will be further explored. Among the reasons provided for moving towards more open adoption records, the four most common reasons were:



Within the current system many people who have been searching for information have not been satisfied with the options currently available under the legislation, and have opted rather to search on their own for other parties in the adoption. Those who advocated for more access to information were, in part, comprised of people who were searching outside official services because they were either unaware or unsatisfied with what the government was willing to offer.

“A lot of people have had to go out and be detectives on their own with no supports.” (Participant)

Participants supporting open adoption records stated that they were frustrated with the amount of time and personal effort their own searches have taken and feel that these searches would be unnecessary, or at least facilitated and the wait time could be shortened, if they had increased access to adoption records.

Those wishing for more access to information pointed towards changing social norms. Adoption, they said, used to have more of a stigma attached to it, and birth mothers were often shamed particularly by religious organizations.

“[we] need to move forward and stop treating adopted children as the sins of the past.”

“With the passage of time societal attitudes and social norms have dramatically changed with respect to woman and reproduction, pregnancy and childbearing, and the responsibility of raising and caring for children.”

“Societal values and moral concerns have dramatically changed since the post war era. It is no longer a shameful, what will the neighbours think situation to be single and pregnant. No longer are expectant single mothers hidden away.” (Participant[s])

The Advisory Committee heard that with changing social and cultural practices, today people are more open to adoption, and that there is not as much stigma attached to the idea of either having a child out of wedlock, or placing a child for adoption. Proponents for open records argued that records of adoptions should be less restrictive now to reflect societal openness to information.

“The truth should be valued. Continuing to shroud the facts of an adoptee’s birth in secrecy implies that their very existence should be considered a source of shame. We have done nothing to deserve shame and shouldn’t be expected carry it on behalf of anyone else.” (Participant)

Participants identified four primary reasons for enhancing access to personal identifying information in adoption records and the requirement for enabling legislation to support enhanced access to information.

A) ACCESS TO PERSONAL RECORDS

As described previously, within the current system on PEI only non-identifying information is available to adult adoptees without the consent of the birth mother or birth father if identified. This level of information has left many people feeling unsatisfied, particularly with the knowledge that identifying information surrounding their early life prior to adoption is in public records.

“It is my personal information now. Does a system say I can’t have my information? It is about me and it is my right to have.” (Participant)

Arguments for removing the restrictions on access to historic adoption records frequently referred to an individual’s “right” to information, which was being violated by the current closed system. There was a strong focus on opening adoption records as a means of creating more “equality” for Islanders who were adopted.

One of the primary arguments given for increasing access to adoption records was that adoption records such as original birth certificates and adoption orders are the personal information of an adult adoptee, and therefore, it is the adult adoptee’s personal right to receive such information.

“The opening of Adoption Records can be complicated, full of emotional testimonials from all sides and appear to have far reaching consequences, but it need not be so...The only true, irrefutable reason Adoption Records and files should be fully opened and accessible to adult adoptees and natural parents is to restore their basic human right to have unrestricted access to their own personal information.

Every human being on this earth has a right to have their original birth certificate (not altered by the government), their original baptismal certificate (not altered by the church) and all un-redacted contents of their adoption file(s) held by agencies and/or lawyers.”

“As an adopted adult, I feel it is incumbent upon all governments to afford adopted individuals the same right to their birth records as non-adopted individuals...Access to one’s birth record with no redactions.” (Participant[s])

The argument about adoption records as a personal right was frequently made by adult adoptees, and was also made by others on their behalf. The Advisory Committee heard numerous personal stories of searches for information among adult adoptees, and a common topic within searches was the

frustration experienced when an individual embarked upon a search, only to discover how little information they were able to access.

“[K]nowing my file is there at someone’s finger tips in a drawer or storage somewhere in Charlottetown is beyond frustrating...and makes me feel like I don’t matter.” (Participant)

Additionally, the Advisory Committee heard that gaining access to information about adoptions finalized on PEI was often a lengthy process, due to limited staffing resources. Participants shared stories of very long wait times to receive information, and specifically being told that it would take time simply because they did not have the human resources to process all the applications for information they had received. For people who had waited many years to begin their search and who had finally made the decision that they would like to seek information, being required to wait additional years before receiving the information was a frustrating experience which caused people to lose confidence in the effectiveness of the current system of maintaining adoption records.

“You have secretaries and social workers accessing our information on files and we don’t know and we don’t have a choice. It took me 3 years to search and another person said it took me 7 years.” (Participant)

Upon receiving their non-identifying information, many people expressed their disappointment with the depth of information that they were able to access, and the knowledge that a more comprehensive personal history *could be* available if legislation were different. There were those who felt that even redacted copies of original documents would have been preferable to the summary information provided. One of the ways people discussed their feelings surrounding the lack of access to their personal information was as though adoptees as a group have been singled out, and treated differently from the rest of Islanders.

“Adults who were adopted, through no choice of their own, should not be discriminated against based on that fact. We are citizens who deserve the same rights as any other adult. This should not be impacted by the feelings or wishes of any individual including biological or adoptive parents. These are records about us.” (Participant)

Among proponents for moving towards open records, there were varying opinions as to how the historic adoption records should be released, what supports (if any) should be provided, as well as what concessions should be made to accommodate for those who opposed the opening of records. However, one common thread among all those proposing increased access to information was that it was not the government’s place to tightly guard or protect the records of past adoptions. One person referred the current closed records as following, “ ‘Mother May I’ legislation”, as adult adoptees have to request their personal information. Overwhelmingly, advocates simply wanted their records, and preferred the government stayed out of their business.

“Receiving information is better than not receiving information. People going into this know it is not a bed of roses... Most people are realistic going through this and seeking info.” (Participant)

For adult adoptees advocating for open records, there was a fundamental sense of being treated unequally from other Islanders with respect to access to one's own birth records, compounded by an over-riding sense of paternalism in the current manner in which adoption records relating to the adult adoptee are currently maintained.

B) MEDICAL INFORMATION

In addition to the argument that adult adoptees simply have the right to personal documents, the next more frequent reason for improving access to birth records provided was related to personal and family medical history. There were those who made the point that if they were to have access to their adoption records, they would have access to the medical information that their birth parent had provided at the time of their adoption.

"Access may provide adoptees to useful medical information, to the extent any might be in the files that had been willingly provided prior to or at the time of the adoption, or the ability to access any useful medical information that may be public (in obituaries, for example) or that the birthparents may be willing to disclose." (Participant)

Many people referred to the need for medical information as one of the most pressing reasons for wanting adoption records to be opened. The Advisory Committee also heard personal stories from adult adoptees who discussed their feelings when they have been unable to provide any medical history to physicians when it was requested, and the subsequent notes on their personal medical files which simply indicated they were adopted.

"In hospital last year, I was asked if there were mental issues in family and I said 'I don't know.' My adoptive parents don't know. Open records would allow me to have my information." (Participant)

A key point to consider is that opening adoption records could provide access to one's original birth certificate and adoption order. However, a comprehensive medical background may not have been provided by birth parents at the time the adult adoptee was placed for adoption, and in instances where it had been, the information would be outdated by the time the child reached age of majority, and the record would be released. Therefore, the opening of adoption records with the intention of receiving medical information is not simply to receive access to historic documents, but then to subsequently contact the individuals and the birth family to ask them about *current* and *up-to-date* medical information.

Adult adoptees referred specifically to genetic conditions which they had been diagnosed with later in life, and would have appreciated an opportunity to have known that they were carried within the family, to enable them to better prevent, or prepare for the potential of a future diagnosis.

"One of the most pressing is family history regarding health and hereditary diseases. Not knowing your family background can be challenging and in some instances detrimental. By knowing one's background one is able to be tested/made aware of dangerous and often life threatening diseases and/or conditions. Knowing this information could save the life of the adopted child or their children."

"respect us as adoptees and help us find what we should at least know for our health if nothing else...it should at least be an option if you want to be contacted or not." (Participant[s])

The Advisory Committee heard personal stories of individuals who had inherited genetic disorders, yet who received late diagnoses due the lack of family history and information the adoptee had been able to provide. These individuals felt strongly that they did not wish this experience upon fellow adoptees, and felt that increased access to family medical history would help others. The personal genetic testing has become more affordable in recent years, which has made it easier for those who were adopted to uncover potential hereditary diseases. Yet the cost of these tests remains high, and many adults who were adopted have no knowledge that there *may be* hereditary diseases they should be concerned about and aware.

“[This disease] can be inherited so we might have looked for it sooner if we had known her medical history. When you adopt a child you receive a bit of their medical history, but it is not kept up to date. The birth parents could develop things later in life that were not known at the time of the adoption.” (Participant)

Additional support provided for family history of illness as a reason for moving towards open records were mental health issues. The strong genetic component of certain mental health conditions has been well established. There were individuals who came forward to share stories of connecting with biological family members, and uncovering that they had experienced or been treated for similar conditions.

Aside from personal health, a primary reason cited for gaining access to one’s birth family medical history was for the health and well-being of future or current children of adoptees. Participants stated that they wanted more information about what they could pass on to children before starting a family, and others noted the importance of being able to provide comprehensive medical information during times of illness.

“With having a child struggling with some health issues, having that information would mean the world to them.” (Participant)

Among those who believe that adoption records should be opened, access to medical information was one of the highest priorities. Due to the strong focus on health-related information, those who supported opening adoption records even made suggestions for ways to achieve access to this type of information regardless of whether current legislation moves towards fully open and accessible records. Individuals advocated for creative solutions which would enable the collection of health information in cases where a veto on the release of information may potentially be placed on a file. For those supporting open adoption records, there is a strong focus on accessing information because it is viewed as a person’s own information which enables linkages to a person’s biological connection and identity; however, for many adult adoptees the most pressing concerns were medical in nature.

C) FIND FAMILY CONNECTIONS

A third reason for opening adoption records was the desire for those who had been involved in adoptions to connect with one another, and develop relationships. Many adult adoptees believed that if adoption records were opened and they could uncover their biological families, it would offer an opportunity to develop relationships with both immediate and extended family members.

“Please allow adoptees access to information about their immediate family; their mother, their father, and, where available, information regarding siblings, grandparents, aunts, uncles and cousins so that they may be able to have the information, even if they never decide to make contact. Contact is up to the adult parties involved, not governments or agencies.” (Participant)

There were those who had already reconnected with biological family, and they shared their experiences with the Advisory Committee.

“[When I found my birth family they] were all very happy about me finding them. Of course my birth mom could never take the place of my mom who raised me nor could anyone take the place of my dad who raised me, I would think most adoptees would feel the same way. But we were great friends and I could see where a lot of my traits came from.” (Participant)

The deeply personal and individual nature of adoptions means that no two stories will be the same, yet the Advisory Committee heard that there were very positive experiences for many people who had reconnected with birth family. It was said to be a fulfilling experience, and that many had gone on to develop long-term relationships and friendships with both immediate and extended birth family members.

For those who had made successful reconnections of biological family, they felt that the benefits of the relationships they had formed outweighed the potential challenges of reaching out to birth family who did not want a relationship. The opportunity to know one’s birth family, it was said, was something that should be available to adult adoptees if they chose to pursue it.

“Adult adoptees should have the right, the choice, to find out who their birth families are. Maintaining closed records merits no benefits at all.” (Participant)

Participants explained that the wish to connect with extended birth family was not a reflection of the adult adoptee’s feelings toward their adoptive family, yet was something separate that they wished to pursue for personal reasons. Though there were some adult adoptees who mentioned they had foregone searching for biological family out of respect for their adoptive parents’ feelings, the Advisory Committee also heard from adoptive parents who were supportive of their children searching for extended biological relatives.

D) PERSONAL CLOSURE

Related to the previous topic of developing personal relationships with biological family, we heard that another positive aspect of opening adoption records would be for those involved to develop a sense of resolution or closure about historic adoptions. From the perspective of birth parents, the Advisory Committee heard that if records are opened and birth parents were able to contact the child(ren) that was adopted, they would benefit greatly from knowing how the child grew up and, as an adult, they were doing well. From the perspective of the adult adoptee, we heard that the act of simply knowing and connecting with the birth parent would provide personal closure and from those who had adopted children and who shared their feelings in the consultation process, they said they simply wanted their child to receive the information they sought.

Adoptive Parent Perspective:

Though there were those who believe that adoptive parents would not be supportive of their adult adoptive children searching for their biological roots, from a number of the adoptive parent participants who came forward, there was strong support for opening adoption records, with the caveat, **if that is what their adult child wished.**

“I have an Island adopted daughter who like many others has always felt a piece of her puzzle to life is missing. Many never feel they can move on with their lives and it becomes a mental issue and has led [to] many destructive actions because of anger, fear, shame, or not knowing who they really are.” (Participant)

Adoptive parents acknowledged that in an adoption the other two parties, the birth parent and the adoptive parents, had a choice and made a decision in the process; however, their children had not had a choice in whether they were adopted. The idea of having choice, was a recurring theme among participants, and it arose with respect to the desire for personal closure as well.

“I feel the child has a right to know where they came from and to know about their birth family history. I can’t begin to imagine what kind of questions a person would have who knows nothing about who they really are. I think the right of the adopted child should come first as they had no say in being adopted or where they were placed.” (Participant)

The need for personal closure for adult adoptees was the most important priority for adoptive parents, who felt that receiving information was good for their children.

“It helps their hearts. The more info we have the more helpful it is.”

“As an adoptive parent, I feel the records should be opened. I watch my child wonder who she is and where she came from but I cannot help as we don’t have any information either. She has registered but no one has come forward. We have no idea if her birth parents are alive or dead.” (Participant[s])

The Advisory Committee heard from some adult adoptees that they did not wish to search for biological family because they felt or feared that their adoptive parents would be disappointed or would perceive it negatively. There were older adult adoptees who said they waited until their parents passed on before beginning to search for biological family members. However, likely due to self-selection bias, the Advisory Committee did not hear from adoptive parents who were not supportive of their child’s search for biological family. Adoptive parents spoke with the Advisory Committee about their children’s searches for information about biological family and how they put the needs of their child above all else.

“I have never thought of them in any other way than being our children. I do not feel threatened by our daughter wanting to find out about her birth parents. I am completely supportive of her quest. I feel the adoptee should be the main priority.” (Participant)

Adoptive parents spoke about the desire for personal closure as being highly individualized and that enhancing access to personal information for adult adoptees would provide the opportunity for those who desired access to their personal information to receive the information that they required to achieve personal closure, in whatever form that was for the individual person.

Adult Adoptee Perspective:

"I would have to say that my biggest concern throughout my almost seventy years has been the absence of a sense of identity. It's as if I was deposited on earth by an alien culture with no explanation or background which would help explain my existence. There is certainly a void in my development which doesn't allow me to make close relationships with my adopted family relatives; I have not been 'bona fide' as a true family member. This probably is more in my mind than in theirs but it's difficult to reconcile." (Participant)

For some adult adoptees, there were strong feelings shared about the importance of reconnecting with biological family to achieve a sense of belonging. Building on personal identity and gaining fulfillment as a result of receiving information stored in adoption records was a topic of discussion for many adult adoptees who shared their feelings with the Advisory Committee. Participants discussed searches for information about their biological families that were prolonged, and that when they had made the decision to seek out biological connections in the hopes of bringing closure to themselves, they were frustrated at the length of time they had spent to gather information.

"I just think people shouldn't be searching for year and years - it is our information. Every adoptee should have this right to know who they are."

"Opening records will be beneficial for adoptees to know who they are."

"Having a sense of belonging and developing positive, healthy relationships is an outcome that can only be reached if we have all the puzzle pieces."

"[Opening records] would ease the pain and frustration of an Adoptee who has given up trying to access information." (Participant[s])

Gaining a sense of personal identity was discussed as a benefit of opening adoption records for adult adoptees who were interested. There were many people in the consultation process who spoke about the positive personal outcomes that were available for adult adoptees if they were seeking information about their biological families.

"but there's still deep inside those unanswered questions...it's something only an adoptee can relate to. What if my birth mother wants to know if I turned out ok? I want her to know I did." (Participant)

Adult adoptees also stated that if they had the ability to reconnect, they would share with their biological family that they had grown well, and had a good life with their adoptive family.

Birth Parent Perspective:

The final group who would receive personal closure as a result of adoption records moving towards more open access were birth parents. There were numerous stories shared by birth mothers who felt that simply knowing that their children had grown up well would be personally fulfilling. The Advisory Committee heard from birth parents that if adoption records were to be opened, and they could uncover the names of their children at the time the adoptions had been finalized, it would provide closure. There were many birth parents who said the primary motivation was simply "to know" that their child had a

good life. Further contact or relationship with the individual would be nice, but the primary reason for wanting to reconnect was simply to have answers to questions they had about what happened to the child after the adoption was finalized. Others felt that the information that their child had grown up well would help them to begin to heal from the trauma they experienced because of the adoption process.

There were stories shared of birth parents who looked forward to the day when their child reached the age of majority and they could begin to search for them. Some birth parents began to search as soon as possible, with the hope that they would be able to reconnect with the adult child quickly. Many of these birth parents mentioned that they wished to connect with the adult child, and also to share their personal story of how the adoption came to be.

“[I] did years of research, life stood still when she became age for me to search for her...As a mother I always wanted the opportunity to explain [the adoption].” (Participant)

The desire to reconnect was shared by many birth mothers. The Advisory Committee also heard from other birth mothers who were searching for contact with the adult child they had placed for adoption, but felt comfortable waiting until the adult adoptee was ready to also seek out a relationship with them. These parents took a more passive search approach, making their intention to have contact known through the means they had available, but yet remaining conscious that their adult child may not seek contact for many years.

“I am totally respectful of my daughter’s decision to search for me and I will continue to wait. There is closure for people, [which is a] benefit, to allow mothers to start to heal.” (Participant)

Another birth parent shared that they had been looking to reconnect with the child they placed for adoption over a very long period of time.

“I have always been looking and waiting and I was ok with that. But as I got older I got a bit more antsy.” (Participant)

This birth parent shared that they had a successful reunification with the adult child they had placed for adoption. The adult adoptee had been interested in knowing their biological family, and this relationship made the birth parent happy. Others mentioned that when adult adoptees made contact with them, it felt as though all the pieces of their family were coming together.

“From a mother’s perspective it is one whole family. [Reconnecting with adopted children] Helps to bring families back together.” (Participant)

Though the theme of personal closure was important for adult adoptees, it was more prominent among birth parents, and there were strong emotional arguments made for opening adoption records.

