



Offices of the Information and Privacy Commissioners



For the
period ending
March 31, 1997



Improved Reporting to Parliament —
Pilot Document

Canada

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Foreword

On April 24, 1997, the House of Commons passed a motion dividing what was known as the *Part III of the Estimates* document for each department or agency into two documents, a *Report on Plans and Priorities* and a *Departmental Performance Report*. It also required 78 departments and agencies to table these reports on a pilot basis.

This decision grew out of work by Treasury Board Secretariat and 16 pilot departments to fulfil the government's commitments to improve the expenditure management information provided to Parliament and to modernize the preparation of this information. These undertakings, aimed at sharpening the focus on results and increasing the transparency of information provided to Parliament, are part of a broader initiative known as "Getting Government Right".

This *Departmental Performance Report* responds to the government's commitments and reflects the goals set by Parliament to improve accountability for results. It covers the period ending March 31, 1997 and reports performance against the plans presented in the department's *Part III of the Main Estimates* for 1996-97.

Accounting and managing for results will involve sustained work across government. Fulfilling the various requirements of results-based management – specifying expected program outcomes, developing meaningful indicators to demonstrate performance, perfecting the capacity to generate information and report on achievements – is a building block process. Government programs operate in continually changing environments. With the increase in partnering, third party delivery of services and other alliances, challenges of attribution in reporting results will have to be addressed. The performance reports and their preparation must be monitored to make sure that they remain credible and useful.

This report represents one more step in this continuing process. The government intends to refine and develop both managing for results and the reporting of the results. The refinement will come from the experience acquired over the next few years and as users make their information needs more precisely known. For example, the capacity to report results against costs is limited at this time; but doing this remains a goal.

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OFFICES OF THE INFORMATION AND PRIVACY COMMISSIONERS

PERFORMANCE REPORT

for the period ending March 31, 1997

Approved: _____
Information Commissioner

Date: _____

Approved: _____
Privacy Commissioner

Date: _____

Approved: _____
Minister of Justice

Date: _____

TABLE OF CONTENTS

I	Commissioners' Message	
II	Overview	
	Roles and Responsibilities	5
	Organization and Program Composition	6
	Objectives and Priorities	6
III	Business Line Performance	
	Results Commitments	8
	Results Achieved	10
	Financial Performance	13
IV	Appendices	
	Annex 1: Organization Chart	15
	Annex 2: Access Complaints Received (10 year period)	16
	Annex 3: Privacy Complaints Received (10 year period)	17
	Annex 4: Resource Plan	18
	Annex 5: Summary of Voted Appropriations	19
	Annex 6: Legislation Administered	19
	Annex 7: Comparison of Total Planned Spending to Actual Expenditures, 1996-97	20

SECTION I - COMMISSIONERS' MESSAGE

During 1996-97, the Offices of the Information and Privacy Commissioners (OIPC) dealt with an increasing workload of complaints, inquiries and issues, responded to changes to legislation, implemented important enhancements to investigation processes, and conducted an internal review of business practices. This report provides the reader with a look at OIPC's performance during 1996-97, the factors that have influenced change and how the Commissioners have administered their programs.

Information Commissioner

The Commissioner remains committed to ensuring that the rights and obligations under the Access to Information Act are respected.

However, government restraint measures, information technology challenges and government-wide layoffs have had a substantial impact on this year's workload and service to clients. The office has gone as far as it can in terms of re-engineering processes to simplify and streamline program delivery. There are no remaining savings to be made in the Office or in corporate services without negative effect on the Commissioner's ability to serve Parliament and the public.

The workload (complaints received) is largely outside the Commissioner's control. Moreover, it is difficult to predict the number of occasions on which government institutions refuse to accept the Commissioner's recommendations and, by doing so, engender litigation.

Should promised amendments designed to strengthen the access law (additional powers, a public education mandate and additional institutions covered by the Act) be adopted, they will impose a greater burden of work on the Commissioner's office. Under the current resource levels, the service provided by the office is at the border between acceptable and unacceptable.

Privacy Commissioner

As the need for the protection of personal information becomes a major issue in Canadian society, the Commissioner is ever-more convinced that he must ensure that the rights of complainants under the Privacy Act are respected, and that personal information held by federal institutions is protected.

The two most significant government initiatives that had a substantial impact on the Office's workload and service to clients were data warehousing and shared service delivery. Some of the other factors that created administrative, expenditure and legal problems for the Office during 1996-97 include departmental implementation of government restraint measures, the exponential growth in information technology, the government's reliance on electronic service delivery and greater sharing of personal data, government-wide layoffs, and the government's dependence on contracting out work and the related personal records to the private sector.

The Minister of Justice's announcement that the Federal Government would enact privacy legislation to cover the private sector by the year 2000 at the latest, an adopted motion to extend Privacy Act coverage to all Crown Corporations, and reform of the national ports system are initiatives that have, and will, impose an additional burden of work on the Office and have significant resource implications.

Like virtually all federal government institutions, the Office is struggling with dwindling financial resources. The combination of across-the-board percentage cuts and climbing caseload has pushed the Office to the critical point far more quickly than larger agencies.