“Every natural parent has the right to know where their child is, parental rights or the relinquishment thereof, ends when that child becomes an adult.” (Participant)

2. CLOSED RECORDS- RIGHT TO PRIVACY

On the opposite side of the spectrum there were participants who came forward in the consultation process to oppose the opening of adoption records. More often for those opposing a change to the current system, rather than being strictly opposed to the process of reviewing the *Adoption Act* for the purpose of providing enhanced access to identifying information as a whole, they were more specifically concerned about their own personal records. They were concerned about the release of their identifying information without their consent, whether that be identifying information of an adopted person or a birth parent. Many of the strongest voices against moving towards more open adoption records saw the benefits for those who were seeking information, yet they felt very strongly that for those who did not want the information released, that it should not be. They primarily advocated for their right to privacy; stating that all parties were aware at the time of the adoption under the terms of the adoption contract, whether by express or implied terms, that the birth registration and the adoption records would be confidential and for all intents and purposes “sealed”. In their view, at the time of the adoption a reasonable expectation of privacy was established for birth and adoption records for the three parties to the contract and that right to privacy should not be infringed or negated, retroactively.

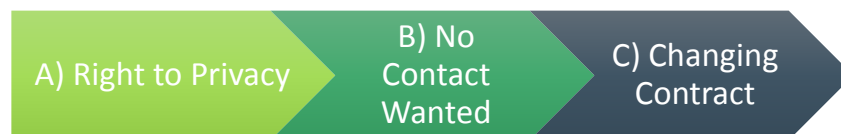
Those who wished that the current system be maintained reiterated that at the time of adoption both birth parents and adoptive parents would have had the understanding that their personal information and their identities would not be disclosed to other parties. Additionally, the new name of the adopted child would not be released. Yet, with opening of adoption records it is this information which would be released. There were many people who raised concerns about the impact of changing the terms of the adoption agreement many years after the details had been finalized and they wondered whether all parties in the agreement would consent to this opening of information.

Those who opposed a change in the status quo believe that, with the push to make information more accessible, changes may go too far and their personal information would be shared against their wishes (without their expressed and informed consent) with other parties in an adoption. A key argument made among those who did not wish for their information to be released to other parties within the adoption triad was that they did not want to have a relationship or be contacted by others. They felt it was their choice as adults whether to pursue a relationship and, since they did not wish to do so, they did not want their personal information released.

A number of individuals, representative of each of the three parties to an adoption who strongly opposed personal information being shared without mutual consent, strongly encouraged the Advisory Committee members to recognize that those advocating for enhanced or unfettered access to information in sealed birth registration and adoption records were well organized advocates who had little fear of revealing their identity or advocating their viewpoint in a public forum. Those who did not want to be contacted or found indicated they were not an organized group and believed that they had nobody to speak for their point of view and, up to this point in time, had felt protected, at least in part, by their right to privacy currently enshrined in legislation. Individuals cautioned that there are “silent” voices that have not been expressed and cannot be expressed no matter how accessible or respectful a consultation process may be, as these people wish to remain anonymous and the fear of being found is

too great. Further, the silent voices may also be those who no longer have the capacity to speak or advocate on their own behalf by reason of physical or cognitive impairment or incapacity. The Advisory Committee was asked to consider the fact that the feelings and fears of the “non-searching” adoptees and birth parents who do not wish to be found are no less legitimate and compelling. Simply put, some adult adoptees and some birth parents are not interested in being reunited. They do not want to revisit the past. They are of the view that in their individual circumstances “opening adoption records” retroactively will be harmful to the non-searching members of the adoption triad. In their view, lives would be turned upside down and some would be shattered.

Most participants in the consultation process who opposed the release of personal identifying information, without mutual consent, tended to express their views through written submissions or one-on-one private consultations, rather than facilitated forums open to the public. Maintaining anonymity or protecting their identity was a key consideration in their choice of how they participated in the consultation process.



A) RIGHT TO PRIVACY - NO RELEASE OF IDENTIFYING INFORMATION

Those who advocated strongly for their personal identifying information not to be released expressed a strong need for a right to privacy. They positioned their perspectives in the following way. When personal identifying information about them is revealed through the release of a private document or a record their reasonable expectation of privacy has been negatively impacted. It is not simply the release of the document or the record that is at issue. It is the invasion of their *individual dignity*, independence and personal autonomy that is at the core of the issue. Choice is an important aspect in retaining the right to consent to the disclosure of their personal identifying information.

“As a child who does not wish the records to be opened, I see changes to the legislation to be a significant disadvantage. Currently my privacy is protected and my consent is required. I did not have a choice in being adopted, as I was an infant at the time and someone decided for me. I certainly do not want to lose the choice I do have now on whether or not my personal information is released. Opening the records takes away the need for my consent.” (Participant)

The voices of non-searching adoptees and birth parents commonly expressed their desire for self-determination in their decision to release personal identifying information. They expressed grave concern about another party to the adoption approaching them that they did not know, essentially a stranger, who had obtained their personal identifying information without their consent.

“Most people would cringe at the thought of a complete stranger making contact through information they were able to gather without your consent. This is precisely what advocates for open adoption records are asking government for.” (Participant)

The Advisory Committee heard the story of one person's experience of unwanted contact by another party to an adoption. This person shared their feelings of what it was like to be "found" by someone who was searching, and expressed the importance of having processes and mechanisms in place that give non-searching adult adoptees and birth parents personal choice and control over their personal identifying information. In some circumstances, the choice might ultimately include preventing the opportunity for a person they do not know and who they are not looking for from contacting them.

"If I hadn't experienced the current system personally, I think that I would have no opinion about opening adoption records. I believe this is why only the advocates for open adoption are speaking up. Having gone through the actual experience of an attempt at contact has made me aware of how disruptive this can be to someone. I believe that if you haven't gone through it, it is difficult to anticipate how you will react. The current system gives people an anonymous and protected space to process an unexpected and potentially traumatic experience. Open records removes this protected space, and affords too much power to those seeking contact at the cost of those wishing to remain private." (Participant)

One strong advocate explained that in their opinion, the two main stakeholders affected by opening adoption records would be the birth parent and the adult who had been adopted as a child. This person further explained in the excerpt below that between the two groups there was also a split regarding the individual's preference for information or to be contacted:

"[There are] Four parties who are entitled to have an emotional opinion on the situation.

1. Adults who placed a child up for adoption and who wish to obtain information or contact their child.
2. Adults who placed their child up for adoption who do not wish to obtain information or contact their child and who do NOT wish to be contacted.
3. Adults who were placed in adoptions as a child who want to obtain information or contact their birth family.
4. This is me: Adults who were placed in adoptions as a child, who do not wish to obtain information or contact their birth family and who do not ever want to be contacted.

In my opinion, opening adoption records will create amazing opportunities for family reunions. It will provide those who seek medical records the information for which they search. It will bring closure for some and open new beginnings for others.

Parties # 1 & 3, your wishes are respected. But where does that leave parties # 2 & 4?

Where does that leave me? It leaves my privacy unprotected."

(Participant)

For some individuals, the fact they know that someone is looking for them and further to that, to have contact made by that person, is disruptive to their life and affects their psychological well-being. To them, any legislative scheme that favours a third party's access to personal identifying information over privacy and protection from disclosure of that information puts the emotional and psychological well-being of affected individuals at risk.

"Open adoption advocates, despite good intentions, are only considering their own desires. Not everyone wants contact. I would have been happy my entire life if contact was never made. Now that it's happened, I will continue to make choices about how I proceed but if I were honest, I would rather not be thinking about any of it." (Participant)

Other parties to an adoption encouraged the Advisory Committee to look behind the emotional and personal stories that underpin many of the experiences of adopted persons and birth parents and clearly understand the issue at hand; the protection of personal identifying information or the disclosure of personal identifying information and what, if any, compelling interest or need should disrupt a person's ability or right to control or consent to the dissemination of their personal information. The Advisory Committee was asked to consider the harm that might flow, and to whom, from a legislative scheme that permits the disclosure of personal identifying information without the consent of the parties involved. Consultation participants asked the Advisory Committee to carefully consider unintended consequences that could arise from changes to the current legislative scheme.

"There are myriad situations, emotions and details which can mask the consequences of changing the Adoption Act. None of them warrant the removal of consent to be contacted by a stranger based on the perceived importance of biological connection." (Participant)

Protecting the release of personal identifying information in legislation to ensure an individual's right to privacy is maintained was most often provided as the fundamental and compelling reason that the current system be maintained.

B) NO CONTACT WANTED

The current *Adoption Act* permits the adult adoptee to actively search for a birth parent. Some of those who advocated strongly for their personal identifying information not to be released, most often adult adopted persons, indicated that the primary rationale was that they had no desire to search for or meet the other party to the adoption triad. The ability to control the dissemination of personal identifying information is directly related to the person's ability to choose not to have a relationship with another person, a third party who they consider to be a stranger.

"I feel very strongly about this issue and do not want anyone to ever contact me. I know who I am, who my parents are, and while I am grateful to the woman who gave birth to me [X] plus years ago, I do not want any contact." (Participant)

The ability to control the disclosure of personal identifying information is viewed as critical to ensuring that no relationship occurs. It provides a safeguard to not being searched for and found, even though a party to their adoption may be searching for them and wanting to find them. Their limited or lack of desire for a relationship was reinforced by the understanding that parties to an adoption must honour the terms of the contract established at the time the adoption occurred.

"I can see that opening the records would mostly benefit the birth parent who wish to obtain information but are not currently permitted under the law. In my opinion, this is not a good enough reason to change the law, as they made a choice to give the child up for adoption with knowledge of the rules and laws. If at the time of the adoption, the records were to be closed, they should remain closed. If my birth mother chose not to raise me, then she shouldn't be able to come back [X] years later and demand the law be changed to give her information about me. She would have known the rules at the time she chose to give me up. Even if there was coercion by parents or religious organizations, she still had a choice." (Participant)

For some adopted persons, tied to the ability to control the dissemination of personal identifying information is the rationale that the adopted child did not have a choice or right to self-determination at the time of adoption and the adopted person does not want their right to self-determination restrained or infringed now that they have become an adult.

“When I was placed up for adoption, my birth family gave up their rights to know anything about me. Under NO circumstance should the woman who gave me up for adoption or any of her family be able to find out anything about me. PERIOD. THE END! Because I said so! That may sound harsh, but for whatever my reasons are, they are mine and they are every bit as important as the other parties involved.” (Participant)

Others spoke about no need to have a relationship with a birth parent because their personal identity is not tied to a biological connection. Being an adopted person is not how they define themselves as a person. They do not experience a “missing piece” in their life. They are not searching, do not feel a need to search and do not have a desire to be contacted.

“To me, now and throughout my life, I consider being adopted as irrelevant to who I am. I was raised by two people who loved me as all parents love their children. I have siblings with whom I have different relationships depending on our birth order and gender. I share their upbringing as they share mine. We are a family: identical in every meaningful way to one where all the members are connected biologically. I imagine there are adoptee parents out there who feel the same way: general curiosity but no desire to be contacted.” (Participant)

For parties wishing to maintain anonymity and limit relationships with other parties to their adoption, whether that be the adopted person or the birth parent, one of the challenges of maintaining the current system of closed records is the use of social media sites to uncover the identities of other parties within an adoption. Among those who were not seeking a relationship and are a non-searching party, the potential of others searching through social media has caused psychological and physical stress.

“My stomach does a flip every morning when I turn on Facebook - I need protection too and feel very panicked.” (Participant)

This illustrates the present challenge of balancing the compelling circumstances of a person’s need and interest in accessing identifying information about another person with the other person’s right to privacy and ability to consent to disclosure of identifying information. Those who are not searching do not feel well equipped to manage an unfettered right to access identifying information about them and describe a need for safe-guards and processes to their personal identifying information. While the individual searching for information is trying their best to reconnect using the tools they have available, the well-being of others involved in an adoption who are not searching are compromised by such a public search.

“Opening adoption records could lead adoptees to seek out relationships with birth parents or other blood relatives who don't want to make contact. It's an issue that needs to be handled with patience and sensitivity.” (Participant)

Therefore, though there were strong arguments made by advocates for increasing access to historic adoption records, there was also a prominent voice among those who wished for their personal information to remain private because they did not wish to have a relationship with other parties to the adoption.

C) CHANGING THE CONTRACT

Those who advocated strongly for their personal identifying information not to be released also pointed to the terms of the contract or agreement struck at the time that the adoption process to which they were a party was finalized. They indicated, while societal attitudes may have changed over the years, the historic birth and adoption records that may be opened through an amendment to the *Adoption Act* to enable greater access for some parties desiring such a change are records that were created during a time when the stigma of an unwanted pregnancy, the shame of infertility, or being born out of wedlock, was a very real stigma and secrecy was the norm. These were the societal norms at the time and they contend it is not right or practical to impose today's societal norms on the adoption processes established so many years ago. Grave concern was expressed by those who advocated strongly that their personal identifying information not be released. They believe that that the release of sensitive birth or adoption information may still cause great harm, today.

Again, those participants who were non-searching participants reiterated that the feelings and fears of the "non-searching" adoptees and birth parents who do not want to be found are no less legitimate and no less compelling. While such participant numbers may have been low, as they prefer anonymity and are hence less organized, those who did participate asked the Advisory Committee and subsequently the legislators to be cognizant that the impact on their lives and those families is just as significant and that their voices must count.

"Those that appear to be agonizing over the best interest of adoptees, birth parents and adoptive parents are using the government as a bully. They appear at first to be caring but they are not. Taking away the rights of a birth mother who used a government system to protect herself while she was in dire need, should not be jeopardized because she used that system in good faith." (Participant)

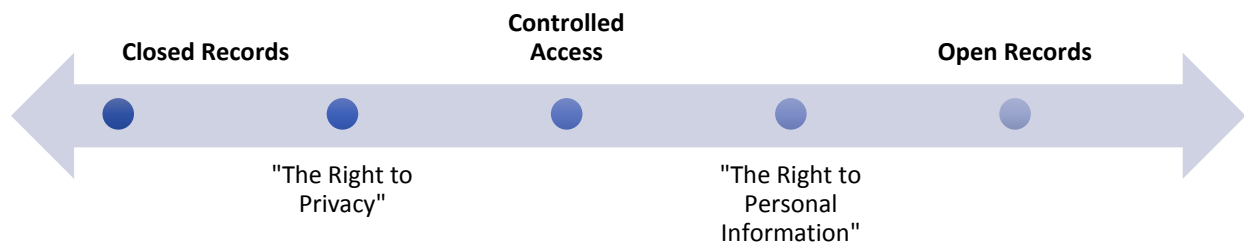
A recurring theme was that the terms and conditions of the adoption contract the parties entered into at the time not be changed, retroactively. They fear that such action, if taken by legislators, will be harmful. They believe that changing the default from protection of privacy interests to access and disclosure of personal identifying information retroactively, unless some positive action is taken on behalf of one of the parties to protect their information, is tantamount to government and the parties to the adoption going back on their word and breaking the contract that was entered into with the full understanding of the parties at the time.

"[W]hen I entered into this as an adoptive parent I expected my info to be private. All three parties entered into this with a privacy consideration. It allows choice for each person in the triad. This [opening of records] flips the default. With the closed records the parties that entered into it were aware of the expectations of each party per the rules." (Participant)

Among those who expressed opposition to moving too far towards opening historic adoption records and changing the terms of the contract, their personal concerns were related to their right to privacy, with a special focus on balancing the benefits opening records could bring for some individuals, with the harm that access to this information could bring to others.

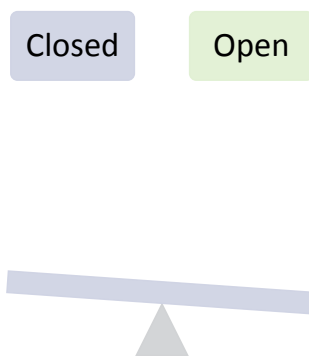
RIGHT TO PRIVACY AND ACCESS TO INFORMATION CONTINUUM

When the varied perspectives of adult adoptees, birth parents and adoptive parents are considered within an access to information framework, it becomes clear that people are advocating for legislative options which appropriately balance the right to privacy and the protection of personal identifying information with the need to access personal identifying information. The perspective of how that balance is struck is highly dependent upon a person's personal experience and circumstance and cannot be generalized to any party within the adoption triad. A number of participants offered a strong caution that as the balance is tipped from the protection of personal identifying information maintained in birth and adoption records in favour of enhanced access to personal identifying information policy makers and legislators **must** turn their mind to the important principle of mitigating harm. It is their legislative responsibility to do so and such a responsibility must not give way to expediency or be abrogated.



THEME: MITIGATING HARM WHILE TIPPING THE BALANCE

Changing the way adoption records are maintained by moving toward more open records will change the balance of power and control; it will shift the weight given to protection of personal and confidential information held in birth and adoption records and the expectation that such information may not be disclosed to third parties without a person's consent, towards enhanced access of such personal and confidential information by a third party. A number of participants in the consultation process emphasised their right to privacy, and a need for choice and self-determination in sharing personal identifying information contained in birth and adoption records. Participants spoke about the fact that birth and adoption information has long been recognized as intensely private and sensitive information deserving of privacy protection to a certain degree.



The request for openness in the disclosure of adoption information is based on experiences that are intensely personal and heartfelt. Many people who were adopted and birth parents have experienced an extraordinary level of grief, anxiety, and stress because something is missing for them. They lack personal, medical and family information and a biological connection that they feel could help them understand “who am I?” The feelings, efforts and motivation of adult adoptees and birth parents who are searching are genuine and clearly understandable. They have a deep desire to reconcile the uncertainties, lack of information and loss of personal connection created by adoption. Their search for information is often a way to reclaim a part of themselves and what they lost so long ago.

It is stated that those who are searching for information are in the majority and that the non-searching adoptees and birth parents are in the minority (though the actual numbers of adopted individuals who are seeking information is not known, as many choose to take informal search routes.) Those in the majority believe that their search for information and desire for connection should not be fettered by the views and perspectives of a limited number of people who wish to retain privacy and remain anonymous.

Legislative regimes in Canadian jurisdictions and Canadian courts continue to balance disclosure of and access to personal identifying information with a person's right to privacy.

The Advisory Committee took note of legislative regimes in Canadian jurisdictions that have long protected and fostered the privacy interests of adopted persons, birth parents and adoptive parents. The Advisory Committee is aware that the Supreme Court of Canada (SCC) has agreed that a reasonable expectation of privacy exists with respect to adoption records as it approved the reasons of the British Columbia Court of Appeal in R v.W.(D.D.)

In Ontario, legislative changes moved towards more open access to historic adoption records. The Advisory Committee reviewed the constitutional challenge brought by a small minority of adult adoptees and birth parents who wished to protect their right to privacy under Section 7 of the Canadian Charter of Rights and Freedoms. The Government of Ontario's initial amendments to the Vital Statistics Act, did not originally contain a veto to provide adoptees and birth parents of adoptions finalized prior to the new legislation coming into effect a mechanism upon which to limit or prevent disclosure of their personal identifying information, unless they provided a compelling argument to a tribunal indicating information should not be disclosed because of exceptional circumstances involving sexual, physical or emotional harm. They had a right to file a "no contact" preference. The applicants objected to the retroactive application of the new law on the basis that the new law allowed searching birth parents and adoptees to access their personal identifying information that had, up to that time, been sealed or otherwise inaccessible. The changes were, in their view, an invasion of their right to privacy protected under Section 7 of the Charter. They contended that they should have the right to determine whether or not their personal identifying information is disclosed to a third party. Further, that if their personal identifying information was released without their knowledge or consent to a third party, or without a mechanism for them to prevent such disclosure, that this was an infringement of their right to privacy that was not justifiable under s.1 of the Charter.

In response, Justice Belobaba of the Ontario Superior Court of Justice in Cheskes v. Ontario (Attorney General) upheld the application of the small minority of adult adoptees and birth parents who wished to protect their right to privacy. Adoptees and birth parents, Justice Belobaba held, have a reasonable expectation of privacy in personal and confidential information held in birth and adoption records and that information may not be disclosed without their consent to third parties.

Many participants, whether they were proponents of open record or those who were opposed to open records, expressed a high degree of concern about the possibility of harm which could come from open records, and they made suggestions for ways to mitigate the inherent risks of changing the terms of a historical contract.

REDUCING RISK

A number of participants spoke about the delicate balance required when developing or changing public policy in response to changing societal norms. Cautionary advice was offered in terms of ensuring consideration is given to the fact that PEI is a small jurisdiction. Attention must be given to the impact of any policy shift or legislative change on a province with a population size equivalent to that of a small city within other Canadian jurisdictions. Others requested that recognition be given to unintended consequences or disproportionate impacts that might occur within distinct populations characterized by age, socio-economic status, gender, lineage and ethnicity. Some participants are of the view that the delicate balance of protection of personal identifying information and the access to and disclosure of such information requires a responsible analysis of the impacts of potential changes to the *Adoption Act*. While participants recognized that government administration must be responsive to changing societal norms through policy and legislative changes participants also stated that government must ensure social policy objectives do not inadvertently create harm.

“I want to protect my identity from being shared with my birth mother, and I want my anonymity. Without consent of the two parties where does the harm primary fall when one person’s rights are infringed upon? Rights versus desire- which is not a protected right in common law. How do you weigh the harm? Government cannot responsibly say it will be what it is.” (Participant)

“PEI IS SMALL”

A number of participants expressed concerns that while jurisdictions in Canada have enhanced access to personal identifying information contained in birth records and adoption records by amending their provincial legislation, PEI is a small jurisdiction with a population of 150,000 people, and should not be viewed as similar to other places. They cautioned legislators to take care and be sensitive to PEI’s small size, the unique culture of PEI, and the fact the province is an Island.

“It is a balance of interests that are individual – need very good input and considerations given to these interests. Just because other jurisdictions have changed doesn’t mean our unique/smaller jurisdiction needs to make the same changes in the same way.”

“PEI is small. The reality of any other jurisdiction not the same when applied to PEI and the strong interconnectedness of people in PEI.” (Participant[s])

There were those who felt that a shift in legislation could cause, “unintended negative consequences.” One participant indicated that many people are aware of birth parents and adoptees being reunited as a result of “*open secrets*” in the community, rather than a well-considered policy about open adoption records. Participants noted that people on PEI have been reunited because of family resemblances and not as a result of respective adoption party’s hopes, plans and desires. This type of unplanned reunion, they cautioned, does not always result in a healthy dynamic in a small Island community. Some

participants expressed a strong concern that the small size of the Island could have a negative impact on those who did not wish to have a relationship with the other parties to an adoption, if their identifying information was shared with those parties.

“PEI is too small. This is serious - a lot of people can be hurt and I am here to try to save people from that. Not everybody wants to be found.” (Participant)

One participant cautioned that PEI is a small province where everyone knows everyone. This participant expressed concern that if an adult adoptee or a birth parent did not obtain the outcome they were looking for in their search, resultant hurt feelings could negatively impact families, co-workers and communities.

In particular, there were many comments made by participants about the potential for harm caused by the release of identifying information, particularly when, in small places, people are closely connected and related.

“If an adoptee doesn't get their fairy-tale ending, two families on the Island are going to have 'hurt' feelings. A small province where coworkers, cousins and immediate families could easily be impacted by things not going picture-perfect... In cases of an adopted person not being welcomed by their birth parent or parents, then their degree of separation on PEI would be problematic. Following this, their immediate families, relatives, community and even co-workers could easily feel that they need to pick a side. This Island has a history of division being prominent. This seriously needs to be considered when reviewing adoption records.” (Participant)

The potential for personal harm to come, not only to individuals involved in an adoption such as a birth parent or adult adoptee, but also to their extended family, and neighbourhood was an argument rooted often in the uniqueness of PEI as a place. The context in which changes are made to legislation was viewed as important for many of the participants in community consultations.

“The size of this jurisdiction is challenging – unintentional consequences – you don’t know what kind of turmoil could result. The risk of finding out your fifth-grade teacher is your mother is significant in a jurisdiction of our size versus a large jurisdiction. PEI is not the same.” (Participant)

Yet others, who are advocates of open records, cited PEI being a small jurisdiction with a small population as a rationale for enhancing access to identifying information. For example, they expressed a concern that a person could be dating a relative if they did not know their personal history and biological background information. They also explained that disclosure of identifying information may occur outside of the current legislative scheme, as in a small place people know one another and their family histories. Consequently, in certain circumstances, identifying information has a greater likelihood of being revealed in a small jurisdiction.

RISK OF HARM

Most participants, who raised concerns of the risk of harm if careful consideration is not given to the appropriate balance of the right to privacy of personal identifying information and access to such information, stated that the retrospective nature of potential legislative amendments caused them the

greatest concern. A number of participants remarked that it is rare for government administrations to enact legislation retroactively.

“It may be that prospectively legislation changes and people know the rules going forward and make decision. To reach back retrospectively and change rules would not be appropriate and could be harmful, recognize some of these agreements were forced not sure we want to re- traumatize someone this way. What is done is done- leave what is there and on a go forward make changes. (Participant)

With respect to the potential retroactive amendments to the *Adoption Act*, this concern related to the personal trauma many parties to past adoptions have experienced. Participants expressed worry and fear that to retroactively reach back and disclose identifying information, when at the time of adoption the people involved understood such information would remain private, would cause unintended consequences that had a real possibility of creating harm to one of the parties.

“Good public policy - government saying no harm and benefits would outweigh – NO - it is too complicated and matter is too complex because of individual circumstances and personal to each person and then branch out to extended family - impact - dealing with a lot of people and a lot of ripple effects.” (Participant)

Some participants spoke about the harm that may occur if one party’s rights or needs are disproportionately preferred over the other without a thorough analysis on the impact of each of the parties. For some participants, in their view it must be clear that both parties are willing actors in the disclosure of identifying information and the receipt of that information.

“[It] Should be [that] both parties are willing participants to taking the risk in contact and sharing information. It is not good public policy to infringe in rights of privacy of one party for sake of 2nd party. Danger is in making a public policy shift can government say not going to create harm - can’t because too many variables that would be untenable.”

“We need to pay attention where there may have been significant trauma, mental health issues. Even though we are all adults, we may not have a level playing field.” (Participant[s])

Participants were clear that with any amendments made to the *Adoption Act* government administration must exercise due diligence in fully understanding the impact and consequences for all parties to historical adoptions, taking into consideration that the respective parties have unique and individual circumstances and the issue of adoption is sensitive and complex.

“[The risk of] unintended consequences could be huge. It is the responsibility of government administration to understand the challenges.” (Participant)

CAUTION WHEN ESTABLISHING POLICY: POWER (OF LOUDEST VOICES)

“You need to be really careful if you are going to change the rules, then you need to protect the interests of all parties.” (Participant)

The Advisory Committee is acutely aware that the most predominant voices throughout the consultation process were those who favoured open records. Those advocating for open records presented as a well-organized group who availed themselves of the various options for input to the

Advisory Committee. A national not-for-profit organization supported their viewpoint. They pointed to the trend in Canadian jurisdictions to amend legislation in favour of more open adoption records.

The Advisory Committee also heard from other participants who either expressed opposing views by advocating for the status quo with respect to closed records, or stressed the need to proceed cautiously when enhancing access to information in historically confidential adoption records. These voices were less vocal and not highly organized. For the most part, they presented their views individually and privately. They did not access the media to profile their perspectives. Generally, they were not known to each other and were not often present at the public forums.

“There is a significant power imbalance between voices of advocates and persons wishing to have records closed.” (Participant)

These participants requested that the Advisory Committee, and more importantly the legislators, not allow the loudest voices to overpower their individual and less visible perspectives. They believed that there were others who shared their viewpoint who had not come forward because of the desire for anonymity. They cautioned that their interest in requesting the right to privacy and self-determination regarding the disclosure of their personal information deserved the same level of importance and consideration as the louder more vocal voices advocating for enhanced access to personal identifying information.

They expressed grave concerns in *“advocates with loudest voices getting heard but may not benefit others”*. They indicated that the ultimate question for legislators is *“are one party’s rights more important than others?”* They likened the task at hand for legislators in analysing this issue as:

“It is like a judge scale - balance, what is important to people.” (Participant)

Some participants proposed that a way to balance the rights and interests was to ensure that if parties to an adoption wished to share personal identifying information with one another then the consent of both parties was the way to bring balance to the interests of the parties.

“[I] Don’t see anything harmful if you set up regulations to make sure both parties want to do this; It would be negative if one party pursued the other without consent.” (Participant)

GENDER AND DIVERSITY ANALYSIS

More than one participant in the consultation process contended that adoption policies affect women differently than men. The Advisory Council on the Status of Women strongly recommended that:

“Whatever decision government takes regarding adoption records, either to open them or to keep them closed, has different implications for people of different genders, be they adult adoptees, adoptive parents, or birth parents. Any changes to the current policy, and/or the current policy if the status quo is maintained, will require robust gender analysis to tease out the different implications for women, men, and other genders.” (Participant)

Many participants highlighted the past social pressures on women, especially young, poor or unmarried women, which resulted in many adoptions that were characterized by varying degrees of coercion and enforced by social and religious norms and misogynistic policies and practices. While societal norms

have changed with the passage of time, up to present day women continue to feel the onus to make decisions about their pregnancy; to continue the pregnancy, to raise the child, or place the child for adoption. Women continue to be disproportionately responsible for caregiving and are most often impacted when loss of parental rights precede an adoption. The Advisory Council on the Status of Women emphasized that these factors make women more sensitive or vulnerable to changes in the handling of adoption records.

When considering implications for birth parents, gender analysis is an important consideration. Many participants raised the issue of identifying personal information recorded on birth records. Birth records by necessity name the person who gave birth. A father may not be named on the birth certificate because they are unknown, because the father is unnamed due to the circumstances of the pregnancy (for example, a pregnancy arising from assault or abuse), or for other reasons only known to the birth mother. At one time, an unmarried mother was not permitted to name a birth father on the child's birth certificate. Later in time, there was significant pressure to name the birth father.

The Advisory Committee heard that adoptive parents may feel various social pressures. Society continues to place pressure on women to be mothers which may be a driver in people becoming adoptive parents. At times, adoptive parents may perceive they are the brunt of adoption practices that feel discriminatory based on their marital status, age or sexual orientation.

Participants also recommended that in addition to a gender analysis, diversity analysis is important in considering changes to the *Adoption Act*. They submit that diversity analysis looking at the specific Indigenous adoptees, birth parents and adoptive parents is required. Grave and important lessons have been learned from the Sixties (60's) Scoop that fractured so many Indigenous families and separated many adopted children from their lineage, traditional territories, languages and cultures and ceremonies by placing the Indigenous children with non-Indigenous adoptive parents. More than one participant indicated that special consideration be given to the inclusion of specific information and a requirement with respect to lineage especially as it affects Indigenous status, similar to special consideration and the requirement for familial health information in an adoption record.

SPECIAL CIRCUMSTANCES (SEXUAL ASSAULT/CHILD APPREHENDED)

Within the consultation process, the Advisory Committee asked participants, "should the adult adoptee or birth parent be able to protect their identity from being disclosed in certain circumstances?" Overwhelmingly, responses to this question centred around the major theme of traumatic circumstances leading up to an adoption, and the concern that sharing this information could be challenging to hear. Participants expressed that if there were *any* situations which merited the safeguarding of information, these were the instances.

Examples of especially traumatic situations leading to adoption were pregnancy resulting from rape or incest, or instances where children were apprehended by Child Protection Services due to parental harm. Those consulted believe that in each of the special situations they described, there may be an increased need for support if information is to be released.

“If the knowledge would in some way endanger either party physically or emotionally, there would be compelling circumstances to protect the identities. There would have to be safeguards in place for such instances.” (Participant)

One person mentioned that there may be situations where there was a threat to the well-being of the party in the adoption looking for information, and it may be advisable to withhold certain information.

“I think the interested adoptee or birth parent should be told why the identity is being withheld. For example, if the birth parent has a known history of violence and could harm the adoptee, then it might be advisable to not disclose the birth parent's identity. However, I'd still want to know the truth as an adoptee.” (Participant)

Another way to help protect those seeking information would be to check to see whether there is any history of violent behaviour by the party being sought.

“There may be some instances where the parents or the child are criminals and you might not want to become involved with them. Maybe a criminal record check could be done before contact so the child and the birth parents have some idea what they are dealing with.” (Participant)

Situations where opening adoption records could lead to negative impacts for birth parents or adult adoptees will be further discussed below.

SEXUAL ASSAULT

Consultation participants believed that if there were cases where special consideration should be given for the well-being of both a birth parent as well as an adult adoptee, instances of sexual violence were the prime example.

“Pregnancy as a result of an assault may be a valid reason for privacy.” (Participant)

Even those who were generally in favour of moving towards increased access to adoption records felt that there could be significant risk of harm to both the adult adoptee who would learn of the situation leading to their birth, as well as a risk of re-traumatizing the victim of sexual violence. It was indicated that for the birth mothers in instances of sexual violence, special considerations should be made regarding the potential opening of adoption records. There should also be care given for the well-being of the adult adoptee if the information about their biological parent could cause them harm.

The Advisory Committee was told a story of a child who had been conceived as a result of a rape, and had subsequently been placed for adoption. When the adult adoptee contacted the birth mother, she did not want any contact. After telling this story the participant said,

“there are certain circumstances where people don't want to be known. If there was an avenue to say 'no to contact' that would be important.” (Participant)

However, in spite of the challenging circumstances surrounding birth as a result of sexual assault, there remained those who felt that the information should still be *carefully* shared with the adult adoptee.

“There are situations of rape and this is not an easy situation but deep down but that child should have an inherent right to know family.” (Participant)

Most participants acknowledged that there are compelling and grave circumstances, such as sexual assault, where the disclosure of personal identifying information may not be in the best interests of the adult adoptee or the birth parent; however, the determination of such disclosure remains a highly individual and private matter.

CHILD APPREHENDED

There were many people who spoke of the risks associated with opening adoption records in situations where, rather than the child being given up voluntarily for adoption, parental rights were extinguished when the child was apprehended due to parental harm. There were many instances given where the Advisory Committee was told that the adult adoptee had a right to privacy from those who had harmed them as a child.

“The main challenge in opening up adoption records for adult adoptees arises from situations where Child and Family Services were required to intervene in an unhealthy or unsafe birth family life, leading to surrender of the child (or removal of rights to the child) and subsequent adoption. In these cases, allowing the birth parents access to information about the adoptee without the adoptee's consent poses a risk to their person. At minimum, it could create a situation where the adoptee receives unwanted contact from the birth parents, especially in a region where low population can mean that knowing a person's name is all that is needed to be able to identify and contact them.” (Participant)

Others agreed that the rights of the adult adoptee should be protected from a potentially harmful biological parent.

“The question of whether a birth parent should be able to access identifying information regarding an adoptee is rather a different issue. Birthparents whose parental rights were terminated due to neglect or abuse absolutely should not have the right to access information about an adoptee.” (Participant)

The Advisory Committee heard that not only should there be special thought and consideration given to whether information about the adoptee is given to the birth parent, but also how potentially damaging information should be shared with the adult adoptee themselves.

“[I’m] Thinking of the different risk factors, especially where department extinguishes parental rights due to abuse-currently add caution and more slowly.” (Participant)

In addition to thinking carefully about how to release the information, others wondered whether the information would be beneficial at all.

“[I have] seen children taken away, and I’m not sure there would be benefits for these adult children now [to have their records open].” (Participant)

The need for personal supports was said to be the greatest for adult adoptees who may learn that their adoption history included unpleasant circumstances, and therefore the risk of harm and the need for support was also the greatest.

“[If they were] removed due to parental harm and if no supports are given, this person has a gaping hole with wounds if we don’t provide appropriate support.” (Participant)

Overall, with respect to special situations where the conditions within which an adoption took place were not positive, there was a great deal of conversation about the need for support and for people to be very careful that the release of the information does not harm any party involved in an adoption.

OFFERING CHOICE

Since participants held opposing views on maintaining closed adoption records, or alternatively, opening adoption records to enable enhanced access to personal identifying information and since consensus may not be possible amongst the parties, many indicated that offering choice to people affected by historical adoptions would be an effective way to mitigate harm or limit unintended consequences flowing from legislative amendments. Most participants, with the exception of members representing Open Records PEI, stated that if government decides to move to open adoption records in PEI, people must be provided with options in legislation, especially for adult adoptees. The Advisory Committee often heard that, as a child, people did not have a choice in being adopted, and therefore choice is vitally important to a number of adult adoptees in any amendments respecting enhanced access to information in adoption records.

“Adoption is not a science based discussion. There is no right or wrong. It’s personal beliefs, and the law has to respect all parties involved.” (Participant)

Participants cautioned against a “one size fits all ‘approach’ “. They noted that it may be tempting for legislators to treat every situation similarly in legislation as that is the simplest approach; however, many participants advised, given the complexity of individual circumstances surrounding historical adoptions, legislators should avoid simplistic approaches. Legislative mechanisms that offer people choice to customize their individual approach and response to sharing of personal identifying information and contact with other parties to the adoption is necessary, in their view.

“[It’s] hard to say let’s open everything because it is so individual.”

“Circumstances are all individual and [it is] challenging to create a legislation that addresses all individual cases.” (Participant[s])

In sum, participants recognized the highly personal and individual nature of adoption records. There were strong opinions supporting and opposing changes to current legislation. Careful observers remarked that individualized solutions would be a preferred approach.

“Legislation is [a] blunt tool when applied to personal situations. Legislation is not able to be fine enough to meet every individual person’s needs in every circumstance.” (Participant)

Implementing a legislative scheme that offers choice to individuals impacted by adoption was considered one way to acknowledge and recognize that each party to an adoption has different interests, needs and desires and would enable each party’s interest to be balanced by the other’s interest.

NO CONTACT OPTIONS

Among the options discussed in consultations were the ways in which other jurisdictions have implemented provisions to help ensure that the information of those who wished to remain private was kept confidential. There are two main methods for ensuring this: vetos of release of identifying information, and “no contact” preferences noted on files when information is released. The primary purpose of each of these measures is for individuals to have choice.

“Yet, if a party does not want to be found, sadly, this ought to be respected.”

“We believe that should any changes arise in the future with opening up adult adoptees records, adult adoptees (or their adoptive parents prior to the adoptee reaching adulthood) should be able to decide to close the records and put the decision of having their personal information shared back in the hands of the adoptee when they reach adulthood. We do not believe that choosing to close the records should have to be justified by the adult adoptee or the adopting parents.” (Participant[s])

The Advisory Committee heard more from adult adoptees who wished not to be contacted, more than other parties to an adoption. Additionally, there was more support for offering “no contact” provisions for adult adoptees than other parties to an adoption such as a birth parent.

“I think the adoptee should have the option to opt out of contact. They should have control over their emotional health, though offering a mediation solution to notify the adoptee someone is looking for him is a good compromise. I can't think of any legitimate reason why the birth parent should have that option.” (Participant)

What is a veto?

A disclosure veto filed by either a birth parent or an adult adoptee prevents the post-adoption registry service housed within a provincial government department or division (which varies from province to province) from disclosing or releasing identifying information about the person who files it. If the adoption was finalized pre-legislative amendments the adult adoptees and birth parents have an option of filing a veto to prevent the release of identifying information. There is no deadline for filing veto applications, it is ongoing. A veto expires following the death of the party that applied to have it placed on their file. Depending upon the jurisdiction this expiry occurs immediately, one year or two years following the death of the party who applied for the veto.

Veto Release of Information

One participant indicated that they reviewed models from other provinces that have enhanced access to identifying information held within adoption records which provided options for a veto for a birth parent or an adult adoptee when that adoption took place before the change in the provincial legislation. Along

with other participants, they noted and expressed a concern that this placed an onus which required an action on the parties to an adoption to register their preference to not have their personal identifying information released. Some participants expressed a concern that for both adult adoptees and birth parents communication of this positive onus to make a request to protect personal identifying information may be challenging and many people would face barriers and challenges in accessing and signing a veto.

Participants identified certain segments of the population who would experience a differential impact of the requirement to file a veto. Primarily, participants expressed a concern about seniors such as aging birth mothers, those who were affected by a cognitive disability, or those persons who simply did not have knowledge of changes to the Adoption Act and the requirement to file a veto or a “no contact” preference.

“Even with a veto- how do we get to those without capacity or knowledge. It is fundamental- can’t think of anything more deceptive. I didn’t have control as a child but I do now as an adult and do not take that away from me.” (Participant)

For some adult adoptees who participated in the consultation process, the option of a veto is absolutely necessary to protect their privacy and their peace of mind, and must be part of any new legislative amendments should legislators feel they must amend the *Adoption Act*:

“...someone possibly a government official, contacts me to say someone is searching for something about me and that I have to reply, I have the right to and will say no, but that initial contact has already breached my privacy. I now know that someone is looking for me... and I do NOT want that information. That phone call can never be undone... It makes me sick to my stomach to think that any day, that call could come. Will I always have that nagging fear in the back of my mind?”

“[I am] Supportive of veto process. I don’t want to be contacted and I don’t want my information shared. While we are all adults, all adults do not behave accordingly. People do not always comply [with rules such as a ‘no contact preference’] and could land on my door step.”

“As an adoptee, I would say to my birth parent, ‘You chose not to raise me and you gave up your rights to me.’ I am concerned for my [adoptive] mother, I don’t want her to be contacted and put her through this. Trying to take away my consent now. When as a child I had no say. You don’t get to come fifty years later and disrupt my life.” (Participant[s])

A number of participants suggested that consideration should be given to one set of rules for historic adoptions, where parties to agreements, both birth parents and adult adoptees, made agreements under one set of rules and assumptions. Prospectively, a new set of rules could come into effect with the new or amending legislation for adoption records arising from adoptions finalized on a date subsequent to the enactment and proclamation of the new or amended legislation.

No Contact Provision

The “no contact” provision was spoken about within two separate contexts. Firstly, for adoptions moving forward under a system of open records, all parties would be aware that records would be opened to all parties at the age of consent of the adopted child. If an individual preferred not to have contact with others, they could place a note on their file indicating such. The second circumstances

within which “no contact” preferences were discussed were in regard to historic adoptions which could become open if changes are made to legislation. It was discussed as an option *instead of* the veto of the release of information.

“Please consider not allowing an information/identity veto, but including a provision for a no contact order for the mother or the adoptee.” (Participant)

There were very strong opinions in opposition to providing an option to veto the release of information. Among those who were not in favor of providing this personal choice, they stated that if a veto were filed, all other parties to the adoption are therefore unable to access any information about that adoption. There were those who felt that this was unreasonable, and that the information should still be released with an individual permitted to make a preference noted on file to the effect that while information was provided, they desired no contact. The Advisory Committee heard a variety of different of perspectives on this. Among those who felt it was a good option, they explained a “no contact” request as,

“Information will be shared but people will be able to say ‘I know you have my information but I prefer to be contacted (in a particular way).’” (Participant)

There were those who supported an individual’s desire to keep their personal identity private, but suggested that if it were the birth parent wishing not to be contacted, that medical information could be provided to the adult adoptee at a minimum.

“Yes, no contact, but can you give some updated medical and info to help put closure for the other party.” (Participant)

There were others who were more skeptical of “no contact” requests. Among those who did not wish for a relationship with other parties to an adoption, they did not feel comfortable that if others were given access to identifying information, they would simply sit on it and honour their request to be left alone. Others questioned what the consequences would be for those who violated the “no contact” requests. And there were individuals who questioned “How do governments police ‘no contact (provision)’?” How do they enforce these? All of these questions led to those who legitimately wished for “no contact” to feel uncertainty around opening adoption records. They did not trust that adequate resources would be put in place to ensure “no contact” provisions would be upheld and enforced. They questioned enforcement capacity and efficacy.

RESOURCES TO SUPPORT CHANGE

A number of participants recognized societal values have changed. They believe that enhancing access to personal identifying information in adoption records, that to date has been held as private, would meet the needs of numerous searching adult adoptees and birth mothers for the reasons previously outlined in this report; however, many participants also stated that there are complex dynamics which often exist for parties affected by adoption, such as unresolved grief and loss. Many participants expressed the view that it would be irresponsible of legislators to enact amendments that opened adoption records without the appropriate resources, both human and financial, to support people affected by such a shift in policy direction.

“Importance of public education and supports - huge! Not just a legislative amendment – professional resources are required. It is so fundamental” (Participant)

Additional professional services were most often identified as the resources required to support Islanders who have been impacted by past adoptions to successfully navigate any change in the current legislation and subsequent changes to Adoption Services policies and practices. Presently, there are two people with a professional social work designation working within Adoption Services. One person is dedicated to Post-Adoption Services to assist adult adoptees with active searches, to support adult adoptees and birth parents or birth siblings who have registered on the Reciprocal Registry, and to help those searching for non-identifying background information. Under the current legislative regime, described as a closed adoption records system, Adoption Services staff are challenged in responding to requests for information that is available under the current legislation in a manner that is as timely as clients would prefer.

“Professional services being available is important even if identifiable information available. Very important - with no support going opening up record – hurt - may be able to stop some hurt before it starts. If not great news is delivered professionally it can be positive and not create harm. There are situations where one party wants it more then the other party and this can be difficult- person in the middle helps.” (Participant)

MAKING CHANGES KNOWN THROUGH PUBLIC EDUCATION

Many participants indicated that if changes are made to the current legislative scheme which has the effect of opening access to personal identifying information held in historic adoption records, a robust and extensive public education plan and process must be put in place well in advance of the enactment or proclamation of such legislative amendments.

“With any change there is a need for education and awareness.” (Participant)

Participants stated it is crucial that Islanders be informed of any changes that are coming; particularly in the case of birth parents who may not know that the public consultation has taken place, or for adult adoptees who do not wish to have a relationship with a birth parent. Any right to a veto or a “no contact” provision must be fully explained and offered in such a way that people can make individual decisions about how they wish to respond to specific legislative changes given their respective personal circumstances.

“If there are changes going forwards important to give good info to the public on what is and is not available” (Participant)

A strong public education component to any changes to the *Adoption Act* is viewed by all participants as a critical component going forward, whether they oppose or support enhanced access to identifying information in adoption records. More specifically, any public education component must identify what is currently available to parties to an adoption, in addition to the impact of any potential future legislative amendments on the access to and disclosure of identifying information.

PERSONAL SUPPORT SERVICES

The Advisory Committee was told by many participants it is imperative to consider the personal trauma that parties to historical adoptions have experienced and most particularly, but not limited, to those adoptions finalized in the post-war era from 1950's to 1970's.

"Moms are traumatized by closed adoption 1940-1975 – fragile people in a lot of cases... they are terrified to open to pain from the loss of their child." (Participant)

The majority of participants, whether they are for or against legislative changes to enhance access to identifying information in adoption records, expressed the belief that in order to act responsibly given that government has full knowledge of the past personal trauma experienced by numerous parties to historical adoptions, government must put in place adequate professional supports for persons who wish to access them. At minimum, people must be given a viable option to access available supports as they navigate personal decisions about disclosing or obtaining identifying information and potential contact with a birth parent, a birth relative or an adult adoptee.

For some, the importance of such professional supports arose from positive experiences arising from the current Post-Adoption Services.

"In the last year, my biological mother reached out to me through a provincial government with closed adoption records. I can't overstate this: **it was one of the most unsettling experiences of my life** (I can't imagine what it would be like for someone who didn't know they were adopted). It brought back all those feelings of being less. It reinforced that I have a different history from my other siblings despite sharing everything else about our upbringing. I was impacted by intense feelings of anger, guilt, curiosity, suspicion and on. It took me a year before I decided what to do. During that time I was able to speak to the social worker who acted as an intermediary between my biological mother and me. I am incredibly grateful to this person for talking to me about this shocking experience. I can't imagine what it would have been like without her." (Participant)

Other participants cautioned that government run support services may not necessarily be viewed as helping services and may be viewed as potentially causing harm, because of the context of a birth mother's past personal experience with publically run or funded agencies. Consideration must be given to the fact that some people will not require or desire support from Adoption Services staff and will access alternative services.

"Adoption Support services need to understand many of these people have been traumatized by support services as last time they saw a support worker was to give away their child. It's like a perpetrator giving counselling to the victim." (Participant)

Also, participants expressed concern for the current limitations within PEI in accessing timely mental health and counselling services, recognizing that it cannot be the role of Post-Adoption Services to offer dedicated one-on-one long term counselling services for people who may experience the re-emerging of past personal trauma and require more intensive counselling support.

"My two large-scale concerns for open adoption records on Prince Edward Island include the size of the province and lack of mental health services." (Participant)

COUNSELLING

Many participants offered the view that an increased need for counselling will be an expected outcome of enhanced access to personal identifying information in adoption records. They believe, although improving access to such information may be an important step for parties impacted by adoption if that is what the parties' desire, the manner and care in which such information is shared is critical to supporting a respectful and potentially positive experience. Professional support and safe-guards will need to be in place in the event the experience is not positive for one of the parties and has negative consequences.

"My second concern is the lack of mental health services on the Island. If records were to be made open, I feel that counselling, family therapy, and numerous mental health services should go hand-in-hand with the process. As it stands, Island Health services are dismal in many areas. I do not foresee the process of open adoption records being offered services, as addictions/ suicides etc...

Have been fighting for years for adequate services. Most major life decisions come with counselling (picking secondary schools, pre marriage, being diagnosed with lifelong disease(s), surviving traumatic situations) and having adoption records opened is a major life decision. I believe this idea needs to be revisited down the road after certain precautions have been put in place Island wide! As it stands I do not feel this is an appropriate time to be opening records." (Participant[s])

Many participants also believe that access to important professional supports will be key to such a change in public policy. They are of the view that disclosure and access to identifying information that was previously held as private personal information requires careful consideration. Appropriate access to professional counselling services, including personal and family counselling, and community mental health services, will be required as needed by the parties and must be available.

Mediated Reunions

Some participants strongly believed, should government determine that there is to be a change in public policy and legislation to enable open adoption records in PEI, there should be government resources and appropriate interventions to support the reunion between parties in an adoption.

"I have no problem if reunification is facilitated by [a] professional resource, with consent [of both parties]. (Participant)

Participant viewpoints ranged in terms of the intensity of intervention required and available. Some advocated leaving people alone to sort out a reunion without assistance. Many spoke of available Post-Adoption Services programming ensuring professionals with subject matter expertise in post-adoption services and re-unification are in place to help parties impacted by adoption and disclosure of information. Other participants spoke about establishing a reunification office staffed with qualified professionals to which parties to an adoption could be directed for services.

ENHANCED HUMAN AND FINANCIAL RESOURCES

The participants who supported government funded resources to support access to and disclosure of personal identifying information, contact with parties to past adoptions and possible reunification stated that legislators and government administration must ensure there are adequate human resources in place to responsibly manage the demand for services that will arise from such legislative changes. They caution that government should not make these changes if government is not prepared to invest in the appropriate human and financial resources required to responsibly support such a shift in public policy.

“Flood of people and a team of three FTE’s (in Adoption Services) may not be able to respond to volume of open records; Need to put in place appropriate resources in a way that is individualized.”
(Participant)

As with any legislative change in the past that has enhanced access to information in government records, appropriate resources must be in place to respond to the demand that will follow.

OPPOSING VIEWS - ADVOCATES ON BOTH SIDES

As outlined within this report, participants in the consultation process offered diametrically opposing views to enhancing access to identifying information in adoption records for adoptions finalized in PEI. Some participants provided compelling arguments for maintaining the status quo and advocated that identifying information held in historic adoptions records remain private and confidential unless the party to the adoption consented to the release of the information to another party in the adoption. Their argument rested on their right to privacy. They believed retroactively amending the *Adoption Act* to enable the release of their identifying information leaving them with an obligation to actively file a veto or a “no contact” provision would constitute an unreasonable infringement on their right to privacy, primarily because at the time they entered into the adoption agreements they believed their personal identifying information would not be disclosed and the records would remain sealed. They further stated that there were appropriate mechanisms currently in place within the current *Adoption Act* regime that enabled the sharing of both non-identifying and identifying information that did not unreasonably infringe their right to privacy.

Other participants strenuously advocated that the movement, across provincial and territorial jurisdictions within Canada and countries outside of Canada, to open adoption records and enable greater access to identifying information in historic adoption records is grounded in large part by the fact that societal attitudes have changed. They contend that the need for secrecy in adoptions led by illegitimacy, the shame of birth mother’s and the shame of infertility of adoptive parents must end. They cite a number of compelling reasons for enhanced disclosure of personal identifying information; including, the right for adult adoptees to access their own personal records, the need to access important medical information, the desire to find biological family members, the desire to learn of one’s identity and heritage, the desire to develop relationships with biological family members, and the need to bring closure and resolution to a “missing piece” in their life. Some held the firm belief that consenting adults could make their own decisions about whether to have contact with another party to the adoption without government support or interference.

The challenge for government administration and legislators in deciding to what level or degree information will be freely available through potential amendments to the *Adoption Act* is that the arguments on both sides of the issue are not only compelling, they are contradictory; particularly regarding contact preferences. A major factor for those who wish to remain anonymous is that not only do they not want to have a relationship with the unknown party in the adoption, it is that they have made it clear that they do not want to *know* that others are searching for them at all.



"I don't want any relationship. Please don't share my contact information with strangers."



"Give me the information. If you don't want a relationship, you can tell me that."

PROTECT MY PRIVACY - LEAVE ME ALONE

Certain participants expressed the following opinion: *No relationship wanted: Government as protector. I don't want anyone contacting me, and I don't want to have them knocking at my door.*

A number of participants stressed that they did not want to know that someone was looking for them. They remain concerned about this kind of intrusion or disruption in their life and they hold the view that the current legislation protects their right to privacy so that they can live their life relatively free from the fear that someone will come knocking on their door. They believe that the adoption agreement that was entered into years ago contemplated that their identity would remain private unless they chose to disclose their identity. Further, they expressed grave concerns about the potential harm that could come from people accessing their personal identifying information.

"One experience could be traumatic. No contact provision the psychological impact- your anonymity is gone. I want to protect my identity from being shared with my birth mother and I want my anonymity. Without consent of the two parties where does the harm primary fall when one person's rights are infringed upon? "Rights versus desire- which is not a protected right in common law. How do you weigh the harm? Government cannot responsibly say it will be what it is." (Participant[s])

One adult adoptee expressed their perspective in this way:

"Birth parents had a choice, and I see this as their push to take over my rights." (Participant)

GIVE ME THE INFORMATION - SELF-DETERMINATION

Other participants expressed the following opinion: *Looking for information: Self-determination. Give me the power, I'll work out the details on my own*

The counter argument against maintaining closed records is that as adults, people are free to set boundaries regarding their preference for contact and relationship themselves, without government interference. They do not want government intrusion, rules or regulation, with respect to who they may contact and enter into a relationship.

“would have the same protection under law as any other Canadian citizen. They have the right to privacy and boundaries as does everyone else, but privacy is not the same as secrecy... Privacy is an individual's right to protect their personal information from public scrutiny, it's about an individual's right to set healthy boundaries. Any natural parent once contacted by their child, has the right to set boundaries for themselves, the government has no right to set boundaries for them.”

“whether two people speak, meet or have a relationship, should be a decision that is left up to the adult parties involved, not to a government or private agencies that hold a person's personal information from adult citizens” (Participant[s])

Among those participants who advocated for **full and unrestricted** access to identifying information, they indicated that there should be no strings attached regarding the access to and disclosure of personal identifying information including that of a third party, for example, the birth parents. They believed that people should exercise self-determination with no government intervention. They advocated that there be no vetos permitted that would block access to information by one of the parties and no mediated reunions of parties to an adoption through government funded services or professionals. Essentially, they held the perspective that no publically funded supports were needed; government agencies should provide the identifying information upon request and then let the party to an adoption figure out what to do with the information on their own.

“The adult adoptee or birth parent should not be able to protect their identity from being disclosed no matter what the circumstances might be.” (Participant)

There were very strong opinions shared which opposed support services reflected in the following quote:

“The biological parent may not want any contact with a child they relinquished but the fact is the child is a human being and deserves to know its family and medical history. They may want to close the book on that chapter in their life, but the fact remains there is a human being that knows nothing about themselves and it is hard to protect yourself if you are not informed.” (Participant)

As stated earlier, strong proponents for opening adoption records argued both against the option for personal vetos, as well as against mediated reunions and these views are reflected below:

“No forced intermediary services as a condition to receiving one's own records. Adults are free to both contact and refuse contact with other adult.”

“There may be people who don't want to be found; government shouldn't be an intermediary for these adults, they can say 'no'.” (Participant[s])

OPPOSED TO THE VETO

Those who advocated that identifying information should be accessible and disclosed to parties impacted by adoption believed that providing a birth mother with the opportunity to file a veto effectively denied an adult adoptee of any opportunity to understand their biological reality, their family history, their ancestors and their child's ancestors. It also barred other related parties (aunts, uncles, grandparents and siblings) from knowing or making contact with the adoptee, effectively holding the adult adoptee's identity hostage through the use of a veto. Those who held this view had the strongly held view that contact between adult adoptees and birth parents is up to the adult parties involved and should not be subject to government or agency intervention.

"Mothers have no moral or ethical right to deny their children knowledge of who they came from, their ethnicity, or their medical history. It is immoral and unethical to have the power to deny an adult adoptee any avenue to find these things out because the natural mother has barred her identity from being disclosed".

"I would like the veto gone. Adult children have a right -full stop - they are the priority."

"Birthparents should not be able to prevent their identity from being disclosed to adoptees under any circumstances. There is no such thing as a right to anonymity from one's offspring." (Participant[s])

These participants requested that the Advisory Committee communicate to government and legislators their concerns with respect to the use of a veto; permitting parties to an adoption finalized prior to any legislative amendments to file a veto preventing the disclosure of their identifying information. The participants believed that a veto should not form part of legislative amendments to the *Adoption Act* going forward. They stressed the distinction that should be made between mechanisms such as a veto and a "no contact" preference being available to parties in any potential amendments to the *Adoption Act*.

'Please consider not allowing an information/identity veto, but including a provision for a no contact order for the mother or the adoptee. The no contact order and veto are often treated as if they are one and the same. They shouldn't be whatsoever. They are not the same at all and should be treated as what they are: two separate things. This has devastating effects on someone searching because there are many who have a strong interest and need to know where they come from, who their ancestors were, or the history of their natural family."

"A no contact preference should also apply to adoptees, as it does to natural mothers, however an identity veto is not ethical or just for anyone. Though they should have the right to include a no contact notice, they should not be allowed to hide their identity (their new name) from their parent, siblings or immediate family."

'The *Adoption Act* should not accommodate the receipt and monitoring of veto's to prevent release of information from any part of the triad – if there must be something, then advise those parties to request a no contact order from proper authorities – not regulated under the *Adoption Act*.

"[Birth] parents have no right to deny release of their identity to their child. To ask the government to keep their identity secret is to ask the government to perpetuate the shame, guilt and secrecy of the past." (Participant[s])

An argument that was posed with respect to the veto and its efficacy in protecting personal information is that DNA testing is available to people. One person specifically said,

“Vetoes don’t work now with DNA: I will contact sibling then as no law against that.” (Participant)

When Advisory Committee members spoke with those advocating against any mechanism that would restrict access to personal identifying information, Advisory Committee members questioned whether there were special circumstances where personal identifying information should be protected from disclosure. Other participants in the consultation process had identified circumstances such as special situations of violence or when children were permanently removed from parents, as cases where disclosure of information could be potentially damaging and special care needed to be taken. However, there remained advocates, despite these special situations, who spoke passionately about the need to gain access to this information.

“Children conceived in less than pleasant circumstances (like rape or incest), have the same rights to information about their past as anyone else – though not pleasant to learn, it is still a part of their life. The details of the information received are not as important as having that information available.” (Participant)

A question remained for many participants as to how this information could responsibly be shared with individuals who are parties to an adoption arising from such special circumstances, if one considers that those who believe the information should be shared are often not in favour of government supported services facilitating the disclosure of information and mediated reunions. Participants spoke about the need for legislators to ensure that harm and unintended consequences did not flow from potential amendments to the *Adoption Act* given the complex and individual nature of adoptions.

ADVISORY COMMITTEE OBSERVATIONS

The Advisory Committee received representation from each of the three parties to the adoption triad. As presented in this report, the representation varied significantly amongst the three parties to the triad; the adult adoptee, the birth parent and the adoptive parents. Advisory Committee members were struck by the complexity of the subject matter at hand; whether to “open” adoption records to enhance disclosure of or access to information that is currently maintained as confidential personal identifying information requiring the consent of the parties; and whether to share the information more openly retroactively as well as prospectively. The realization of the complexity of the public policy direction to be taken by legislators going forward became more apparent to Advisory Committee members throughout the consultation process as diverse and intensely personal perspectives were shared with Advisory Committee members.

A key observation of Advisory Committee members was that the voice of searching parties, those parties to the adoption triad who are interested in finding out about each other by accessing information about one another and have compelling reasons for doing so, are supported by a well-organized not-for-profit advocacy group at both the provincial and national level.

The non-searching parties to the adoption triad, who would prefer to remain anonymous or express their views in confidence to maintain their privacy, are unlike the searching population. They do not have groups advocating on their behalf or loud voices of support. This was also noted in the case cited at page “71” of this report, *Cheskes v. Ontario (Attorney General)*. The voices of the non-searching parties were made known, for the most part, in one-on-one confidential meetings with members of the Advisory Committee, or through confidential written submissions to the Advisory Committee. At one public engagement session, where only one person attended, the person stated that they were glad no one else attended, as it enabled the person to openly share their personal story, their views on historical adoptions, and perspectives on access to and disclosure of identifying information of birth parents and extended family. The person stated they would not have spoken if others had attended the session because of their concern that others in attendance would strongly oppose and judge their viewpoint.

The Advisory Committee members also took note that those seeking enhanced and open access to and disclosure of identifying information held in adoption records used the media to advance their viewpoints and to persuade others of the same. Almost all articles, letters to the editor and journalism pieces were dedicated to the viewpoint of those who sought access to identifying information rather than those who desired privacy protection and anonymity. The Advisory Committee noted that while it was logical that birth parents and adult adoptees preferring privacy protection and anonymity would not choose the media as a vehicle of choice to make their views known, the disproportionate number of articles and opinion pieces in favour of access to and disclosure of identifying information in adoption records potentially had the effect of giving viewers of the media, and as a result most Islanders, the impression that this was the prevailing view **of all or most parties** to an adoption. The Advisory Committee is cognizant of the fact that the Advisory Committee may not have heard the perspectives of

parties to adoptions who simply do not wish to be found or identified. As a result, there is no real certainty in measuring the numbers of people who hold this viewpoint.

IMPACT OF LOBBYING BY ADVOCACY GROUPS

Participants shared how the impact of activism by advocacy groups affected each of them differently, depending upon their personal experiences. Some participants were grateful for the activism of such groups as it gave a “voice” to their particular perspective and viewpoint. Others felt pressure to adopt the viewpoint of those who were searching and seeking personal identifying information of another party to their adoption. In a private meeting, one of the participants recounted how they had been contacted by an advocacy group, with the specific purpose of convincing the individual to support opening adoption records.

“I had no choice as a child and this seems to be a way for coalition to jam through without everyone agreeing. I was contacted by group and it didn’t go well. A woman contacted me who was looking for birth child—guilting me— [She made an] emotional plea to heal the whole in her heart, and my response was that she had made her choice.” (Participant)

Others, spoke of the strength and support they had received from Open Records PEI and Origins Canada. Their connection with these organizations and, specifically, the people within the organizations has helped them feel less alone in their need, desire and quest for information about and potential connection with a birth parent or their adult child. Origins Canada also supports people impacted by adoptions who have experienced trauma through unresolved grief and loss.

LACK OF FEEDBACK FROM BIRTH PARENTS

A further observation made by the Advisory Committee was the lack of feedback received from birth parents who wished for adoption records to remain closed. The Advisory Committee did not receive submissions from such birth parents. It was difficult for the Advisory Committee to analyse what the lack of feedback meant. The Advisory Committee determined that it was not appropriate to make the assumption that all birth parents want to know about and reconnect with the child they placed for adoption so many years ago. Birth parents most likely have differing reasons for not making their presence known; including, they may wish anonymity and have no desire to revisit this time in their life, the personal trauma they experienced at the time they placed their child for adoption may continue to be a barrier to coming forward at this time; they may no longer have the physical or cognitive capacity to participate in such a consultation process. Ultimately, the Advisory Committee has learned through this consultation process that there are diverse personal and individual reasons as to why a person may have chosen to participate or not participate in this consultation and it would be irresponsible for the Advisory Committee to speculate on the rationale for not hearing from birth parents who wish adoption records to be closed.

RECOMMENDATIONS

Throughout the consultations, a frequent topic of discussion was the small size of PEI. The tight-knit community has created challenges for maintaining closed records. However, a number of participants also expressed a concern for the potential for harm to occur to parties impacted by historical adoptions who, despite the small size of the jurisdiction, have been able to maintain the privacy of their identifying information over the years.

The small geographic size and population of PEI may prove advantageous from a policy-change perspective. PEI's smallness could afford the opportunity for legislators and policy makers to adopt changes in legislation and accompanying policies and procedures that are different from other jurisdictions, yet responsive to the desires of parties impacted by adoption, more specifically, and Islanders, generally. The small size of PEI has been raised as a factor both in favour of and in opposition to enhancing access to identifying information in adoptions records. It has also been identified as a reason for thoughtfully considering what particular changes would be most appropriate in terms of enhancing access to such identifying information given PEI's unique size and culture.

"Feel like it [opening the records] is the next step forward. But why does it have to be one or the other? It is not one size fits all." (Participant)

Participants cautioned Advisory Committee members to consider PEI's small size, in addition to the following factors, in making recommendations on enhancing disclosure of and access to identifying information in adoption records to the Minister responsible for Department of Family and Human Services and the *Adoption Act*, as well as other legislators.

Participants stressed the need to balance the right to privacy, to not disclose an individual's personal identifying information without consent of the person, with the compelling need for access to personal identifying information by a third party for the reasons discussed in the themes outlined above. The primary rationale given for maintaining an effective balance is to acknowledge that personal harm and trauma has impacted many parties to past adoptions and government administrations have a duty to not create further harm. It is poor public policy to introduce legislative changes that, through unintended consequences, recklessly uncover, revisit, or exacerbate harm and trauma, personally experienced by some parties. A number of participants spoke about ensuring that there is minimal infringement on a party's right to hold their personal identifying information confidential and the need to maintain the right to privacy, by not having it disclosed unless the party consents.

Participants further stressed that in developing and advancing recommendations, Advisory Committee members must guard against preferring the "loudest voice", given the experiences of all parties to an adoption are intensely personal and individual, and ultimately all voices and perspectives should be appropriately reflected in any recommendations put forth for consideration by the Minister of Family and Human Services on behalf of her Department, and other legislators. "Silent voices" should also be considered, which are for the most part, voices of birth mothers and fathers who do not want records to be opened and wish to remain anonymous.

Participants who have experience in policy development and evaluation of the differential impact of public policy and legislation on disparate groups and populations caution that responsible changes in public policy apply a gender and diversity lens to ensure that potential unintended consequences are considered and evaluated before changes in public policy is implemented and legislation is enacted.

The following outlines the potential range of options developed by the Advisory Committee members for the consideration and decision making of policy makers and legislators. The options are grounded in the diverse viewpoints expressed by participants throughout the *Adoption Act* Review consultation, as well as the Advisory Committee's review of the changes made in other Canadian jurisdictions, including judicial consideration of the Province of Ontario's initial legislative amendments to their provincial *Vital Statistics Act*.

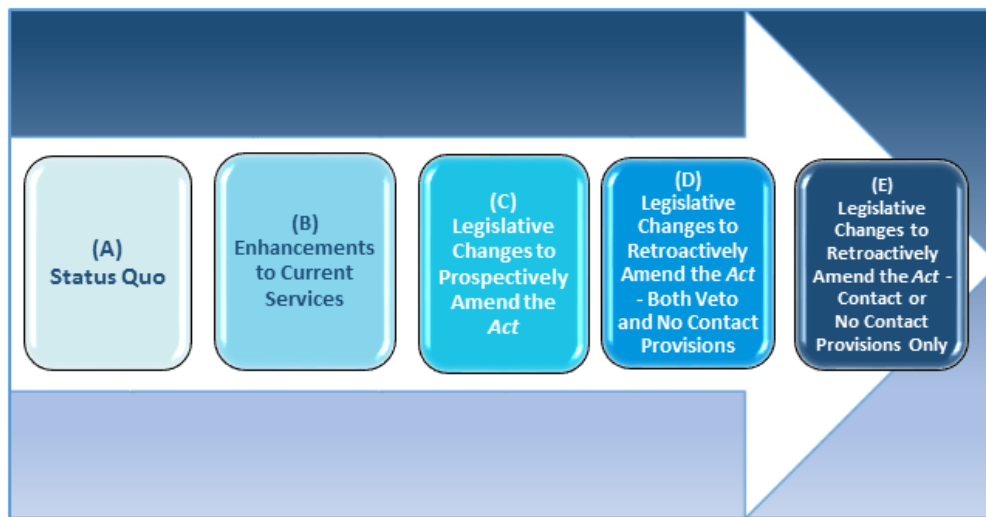
The scope of the Advisory Committee's mandate did not encompass a review of the impact of legislative changes which have occurred in many other Canadian provinces to enable the "opening" of adoption records to enhance access to identifying information held within adoption records. Prior to adopting the options and recommendations identified below it would be prudent for policy makers in PEI to canvass the various jurisdictions for the impact on parties to adoptions, if known, following their respective legislative amendments, including any unintended consequences which occurred as a result of legislative the changes.

Furthermore, as with any legislative change that enhances access to information in government records, appropriate resources, human, financial and technological, must be in place to respond to the demand that will follow.

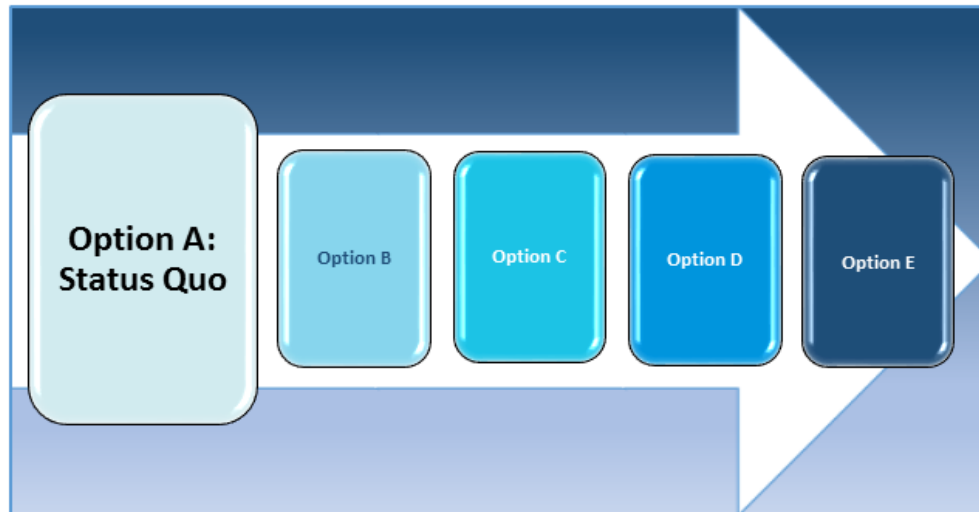
OPTIONS AVAILABLE

Advisory Committee members developed the following options for consideration by the Minister of Family and Human Services, government policy makers and legislators. The five options lie on a spectrum. At one end of the spectrum where the status quo is maintained, the balance of rights and compelling interests is weighted in favour of the right to privacy with respect to identifying information held in adoption records; to the opposite end of the spectrum where the PEI *Adoption Act* is amended retroactively and prospectively permitting access to identifying information of the adult adoptee and birth parent held in historical adoption records, permitting only a "no contact" provision for parties who determine they do not want contact with one another following the disclosure of identifying information.

The range of options moving from preserving the right to privacy to enabling access to identifying information in adoption records are presented below.



OPTION A: STATUS QUO IS MAINTAINED



The current PEI *Adoption Act* strikes a balance of rights and interests which remains weighted in favour of the right to privacy for the adult adoptee and the birth parent. Access to non-identifying and identifying information in adoption records to parties of the triad is permitted and requires the mutual consent of the parties for disclosure of identifying information. Current legislative and policy mechanisms support provision of post-adoption services which enables access to information or disclosure of information in certain circumstances. The current services available which facilitates the sharing of information held in adoption records is described below.

Non-identifying background information is provided to adult adoptees and adoptive parents upon application to Post-Adoption Services.

For adult adoptees, details of the adoptees history can include, where available in the file, information about:

- a. The adoptee's birth history and early development
- b. Physical description of birth parents
- c. Health information (known at time of adoption)
- d. Religion
- e. Occupation
- f. Particular Interests
- g. Circumstances regarding the plan of adoption

Information does not include identifying information such as names, dates of birth, or addresses of birth family members. It may be limited and is not current.

For birth parents, some background information can be obtained including:

- a. Confirmation of the adoption
- b. The jurisdiction in which the child's adoption took place
- c. If available, the child's progress when being prepared for adoption

The **Reciprocal Search Register** enables people who were impacted by an adoption to register their willingness to exchange updated information and if desired to have potential contact with one another. Mutual consent of the parties is required for information to be shared and for contact to be made. The possibility of a reunion may be explored on the consent of both parties. Adoptees over the age of majority, birth mothers and fathers, birth family members such as sisters and brothers, adoptive parents, and significant others may ask to have their name placed on the Reciprocal Search Register. If a match occurs on the Registry and it does not involve the birth parent, the birth parent's wishes are considered before contact could be arranged.

The **Active Search Register** enables adoptees over the age of majority to request a search be conducted by the Post Adoption Services consultant for their birth mother, birth father or birth sibling(s). Searches are undertaken for birth fathers if paternity was acknowledged by the birth father or confirmed by the birth mother at the time of the adopted person's birth. If the birth parent being sought is located and provides their consent, a reunion will be arranged. In circumstances where the person who is being sought is deceased, identifying information is provided unless it is believed by the Post-Adoption Services Consultant that significant harm would result. Contact may be made with extended birth family members at the request of the adoptee. The birth parent under the current system does not have the option to conduct an active search.

A special search may be requested by adoptive parents or adult adoptees to acquire **medical information** for the diagnosis or treatment of a serious medical condition. Confirmation by a physician in writing of the existence of such a medical condition is required by Post-Adoption Services.

The Advisory Committee identified the following challenges with maintaining the status quo:

Challenges

Birth parents cannot actively search for an adult adoptee through Post Adoption Services

Present services take too long to complete because of limited resources

Requiring the mutual consent of the parties limits either the adult adoptee or the birth parent from accessing identifying information about one another if one person does not consent

Many people are unaware of the current services offered, limiting access to information already available

Current system impedes timely access to the people affected by the adoption

Current system requires that search is mediated through Post-Adoption Services Consultant

Perpetuates birth mother feelings of shame, guilt, worry for safety or well-being of child divested

Perpetuates feelings of lost identity, lack of biological connection for adopted child and adult adoptee

Prevents personal closure and an opportunity for adult adoptee or birth mother (parent) to move forward

The Advisory Committee identified the following benefits with maintaining the status quo:

Benefits

Maintains the privacy of personal identifying information unless the adult adoptee or the birth parent consents to its disclosure to another party to the adoption.

Maintains the integrity of the agreed upon terms and conditions of the adoption agreement at the time the adoption took place.

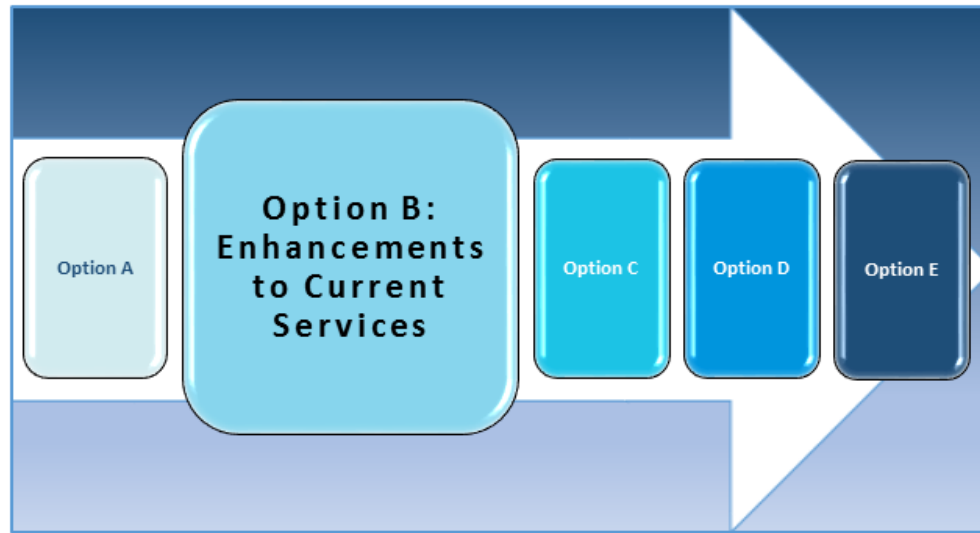
Provides professional support services to those who have mutually agreed to share identifying information, make contact and potentially consent to a reunion.

Minimizes potential disruption in an adult adoptee or birth parent's current personal or family situation.

Recommendation One:

The Advisory Committee recommends that the status quo not continue and consideration be given by legislators to amending the Adoption Act to enhance disclosure of and further access to identifying information held in adoption records, than is presently permitted under the current legislative framework.

OPTION B: ENHANCEMENTS TO CURRENT POST-ADOPTION SERVICES



Enhancements to current Post-Adoption Services to improve access to identifying information held in adoption records could occur without requiring legislative amendments. Enhancements to current Post - Adoption Services that would not require legislative changes, but could support and facilitate disclosure and enhance access of information to searching adult adoptees and birth parents, include additional human, administrative and technological supports to improve the speed and timeliness in responding to applications for active searches on behalf of the adult adoptee, as well as reciprocal searches where there is a match on behalf of adult adoptees and birth parents.

Enhancements requiring a legislative amendment include providing the birth parent with an active search option. Such a change in legislation would offer the birth parent a similar opportunity to access identifying information as that of adult adoptees under the current *Adoption Act*. Release of information under the active search option would be subject to the consent of the adult adoptee. Birth parents would have the support of professional Post-Adoption Services consultant and staff in a facilitated and supported search for the adult adoptee.

Further enhancements to the disclosure of **medical information** on file about birth parents to adoptive parents and adult adoptees should be explored. Medical information held within adoption records is not current and, as a result, the consent of the birth parents is required to release current medical information. Obtaining current medical information is the most critical need expressed by adult adoptees and some adoptive parents, particularly if the adoptee is experiencing a serious medical condition. Many adult adoptees and some adoptive parents appear unaware that medical information in the adoption record is not current and contains only what is provided at time of adoption. Medical records of parties to an adoption are not under the care and control of Post-Adoption Services. Access to any medical records relating to a party to an adoption must be obtained through health services agencies who have the authority to release such records.

The Advisory Committee identified the following challenges that could be addressed by enhancing current Post-Adoption Services:

Challenges

In the past, a backlog existed for Post-Adoption Services presently available. Human and financial resources need to be provided to appropriately meet the demand of any enhancement of services to parties impacted by adoption, and to prevent the recurrence of backlog into the future.

Presently, requiring the mutual consent of the parties limits either the adult adoptee or the birth parent from accessing identifying information about one another if one person does not consent.

Post-Adoption services unilaterally does not have the legislative authority to update medical information that is held in adoption records.

Improving access to current and up to date medical information requires the consent of the party who “owns” the medical information and will require the cooperation and collaboration of health agencies that have the “care and control” of medical records.

The Advisory Committee identified the following benefits to enhancing the current services currently provided by Post-Adoption Services:

Benefits

Providing an active search option for the birth parent offers the birth parent an opportunity to be supported by the Post Adoption consultant in an active search

Birth parents will no longer need to wait for adult adoptee to register on reciprocal registry to activate a search

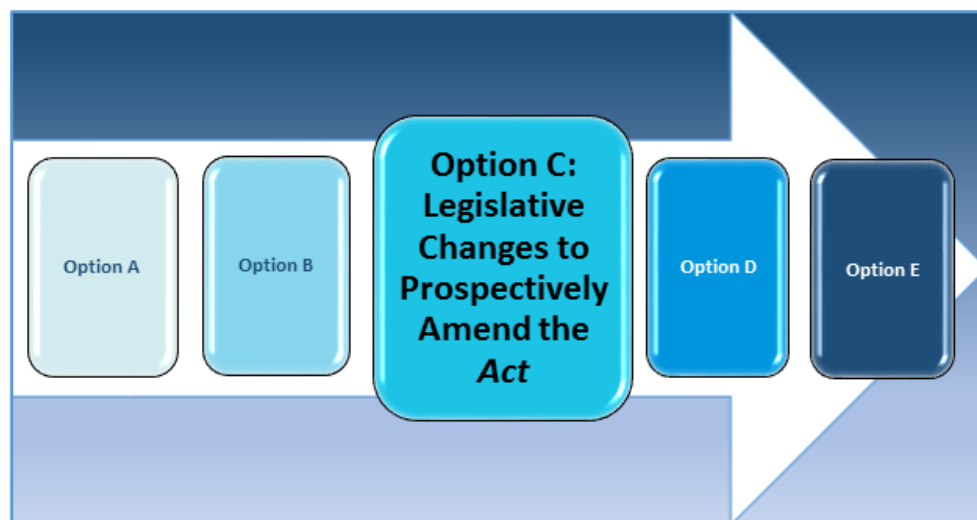
Augmenting the present human, technical and financial resources within Post-Adoption Services will support Post-Adoption staff to offer current and any enhanced services in a more timely manner

Recommendation Two:

The Advisory Committee recommends that:

- a) Additional human, administrative and technological supports be provided to improve the speed and timeliness in which Post-Adoption Services staff can respond to applications for active searches on behalf of the adult adoptee, as well as reciprocal searches where there is a match on behalf of adult adoptees and birth parents; and
- b) Through amendments to the Adoption Act, an active search option be made available to the birth parent, similar to that currently available to an adult adoptee
- c) The Department of Family and Human Services develop and implement a comprehensive public education component to inform Islanders of the changes to *the Adoption Act*.

OPTION C: LEGISLATIVE CHANGES TO PROSPECTIVELY AMEND THE ADOPTION ACT



Amendments be introduced that preserve the terms and conditions of past adoptions at the time the adoption was finalized, with enhanced legislative elements addressing the release of medical information and the addition of an active search available to a birth parent requiring the consent of the adult adoptee. Further amendments to the *Adoption Act* could enhance the disclosure of and access to identifying information, prospectively, for adoptions finalized after legislative amendments to the *Adoption Act*. The effect of the proposed legislative changes in this option is that the right to privacy is more heavily weighted than access to identifying information for past adoptions, and then shifts the weight in favour of disclosure of and access to identifying information going forward for adoptions finalized after the proposed legislative amendments come into force.

The Advisory Committee Identified the following challenges:

Challenges

Requiring the mutual consent of the parties limits either the adult adoptee or the birth parent from accessing identifying information about one another if one person does not consent, for adoptions finalized before amendments to legislation

Human and financial resources would need to be provided to meet the demand of enhanced services to parties affected by adoption

Improving access to current and up to date medical information requires the consent of the party who “owns” the medical information and will require the cooperation and collaboration of health agencies that have the care and control of medical records

The Advisory Committee identified the following benefits:

Benefits

Maintains the privacy of personal identifying information for adoptions finalized prior to the legislative amendments, unless the adult adoptee or the birth parent consents to its disclosure to another party to the adoption

Will offer the birth parent an opportunity to be supported by the Post-Adoption Services consultant in an active search

Birth parents will no longer need to wait for adult adoptee to register on reciprocal registry to activate a search

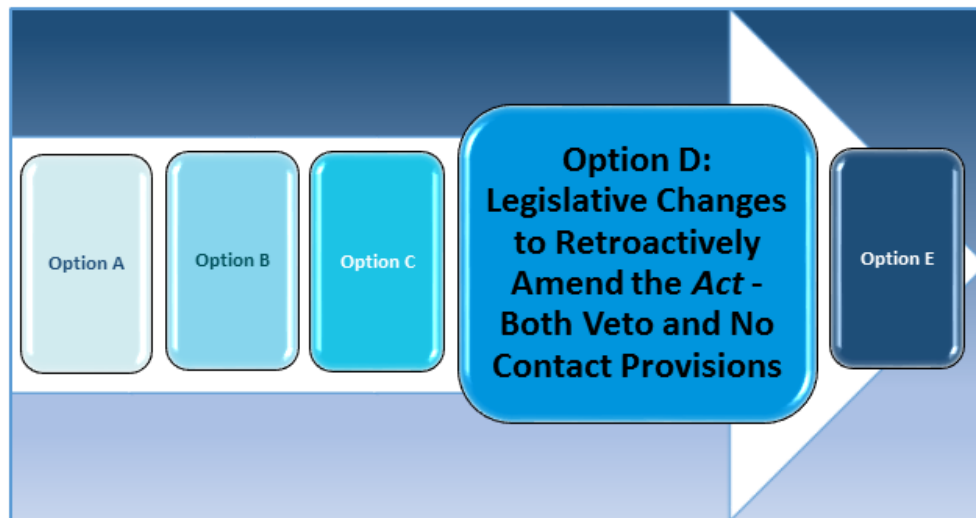
Will support Post-Adoption Services staff to offer current services in a more timely manner

Recommendation Three:

The Advisory Committee recommends that legislative amendments to the *Adoption Act* be made to enable the following:

- a) Identifying information of adult adoptee and birth parent is accessible, upon application, for adoptions finalized following amendments to the *Adoption Act*.
- b) All adoptions finalized prior to amendments to the *Adoption Act* require the mutual consent of both parties for release of identifying information. Existing rules remain the same for adoptions finalized prior to proposed legislative changes, with enhanced processes established in legislation to support the release of current medical information and an active search option available to a birth parent.
 - i. Enhancements to a *Medical Information Search* be explored between Department of Family and Human Services, Adoption Services, and Health PEI and action be taken through legislative amendments to support the obtaining of current medical information for adoptees from birth parents.
 - ii. Birth parents are afforded a similar opportunity to access identifying information as that of adult adoptees under the current *Adoption Act*. Release of information under the active search option is subject to the consent of the adult adoptee. Birth parents have the support of professional Post-Adoption Services consultant and staff in a facilitated and supported search for the adult adoptee.
- c) The Department of Family and Human Services develop and implement a comprehensive public education component to inform Islanders of the changes to the *Adoption Act*.

OPTION D: LEGISLATIVE CHANGES TO RETROACTIVELY AMEND THE *ADOPTION ACT* – BOTH VETO AND NO CONTACT PROVISIONS



Amendments be introduced which amend the *Adoption Act* to enable enhanced disclosure and access to identifying information for adoptions finalized going forward, **and** also retrospectively. Such amendments have the effect of changing the terms and conditions of past adoptions including the right to privacy that was understood by the parties to the adoption at the time such adoptions were finalized. Such amendments provide that Identifying information will be accessible for adoptions finalized prior to amendments, subject to a veto option to adult adoptees and birth parents who do not wish their identifying information released. A proactive step must be taken by adult adoptees and birth parents to file a veto. For adoptions finalized after amendments to legislation to enhance access to information held within adoption records, “no contact” provisions may be filed by adult adoptees and birth parents. Other jurisdictions in Canada have made similar amendments to their respective legislation that governs adoption records. These are more specifically described in the jurisdictional scan at page 24 of this report.

The Advisory Committee identified the following challenges:

Challenges

The legislative amendments shift the default of protection of privacy for adult adoptees and birth parents with respect to identifying information, for adoptions finalized prior to amendments to legislation

The legislative amendments shift the onus on to adult adoptees and birth parents to consider and determine what type of contact they may wish or desire

The legislative amendments require adult adoptees and birth parents to be aware that an active step must be taken to prevent identifying information being disclosed to a third party and identify type of contact desired

Challenges

The legislative amendments may potentially disrupt an adult adoptee or birth parent's current personal or family situation

The Advisory Committee identified the following benefits:

Benefits

Legislative amendments provide access to information for searching adult adoptees and birth parents

Birth parent will no longer need to wait for adult adoptee to register on reciprocal registry to activate a search

Legislative amendments enhance opportunities for connection to biological family members and to learn of one's heritage, identity and roots

Legislative amendments enhance opportunities for personal closure for some parties to an adoption and the opportunity to move forward

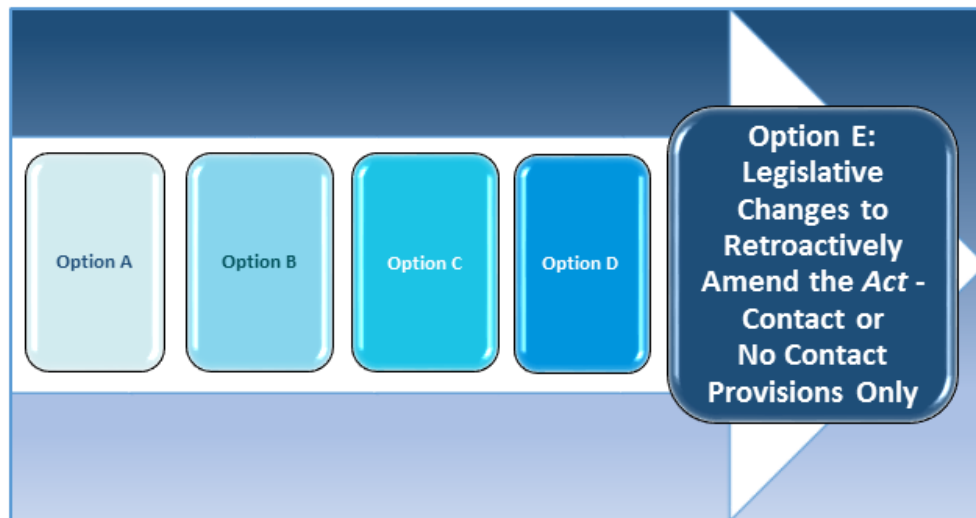
Legislative amendments may improve access to current and up to date medical information

Recommendation Four:

The Advisory Committee recommends that Option D not be implemented until:

- a) A comprehensive overview of the impact on parties of past adoptions of similar legislative changes in other Canadian jurisdictions is conducted by the Department of Family and Human Services;
- b) Given the unique nature and size of PEI, the services of policy makers who have deep experience in policy development and evaluation of the differential impact of public policy and legislation on disparate groups and populations apply a gender and diversity lens on options presented herein to ensure that potential unintended consequences are considered and evaluated before changes in public policy are implemented and legislation is enacted; and
- c) The options presented herein are reviewed by an all-party Committee of the Legislative Assembly.

OPTION E: LEGISLATIVE CHANGES TO RETROACTIVELY AMEND THE *ADOPTION ACT* – CONTACT OR NO CONTACT PROVISIONS ONLY



Amendments be introduced which amend the *Adoption Act* to enable enhanced disclosure and access to identifying information for adoptions finalized going forward, **and** also retrospectively, without an option for adult adoptees and birth parents of past adoptions to apply a veto. Identifying information will be accessible for adoptions finalized prior to legislative amendments and are subject to a “no contact” provision. The “no contact” provision permits identifying information to be released; however, a party to the adoption can determine whether they wish to be contacted, or not, and by what means.

No veto option is available to prevent the release of identifying information in Option E. Identifying information will be released by the responsible government department or agency upon the request of an adult adoptee or a birth parent. Government supported post adoption services and reunification supports are available for parties to an adoption who request such services. These services are not mandatory to gain access to identifying information.

It is important to note that the Ontario Supreme Court found in *Cheskes v. Ontario* that such legislative amendments infringed privacy rights of the adult adoptee and the birth parent protected under s. 7 of the *Charter* and this infringement was not justifiable under s. 1 of the Charter. It was not a minimal infringement upon privacy rights. The Province of Ontario amended their legislation to add the option for adult adoptees and birth parents to file a “veto” for those affected by adoptions which were finalized prior to the legislative amendments.

The Advisory Committee identified the following challenges:

Challenges

Legislative amendments shift the default of protection of privacy for adult adoptees and birth parents with respect to identifying information, for adoptions finalized prior to amendments to legislation

Legislative amendments shift the onus on to adult adoptees and birth parents to consider and determine what type of contact they may wish or desire

Legislative amendments require adult adoptees and birth parents to be aware that an active step must be taken to identify type of contact desired

Legislative amendments may potentially disrupt an adult adoptee or birth parent's current personal or family situation

Legislative amendments removes the consistent practice that professional Post-Adoption Services providers support or facilitate contact and potential reunification

The Advisory Committee identified the following benefits:

Benefits

Legislative amendments provide access to information for searching adult adoptees and birth parents

Birth parent will no longer need to wait for adult adoptee to register on reciprocal registry to activate a search

Legislative amendments enhance opportunities for connection to biological family members and to learn of one's heritage, identity and roots

Legislative amendments enhance opportunities for personal closure and opportunity to move forward

Legislative amendments may improve access to current and up to date medical information

Legislative amendments may have the effect of removing professional Post-Adoption Services providers from supporting or facilitating contact and potential reunification; who may be seen as an impediment or barrier to contact and reunification by some adult adoptees and birth parents

Recommendation Five:

The Advisory Committee recommends that Option E not be implemented until:

- a) A comprehensive overview of the impact on parties of past adoptions of similar legislative changes in other Canadian jurisdictions is conducted by the Department of Family and Human Services;
- b) Given the unique nature and size of PEI, the services of policy makers who have deep experience in policy development and evaluation of the differential impact of public policy and legislation on disparate groups and populations apply a gender and diversity lens on options presented herein to ensure that potential unintended consequences are considered and evaluated before changes in public policy are implemented and legislation is enacted; and
- c) The options presented herein are reviewed by an all-party Committee of the Legislative Assembly.

INDIGENOUS ENGAGEMENT

The Advisory Committee held engagement sessions on the Abegweit First Nation Reserve in Scotchfort and on the Lennox Island First Nation Reserve in Lennox Island. The Indigenous engagement incorporated aspects of Indigenous culture and facilitation including an opening and closing prayer by an elder of the community. A total of eight (8) people participated in these sessions. An invitation was also extended to Indigenous people living off Reserve to attend the engagement sessions held on Reserve or alternatively at a meeting to be held at a later date at the Charlottetown office of Mi'kmaq Confederacy of PEI (the Confederacy). One person participated in the Indigenous off-Reserve session.

While the number of people attending the engagement sessions was low, the conversations held between Advisory Committee members and participants was rich and under-scored the impact that historical adoption practices have had on Indigenous communities and Indigenous people living on PEI. The legacy of historical adoption practices has profoundly impacted Indigenous people and communities. The need for healing through reconciliation was a predominant theme.

HISTORY OF INDIGENOUS ADOPTIONS ON PEI

It is critical to understand that history of adoptions for Indigenous people has caused unimaginable trauma for Indigenous children, families and communities in PEI. As a result of historical adoption practices, the “Sixties Scoop” saw Indigenous children taken from their families and their communities for placement in foster homes or adoption. Indigenous children were often fostered or adopted by non-Indigenous middle class families where Indigenous children lost their connection with their communities, culture and lineage, profoundly impacting Indigenous children and communities. The adoption practices arising out of the “Sixties Scoop” began in the late 1950's and continued in the 1980's.

Canada's residential school system was implemented by the federal government and administered by various religious organizations. Its purpose was to educate Indigenous children in Euro-Canadian and Christian values so they could become part of non-Indigenous mainstream society. The school system was in effect from the 1880's to the 1990's. Children were forcibly removed from their families and homes for extended periods of time. The schools' policies did not allow children to speak their own languages or to acknowledge their culture in any way. Survivors of the residential schools have come forward and spoken out about physical, spiritual, sexual and psychological abuse they experienced at the hands of the residential school staff. The lasting cultural impact on Indigenous families and communities has been widespread and extensive.

Canada's Truth and Reconciliation Commission (TRC) a component of the *Indian Residential Schools Settlement Agreement* was mandated to document the experiences of Indigenous children in residential

schools and to share the truth of survivors, families, communities and others affected with all Canadians. In order to redress the legacy of the residential schools and advance the process of reconciliation, the TRC advanced ninety-four recommendations as “Calls to Action”.²⁹

CURRENT ADOPTION PRACTICES

For the most part, current adoption practices for Indigenous children in PEI occur in the same manner as for non-Indigenous children. The PEI *Adoption Act* does not identify an approach specific to Indigenous children and/ or Indigenous applicants to the Adoption Program.

Adoption Services does recognize the ‘best interests of the child’ as a relevant consideration outlined in the *Child Protection Act* specifically ‘if the child is aboriginal, the importance of preserving the cultural identity of the child’.

While not stated in the PEI *Adoption Act*, it is the current adoption practice to invite the Designated Representative of the Band to a Permanency Planning meeting regarding an Indigenous child. Furthermore, the Designated Representative of the Band would be advised if the Indigenous child could not be matched with an Indigenous adoptive family within PEI. Input would then be sought with regards to two options: 1) matching with a non-Indigenous adoptive family, or 2) profiling the Indigenous child in another province with hopes of matching with an Indigenous adoptive family in that province. Birth parents’ wishes, when possible, are taken into consideration as well as the wishes of the Designated Representative of the Band.

If the child is to be matched with a non-Indigenous adoptive family, the family’s assessment must indicate a strong willingness and commitment to raise an Indigenous child with knowledge of and participation in his/her culture.

THEMES FROM ENGAGEMENT SESSIONS

The Advisory Committee determined that maintaining the confidential nature of discussions held with participants attending the Indigenous engagement sessions was the primary consideration when presenting the information arising from the sessions. Because of the low number of participants attending the Indigenous engagement sessions, less than ten people, only the high level themes arising from the discussion are presented in the report. The themes arising from the session are described below:

- Loss of Identity, Culture and Lineage for Indigenous Children;
- Loss of Indigenous Children from Indigenous Families and Communities ;
- Improved Access to Non-identifying and Identifying Information in Adoption Records;

²⁹ “Truth and Reconciliation Commission of Canada: Calls to Action”,
http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf

- Enhanced Access to Medical Information for Adult Adoptees and Adoptive Parents;
- Enhanced Supports for Young Indigenous Mothers;
- Enhanced Supports for Post-Adoption Services within Adoption Services.

The Indigenous engagement sessions conducted by the Advisory Committee members was a good beginning to the conversation with Indigenous people about enhancing disclosure of or access to identifying information held in adoption records; however, where any policy or legislative changes are to be made affecting how identifying information in adoption records is maintained, a comprehensive formal consultation process will need to take place between the leadership of the Government of PEI and the leadership of the Abegweit First Nation and the Lennox Island First Nation in advance of such public policy or legislative changes.

Recommendation Six:

The Advisory Committee recommends that:

Where any policy or legislative changes are considered by the Government of PEI affecting how identifying information in adoption records is maintained and disclosed with respect to Indigenous children, families and communities, a comprehensive formal consultation process shall occur between the leadership of the Government of PEI and the leadership of the Abegweit First Nation and the Lennox Island First Nation, in advance of such public policy or legislative changes.

CONCLUSION

The Advisory Committee acknowledges the complexity of the subject matter with which the committee was tasked, to facilitate public engagement on: whether to open adoption records to enhance disclosure or access to information that is currently maintained as confidential personal identifying information requiring the consent of the parties for disclosure and access. It is critical to recognize that multiple perspectives were shared with respect to these questions, without clear consensus. The Advisory Committee is also cognizant of the fact that the perspectives of parties who do not wish to be identified or found may not have been heard because of their desire to remain anonymous.

The Government of PEI has a duty, when changing public policy, to do no harm or to mitigate harm while balancing the rights and interests of persons affected. Further, there is need for care and caution for the well-being of three parties' to an adoption to be considered in response to the public consultation process and any subsequent legislative amendments. Furthermore, appropriate resources, human, financial and technological, must be in place to respond to any legislative changes. The consultation process and this report comprise only one aspect of the deliberation required to inform this complex public policy decision moving forward.

SUMMARY OF RECOMMENDATIONS

Option A: Status Quo is Maintained

Recommendation One:

The Advisory Committee recommends that the status quo not continue and consideration be given by legislators to amending the *Adoption Act* to enhance disclosure of and further access to identifying information held in adoption records, than is presently permitted under the current legislative framework.

Option B: Enhancements to Current Post-Adoption Services

Recommendation Two:

The Advisory Committee recommends that:

- a) Additional human, administrative and technological supports be provided to improve the speed and timeliness in which Post-Adoption Services staff can respond to applications for active searches on behalf of the adult adoptee, as well as reciprocal searches where there is a match on behalf of adult adoptees and birth parents; and
- b) Through amendments to the *Adoption Act*, an active search option be made available to the birth parent, similar to that currently available to an adult adoptee;
- c) The Department of Family and Human Services develop and implement a comprehensive public education component to inform Islanders of the changes to the *Adoption Act*.

Option C: Legislative Changes to Prospectively Amend the Adoption Act

Recommendation Three:

The Advisory Committee recommends that legislative amendments to the *Adoption Act* be made to enable the following:

- a) Identifying information of adult adoptee and birth parent is accessible, upon application, for adoptions finalized following amendments to the *Adoption Act*.
- b) All adoptions finalized prior to amendments to the *Adoption Act* require the mutual consent of both parties for release of identifying information. Existing rules remain the same for adoptions finalized prior to proposed legislative changes, with enhanced processes established in legislation to support the release of current medical information and an active search option available to a birth parent.
 - i. Enhancements to a *Medical Information Search* be explored between Department of Family and Human Services, Adoption Services, and Health PEI and action be taken through legislative amendments to support the obtaining of current medical information for adoptees from birth parents.
 - ii. Birth parents are afforded a similar opportunity to access identifying information as that of adult adoptees under the current *Adoption Act*. Release of information under the active search option is subject to the consent of the adult adoptee. Birth parents have the support of professional Post-Adoption Services consultant and staff in a facilitated and supported search for the adult adoptee.

- c) The Department of Family and Human Services develop and implement a comprehensive public education component to inform Islanders of the changes to the *Adoption Act*.

Option D: Legislative Changes to Retroactively Amend the Adoption Act – Both Veto and No Contact Provisions

Recommendation Four:

The Advisory Committee recommends that option four not be implemented until:

- a) A comprehensive overview of the impact on parties of past adoptions of similar legislative changes in other Canadian jurisdictions is conducted by the Department of Family and Human Services;
- b) Given the unique nature and size of PEI, the services of policy makers who have deep experience in policy development and evaluation of the differential impact of public policy and legislation on disparate groups and populations apply a gender and diversity lens on options presented herein to ensure that potential unintended consequences are considered and evaluated before changes in public policy are implemented and legislation is enacted; and
- c) The options presented herein are reviewed by an all-party Committee of the Legislative Assembly.

Option E: Legislative Changes to Retroactively Amend the Adoption Act – Contact or No Contact Provisions Only

Recommendation Five:

The Advisory Committee recommends that option five not be implemented until:

- a) A comprehensive overview of the impact on parties of past adoptions of similar legislative changes in other Canadian jurisdictions is conducted by the Department of Family and Human Services;
- b) Given the unique nature and size of PEI, the services of policy makers who have deep experience in policy development and evaluation of the differential impact of public policy and legislation on disparate groups and populations apply a gender and diversity lens on options presented herein to ensure that potential unintended consequences are considered and evaluated before changes in public policy are implemented and legislation is enacted; and
- c) The options presented herein are reviewed by an all-party Committee of the Legislative Assembly.

Indigenous Engagement

Recommendation Six:

The Advisory Committee Recommends that:

Where any policy or legislative changes are considered by the Government of PEI affecting how identifying information in adoption records is maintained and disclosed with respect to Indigenous children, families and communities, a comprehensive formal consultation process shall occur between the leadership of the Government of PEI and the leadership of the Abegweit First Nation and the Lennox Island First Nation, in advance of such public policy or legislative changes.

Adoption Act Review Advisory Committee

TERMS OF REFERENCE

BACKGROUND:

On November 1, 2017, government announced a review of the PEI Adoption Act. Respecting the rights and sensitivities for the three parties to an adoption, the review is to provide opportunities for all voices to be heard to include opportunities for public engagement through facilitated meetings, written submissions and private sessions. A jurisdictional scan will also be completed with a final report to be submitted to the Minister of Family and Human Services spring 2018.

MEMBERSHIP:

An Adoption Act Review Advisory Committee will consist of the following representatives:

Marilyn LeFrank	- MCPEI, Director Child & Family Services	
Adam Peters	- Manager of Vital Statistics	
Wendy McCourt	- Director of Child Protection	
June McKinnon	- Provincial Adoption Coordinator	
Matt Bourque	- Post Adoption Services Consultant	
Kelly Peck	- National Secretariat to the Provincial Directors of Welfare - Child Welfare Practice Analyst	Child
Darlene Gillis	- Senior Communications Officer	
Rona Smith	- Director Child & Family Services	
Patsy MacLean	- HR Atlantic, Chair	

OPERATING PRINCIPLES:

The Advisory Committee shall make every effort to create opportunities for public input and participation in the review process including communities, organizations, groups, and individuals.

ACTIVITIES:

1. Conduct a documentary review of recent relevant changes in adoption legislation in Canadian jurisdictions.
2. Conduct facilitated discussions and key contact meetings with interested parties and key stakeholders to obtain their views on open adoption records pursuant to the PEI Adoption Act.
3. Consolidate findings arising from all facilitated discussions, written submissions, key contact meetings and confidential sessions into a final written report to be submitted to the Minister of Family and Human Services.
4. Present the final report of the Adoption Act public engagement process to the Honourable Tina Mundy, Minister of Family and Human Services.

ROLES, RESPONSIBILITIES, AND EXPECTATIONS of COMMITTEE MEMBERS:

Advisory Committee Chair:

The Chair of the Advisory Committee, in collaboration with Advisory Committee members, is responsible for ensuring that the Advisory Committee mandate and Terms of Reference are achieved by;

- drafting meeting agendas for distribution to Advisory Committee Members;
- facilitating Advisory Committee Meetings;
- organizing facilitated engagements with interested parties, key stakeholders, and key contact meetings;
- facilitating the review of information and findings arising from facilitated engagement and key contacts with Advisory Committee Members;
- drafting the final report for review by the Advisory Committee.

Advisory Committee Members:

Working collaboratively, all members are expected to:

- attend regularly scheduled meetings;
- review materials in preparation for Advisory Committee meetings;
- share their expertise, knowledge and skills with respective Advisory Committee Members to achieve the mandate and Terms of Reference of the Advisory Committee;
- participate in the development of the Advisory Committee's work plan;

- support the chairperson and resource persons as they carry out facilitated engagements and key contact meetings under the guidance of Advisory Committee Members;
- provide guidance and share expertise in the development of the final report; and, achieve consensus on the final report of the Adoption Act review for submission to the Minister of Family and Human Services.

Resource Persons:

Administrative Support:

The Advisory Committee shall identify an employee from the Department of Family and Human Services who shall be responsible for:

- note-taking at Advisory Committee Meetings;
- ensuring that meeting minutes are distributed to committee members in a timely manner;
- arranging meeting venue and hospitality; and
- arranging facilitated public engagements, key contact meetings and private sessions.

Communications:

An employee from the Department of Family and Human Services shall support the Advisory Committee with respect to communication and public relations requirements of the committee.

Consultations and Key Contact Meetings:

Facilitation support will be provided by the Department of Family and Human Services for interested party and stakeholder facilitated engagements and key contact meetings.

MEETINGS:

Meetings of the Advisory Committee will take place on a regular basis, at the call of the Chair, to ensure that the mandate of the Advisory Committee is achieved. Meeting dates will be set in advance and can be changed by consensus in consultation with committee members.

The following is distributed by the Government of Prince Edward Island.

FOR IMMEDIATE RELEASE

February 22, 2018

Islanders’ input sought on Adoption Act review

Supporting Island families

Charlottetown, Prince Edward Island – The provincial government wants feedback from Islanders on whether the Adoption Act should be amended to allow for open adoption records in Prince Edward Island.

Islanders have a variety of options to provide input until March 31, 2018 such as attending a public meeting, sending written submissions, and/or requesting a private meeting. Details can be found at www.princeedwardisland.ca/adoption-act-review

Adoption in Prince Edward Island is governed by the Adoption Act. Under the existing legislation, the identities of adopted children, birth parents and adoptive parents cannot be released without consent.

“Public attitudes about adoption are evolving and more people are interested in greater access to their adoption information,” Family and Human Services Minister Tina Mundy said. “The current legislation balances the rights and privacy of all parties to an adoption, including the birth parents, the children and the adoptive parents. Government wants to hear from Islanders and must consider the rights of all parties when reviewing potential changes to legislation.”

An advisory committee, chaired by Patsy MacLean, HRA Atlantic is facilitating the engagement process. The committee has members from Family and Human Services, Vital Statistics and the Mi’kmaq Confederacy of Prince Edward Island

A final report with recommendations based on themes identified from the public engagement will be completed during the summer of 2018.

- 30 -

Media contact:

Darlene Gillis

Department of Family and Human Services

ddgillis@gov.pe.ca

902-620-3409

BACKGROUNDER

Adoption in Prince Edward Island



- Adoption is a legal proceeding that creates a parent-child relationship, which is recognized by law.
- Adoption in Prince Edward Island is governed by the *Adoption Act* and the *Intercountry Adoption Act* (Hague Convention). These Acts provide the mandate for work at Adoption Services within the Department of Family and Human Services.
- Prince Edward Island has maintained adoption records for approximately 100 years. The *Adoption Act* states adoption records are sealed, meaning that the identities of adopted children, birth parents and adoptive parents cannot be released without consent.
- There are three categories of adoption in Prince Edward Island:
 - Intercountry Adoption – An Intercountry Adoption requires the prospective adoptive parents to contract with an authorized social worker in the private sector to complete their home study and contract with a private adoption agency within Canada to facilitate the adoption of a child from another country. These adoptions would be finalized in the child's country of origin.
 - Private Adoption - A Private Adoption is arranged by a Licensed Adoption provider and is usually an open adoption, meaning the birth parents and the adoptive parents are known to one another.
 - Departmental Adoption – A Departmental Adoption occurs when a child in the permanent care of the Director of Child Protection is placed with an approved adoptive family and is usually a closed adoption, meaning the birth parents and the adoptive parents are not known to one another.
- Management of adoption records are guided by two pieces of legislation including the *Adoption Act* and the *Vital Statistics Act*.

February 2018

- The Vital Statistics office keeps a record of all adoptions on Prince Edward Island in the Adopted Children Register. The information in the Register is confidential and cannot be disclosed unless ordered by the court or as set out in the *Adoption Act*.
- A certified copy of the Adoption Order is provided by the court, to the Director of Vital Statistics. Vital Statistics is responsible for making an 'adopted' notation on the original registration of birth and ensuring the records remain secure and confidential.
- Recent statistics on adoptions finalized in Prince Edward Island include:

Fiscal Year (April 1- March 31)	Private Adoptions	Departmental Adoptions	Intercountry Adoptions	Total Court Finalized Adoptions
2013/2014	10	Less than 10	Less than 10	21
2014/2015	Less than 10	Less than 10	Less than 10	15
2015/2016	Less than 10	Less than 10	Less than 10	17
2016/2017	Less than 10	10	Less than 10	15
2017 /Jan. 2018	Less than 10	Less than 10	Less than 10	14
* Total court finalized adoptions would include intercountry adoptions that were finalized in a court in the country of origin i.e. not finalized within a PEI court.				

- Domestic adoptions, both private and departmental, are significantly higher than the number of intercountry adoptions.
- Post-Adoption Services was established in 1993:
 - Can be provided to adult adoptees and birth parents as mandated under the *Adoption Act* provided the adoption was legally finalized in Prince Edward Island.
 - Adult adoptees can apply for background information about their adoption and/or a potential search for contact with birth family.
 - Birth parents can apply for general information about their child's adoption and can register their willingness to exchange updated information and/or to have potential contact with an adult adoptee who has registered with the program.

February 2018

- Adoptive parents can only apply for their adopted child's background history.
- Post Adoption Services as of January 2018:
 - Total Number of Applications received since 1993: 1296
 - 736 Adoptee applications (57%)
 - 304 Birth Parent Applications (23%)
 - 244 Birth Relative/Significant Other (19%)
 - 12 Adoptive Parent Applications (1%)
- Attitudes about adoption are evolving and an increasing number of Islanders have expressed an interest in greater access to their identifying adoption information.
- Jurisdictions in Canada with open adoption records permit:
 - Adult adoptees to access identifying information contained on their original birth registration including 1) Birth name; 2) Identity of birth parents.
 - Birth parents to access the name of the adult adoptee previously placed for adoption.
 - Adult adoptees or birth parents to request that their identity not be disclosed.
- In November 2017 government announced it would facilitate public discussion on whether or not the PEI *Adoption Act* should be amended to allow for open adoption records.
- In December 2017, Patsy MacLean, HR Atlantic, was asked to chair an Advisory Committee with representatives from Child & Family Services, Vital Statistics and the Mi'kmaq Confederacy of Prince Edward Island (MCPEI). Recognizing the sensitivities to the three parties to an adoption, namely the adult adoptee, birth parent and adoptive parent, the role of the Advisory Committee is to facilitate an inclusive and respectful partner and public engagement process to ensure all voices are heard.

February 2018

- A final report, with recommendations based on themes identified throughout the facilitated discussions, will be provided to government in June 2018 for consideration of open adoption records on PEI.
- Members of the Advisory Committee:
 - Patsy MacLean, HR Atlantic / Chair
 - Matt Bourque, Post-Adoption Services Consultant
 - June McKinnon, Provincial Adoption Coordinator
 - Rona Smith, Director Child & Family Services
 - Wendy McCourt, Director of Child Protection
 - Marilyn LeFrank, Director of Child & Family Services, MCPEI
 - Kelly Peck, Practice Analyst, Family and Human Services
 - Adam Peters, Manager, Vital Statistics
 - Darlene Gillis, Senior Communications Officer
 - Penny Woodgate, Administrative Assistant

The Adoption Act Review Advisory Committee will host public consultations across the province in February and March 2018. Individuals and groups can also provide input to the review through a private and confidential meeting or written submission.

Visit www.princeedwardisland.ca/adoption-act-review for more information.

Please use the guiding questions below to make a written submission by March 31, 2018 to:

Adoption Act Review Advisory Committee
 c/o HR Atlantic
 Brecken Building
 1 Harbourside Drive,
 Charlottetown, PE C1A 8R4
 Email: adoptionactreview@hratlantic.ca

February 2018

Guiding Questions

- 1) What would be the benefits of opening adoption records for:
 - Adult adoptees
 - Birth parents
 - Adoptive parents
- 2) What would be the benefits of maintaining closed adoption records for:
 - Adult adoptees
 - Birth parents
 - Adoptive parents
- 3) What would be the challenges of opening adoption records for:
 - Adult adoptees
 - Birth parents
 - Adoptive parents
- 4) What would be the challenges of maintaining closed adoption records for:
 - Adult adoptees
 - Birth parents
 - Adoptive parents
- 5) Should the adult adoptee or birth parent be able to protect their identity from being disclosed in certain circumstances? Please Explain.
- 6) Do you have suggestions for changes to the *Adoption Act*?
- 7) Any other comments?

For more information, visit www.princeedwardisland.ca/adoption-act-review or to book a private consultation session, call the Department of Family and Human Services at (902) 368-5294

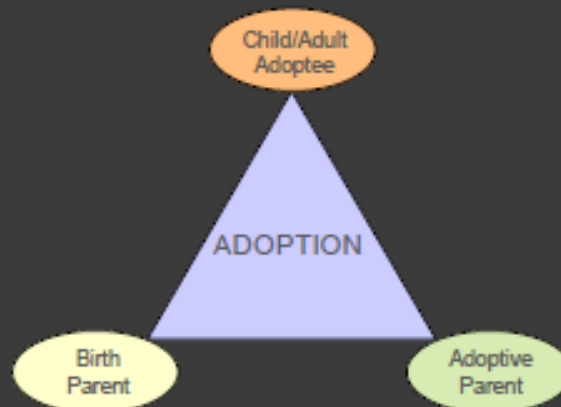
February 2018

7/25/2018



BACKGROUND

- There are 3 parties to every adoption:



ADOPTION IN PRINCE EDWARD ISLAND

- There are three categories of adoption in Prince Edward Island:

1. Intercountry Adoption – An Intercountry Adoption requires the prospective adoptive parents to contract with an authorized social worker in the private sector to complete their home study and contract with a private adoption agency within Canada to facilitate the adoption of a child from another country. These adoptions would be finalized in the child's country of origin.

ADOPTION IN PRINCE EDWARD ISLAND

☉ Three categories continued...

2. Private Adoption - A Private Adoption is arranged by a Licensed Adoption provider and is usually an open adoption, meaning the birth parents and the adoptive parents are known to one another.
3. Departmental Adoption - A Departmental Adoption occurs when a child in the permanent care of the Director of Child Protection is placed with an approved adoptive family and is usually a closed adoption, meaning the birth parents and the adoptive parents are not known to one another.



ADOPTION IN PRINCE EDWARD ISLAND

Recent statistics on adoptions finalized in Prince Edward Island

Fiscal Year (April 1- March 31)	Private Adoptions	Departmental Adoptions	Intercountry Adoptions	Total Court Finalized Adoptions
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2017 (Jan. 2018)	Less than 10	Less than 10	Less than 10	14

* Total court finalized adoptions would include intercountry adoptions that were finalized in a court in the country of origin i.e. not finalized within a PEI court.



HISTORICAL INFORMATION

Prince Edward Island has maintained adoption records for approximately 100 years:

1916 - *Adoption of Children Act* -

- Transfer of guardianship which was binding until the child reached the age of twenty-one, unless sooner married.
- It allowed for transfer of guardianship to institutions.

1930 - *Adoption Act* -

- Established that an adoption be legally finalized in the Court of Chancery and required the Adoption Order be registered with Vital Statistics.
- Defined consents to an adoption, and the effects of an Adoption Order essentially diverted parental rights and established inheritance rights.



HISTORICAL INFORMATION

1948 - the Provincial Government began to take over child welfare services and hired its first professionally trained Social Worker

1951 - *Adoption Act* -

- Allowed for adoption by non-residents, and for the waiving of parental consents in such cases where the child had been in a "charitable institution" for more than a year, or the parents had "willfully neglected" their child for one year.
- Defined the termination of parental rights for the first time.



HISTORICAL INFORMATION

1974 - *Adoption Act*

- ⦿ Declared that either, or both, the child and the adoptive parents had to be residents of Prince Edward Island.
- ⦿ Required that the Director must assess and prepare a report to the Court for private and step-parent adoptions.
- ⦿ Clearly outlined procedures and consents for adoption
- ⦿ Did not allow the "illegitimacy of the child" to appear on the Adoption Order
- ⦿ Clearly stated what the effect of an adoption meant.



HISTORICAL INFORMATION

1993 - *Adoption Act*

- ⦿ Established for the first time, a Post-Adoption Disclosure Service within Government.
- ⦿ Sets standards for adoption practices in both the public and private sector.
- ⦿ Ensures that only social workers authorized under the Act can provide adoption-related services.



HISTORICAL INFORMATION

1993 - *Adoption Act Continued...*

- Standards include:
 - a risk assessment to be completed on all adoptive families;
 - birth parents to receive professional counselling and support by an authorized social worker who would also witness consents to adoption;
 - background social history and medical information on the child and the birth family to be gathered;
 - written non-identifying background information to be given to the adoptive family and a copy to be filed with the Director prior to the legal finalization of an adoption.



HISTORICAL INFORMATION

- The bulk of the adoptions occurring in the 1950's to the mid-1970's were arranged by private sector agencies. It was the practice to place Island-born babies with adoptive families in the Eastern New England States. This had an impact on Post-Adoption Services as many adoptive applicants live out of country.



ADOPTION SERVICES

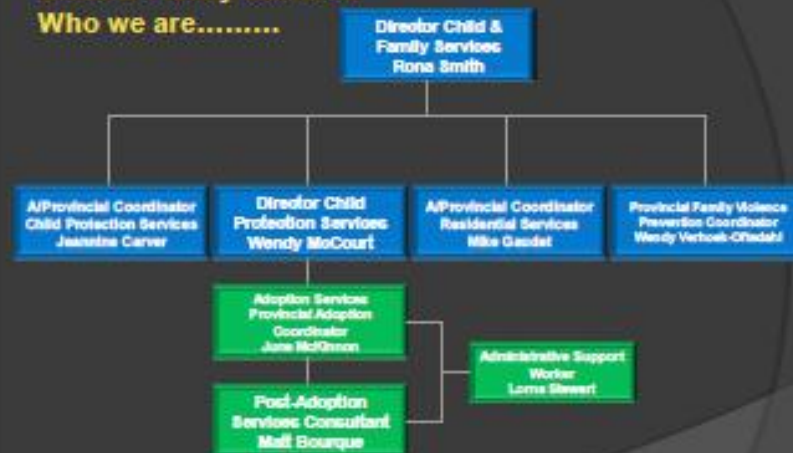
© There are currently 3 employees employed with Adoption Services including:

- Provincial Adoption Coordinator – June McKinnon (1 full time position)
- Post-Adoption Services Consultant – Matt Bourque (1 full time position)
- Administrative Support Worker – Lorna Stewart (1 full time position)



Child & Family Services

Who we are.....



CURRENT POST-ADOPTION PROCESS

All requests for disclosure services must begin with an application to Post-Adoption Services. NO FEES.

NON-IDENTIFYING BACKGROUND INFORMATION:

- ⊗ Adult adoptees and adoptive parents can contact Post-Adoption Services for non-identifying background information about the birth family. If available, this would include details of the adoptee's history, including:
 - The adoptee's birth history and early development
 - Physical description of birth parents, extended family
 - Health Information
 - Religion
 - Occupation
 - Education
 - Particular Interests
 - Circumstances regarding the plan of adoption



CURRENT POST-ADOPTION PROCESS

NON-IDENTIFYING BACKGROUND INFORMATION (CONTINUED):

- ⊗ The information does not include identifying information such as names, dates of birth, or addresses of birth family members.
- ⊗ The information may be limited and not current
- ⊗ Birth parents can also receive some background information including:
 - Confirmation of an adoption
 - The jurisdiction in which the child's adoption took place
 - If available, the child's progress when being prepared for adoption



CURRENT POST-ADOPTION PROCESS

RECIPROCAL SEARCH REGISTER

- The Reciprocal Search Register is a system where people who were affected by an adoption can register their willingness to exchange updated information and/or to have potential contact with each other.
- If there is a match identified, the possibility of a reunion would be explored. A reunion would not occur without the mutual consent of both parties.
- If the match does not involve a birth parent, the probable or stated wishes of the birth parent would be considered before a reunion could be arranged.
- Those who may ask to have their name placed on the Register are:
 - Adoptees (those over 18 years of age); Birth parents (birth mothers, birth fathers); Birth family members (sisters, brothers etc.); Adoptive parents; Significant others

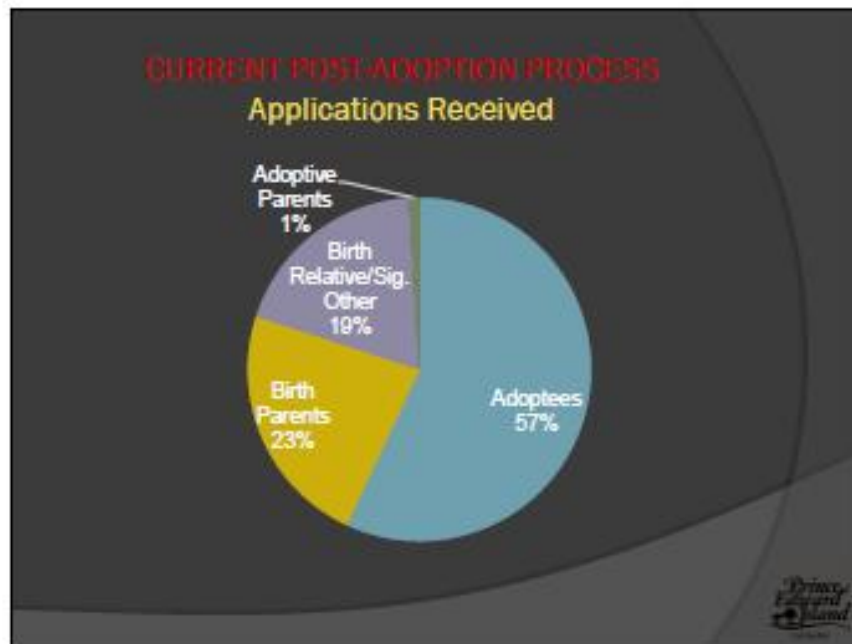


CURRENT POST-ADOPTION PROCESS

ACTIVE SEARCH REGISTER

- Only adoptees over the age of 18 may request that a search be conducted for their birth mother, birth father, or birth sibling(s). Searches will be undertaken for birth fathers only if paternity was acknowledged or confirmed by the birth mother.
- If the person being sought is located and agrees to a reunion, it will be arranged.
- If the person being sought is deceased, identifying information will be provided unless it is believed that significant harm would result.
- Contact may be made with extended birth family members at the request of the adoptee.
- A special search may be requested by adoptive parents or adult adoptees to acquire medical information for the diagnosis or treatment of a serious medical condition.





WHY DO PEOPLE APPLY?

Motivation for Adopted Person

Some Examples:

- Curiosity
 - Health issues – A need to know their genetic history – for themselves and for their children
 - Identity/Self understanding
 - Connection
 - "Missing Piece" – "I feel like a part of me is missing"
- Prince Edward Island*

WHY DO PEOPLE APPLY?

Motivation for Birth Parents

Some Examples:

- To check on the well being of the adoptee
- To be reassured they made the right decision or to explain circumstances
- To confront their pain based on a need to move on
- To share health information
- The need to seek out a relationship with the adult adoptee.



WHAT IS AN OPEN ADOPTION RECORD?

ADULT ADOPTEES

- Refers to the adult adoptee's ability to access information contained on their original birth registration which would include:
 - given name at birth; and,
 - identity of birth parent(s).

BIRTH PARENTS

- Refers to the birth parent's ability to access the name given to the child, at the time of adoption finalization, when that child reaches adulthood.



7/25/2018



Guiding Questions

- 1) What would be the benefits of opening adoption records for:
 - Adult adoptees
 - Birth parents
 - Adopted parents
- 2) What would be the benefits of maintaining closed adoption records for:
 - Adult adoptees
 - Birth parents
 - Adopted parents
- 3) What would be the challenges of opening adoption records for:
 - Adult adoptees
 - Birth parents
 - Adopted parents
- 4) What would be the challenges of maintaining closed adoption records for:
 - Adult adoptees
 - Birth parents
 - Adopted parents
- 5) Should the adult adoptee or birth parent be able to protect their identity from being disclosed in certain circumstances? Please Explain.
- 6) Do you have suggestions for changes to the *Adoption Act*?
- 7) Any other comments?

For more information, visit www.princeedwardisland.ca/adoption-act-review or to book a private consultation session, call the Department of Family and Human Services at (902) 368-5294

February 2018



PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Family and
Human Services

Services à la famille
et à la personne



C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

January 29, 2018

SAMPLE

Ms. Wendi James Poirier, President
PEI Federation of Foster Families
105 Heather Avenue
Charlottetown, PE C1A 6Z3

Dear Ms Poirier:

In November 2017, Minister Mundy, Department Family and Human Services, announced government's intention to facilitate public discussion on whether or not the *PEI Adoption Act* should be amended to allow for open adoption records.

In December 2017, an Advisory Committee was established with responsibility to facilitate an inclusive and respectful public engagement process to ensure all voices are heard throughout the review process. A final report, with recommendations based on themes identified throughout the facilitated discussions, will be provided to Minister Mundy in June 2018 for government's consideration of open adoption records on PEI.

On behalf of the Advisory Committee, I would like to take this opportunity to invite you and members of the PEI Federation of Foster Families to participate in one of two partner engagement sessions being scheduled for Foster Parents:

Wednesday, February 7th, 2018

9:00 am - 11:00 am

5th Floor Jones Boardroom

11 Kent Street, Charlottetown

or

Monday, March 5th, 2018

2:00 pm - 4:00 pm

SRDC Summerside, 250 Water Street, Room LL51

(please use southwest entrance)

The participation of our professional partner colleagues in this important discussion is encouraged and appreciated.

Please call Ms. Penny Woodgate at 902-368-5294 should you require further information. Thank you for your attention to this important review and I look forward to meeting with members of the PEI Federation of Foster Families at the Charlottetown and Summerside sessions.

Kind regards,

Patsy MacLean, Q.C.,
Chairperson