SECTION II - OVERVIEW

Roles and Responsibilities

The Information and Privacy Commissioners' positions were created under the Access to Information and Privacy Acts which came into force on July 1, 1983. The Commissioners are independent officers of Parliament appointed by the Governor-in-Council following approval of their appointments by resolution of the Senate and the House of Commons. The Offices of the Commissioners were designated by Order-in-Council as a department for purposes of the Financial Administration Act.

i) Information Commissioner:

The Information Commissioner is a special ombudsman appointed by Parliament to investigate complaints that the government has denied rights under the Access to Information Act--Canada's freedom of information legislation. Passage of the Act in 1983 gave Canadians the broad legal right of access to information recorded in any form and controlled by most federal institutions, subject to limited and specific exemptions.

The Commissioner is independent of government and has strong investigative powers. These are real incentives to government institutions to adhere to the Act and respect applicants' rights. Since he is an ombudsman, the Commissioner may not, however, order a complaint resolved in a particular way. Thus, he relies on persuasion to solve disputes, asking for a Federal Court review only if government refuses to follow his recommendations that withheld records be disclosed.

ii) Privacy Commissioner:

The Privacy Commissioner is a special ombudsman who reports directly to the Speakers of the Senate and House of Commons. The Commissioner is appointed under the Privacy Act to review complaints that a federal government institution has mishandled an individual's application to see personal records, or is collecting, using, disclosing or disposing of personal information in a manner that breaches the Act.

As an ombudsman, the Commissioner cannot order an institution to comply with his recommendations. Nevertheless, if he believes that a government agency has improperly denied a complainant access to personal records he may ask for a Federal Court review. He may also report directly to Parliament on matters he considers important or urgent.

iii) Corporate Services

The Corporate Management Branch provides administrative support services to both the Information and Privacy Commissioners. The services include finance, personnel, information technology and general administration (records management, security, procurement, library, reception and management services).

Organization and Program Composition

The Commissioners are accountable for and report directly to Parliament on the results of their respective operations. The organization structure (Annex 1) reflects the three business lines (access to information, privacy and corporate services), the separate statutory basis for each Commissioner's operation, and the accountability for resource utilization and business line results.

The Commissioners share premises and administrative support services while operating independently under their separate statutory authorities. The support services are centralized to avoid duplication of effort and to realize cost savings to the government and the program.

The Offices of the Information and Privacy Commissioners (OIPC) consist of two main business lines (access to information and privacy) and one supporting business line (corporate services).

Objectives and Priorities

i) Access to Information Business Line:

The Access to Information Act is the legislative authority for the activities of the Information Commissioner and his office. The objectives of the business line are:

- o to ensure that the rights and obligations of complainants under the Access to Information Act are respected; complainants, heads of federal government institutions and all third parties affected by complaints are given a reasonable opportunity to make representations to the Information Commissioner and investigations are thorough and timely;

- o to persuade federal government institutions to adopt information practices in keeping with the Access to Information Act; and
- o to bring appropriate issues of interpretation of the Access to Information Act before the Federal Court.

The Commissioner's priorities are: to convince government to release information informally, without resort to the formalities of the access law or the rigors of the Federal Court; to follow a non-adversarial approach; to resolve complaints in a fair, equitable and expeditious manner; and to ensure that response deadlines are consistently respected across government.

ii) Privacy Business Line:

The Privacy Act is the legislative authority for the activities of the Privacy Commissioner and his office. The objectives of the business line are:

- o to ensure that the rights of complainants under the Privacy Act are respected and that the privacy of individuals with respect to personal information about themselves, held by a federal government institution, is protected; and
- o to encourage the growth of fair information practices by government institutions.

The Commissioner's priorities are: to encourage the growth of fair information practices by government institutions; to be more pro-active and service oriented (privacy staff are now more often consulted early in the design and service delivery of government programs and new initiatives); and to pre-empt problems through consultation and assistance to government staff and less on formal investigation, audits and follow-ups.

iii) Corporate Services Business Line:

The objective and priority of the Corporate Management Branch and its business line is to ensure that internal overhead functions are in place to support Access to Information and Privacy program management decisions and accountability.

SECTION III - BUSINESS LINE PERFORMANCE

Results Commitments

Open access to information held by federal institutions and the protection of personal information held by federal institutions are the key performance expectations of the organization's two main business lines. These key performance expectations benefit both individual clients and society by:

- o widespread dissemination of information about the Access to Information Act and the Privacy Act;
- o increased federal institution awareness of the rights of complainants; and
- o disputes being settled through negotiation rather than recourse to the Federal Court.

The organization has continued to refine the framework for enhancing program effectiveness and accountability. Figure 1 outlines the key results commitments that focus on open access to information and the protection of personal information held by federal institutions. Figure 2 on page 9 illustrates the linkage between the organization's business lines and key results.

Figure 1: Key Results Commitments

To provide Canadians with:	To be demonstrated by:
Effective and efficient access to information held by federal institutions.	<ul style="list-style-type: none"> ● Improved knowledge of rights of access to information in federal institutions. ● Access to information without legal formalities. ● Greater transparency of information held by federal institutions. ● Innovative and cost-effective complaints resolutions.
Protection of personal information held by federal institutions.	<ul style="list-style-type: none"> ● Improved awareness on personal information rights. ● Easy access to personal information held by federal institutions. ● Compliance with established data disclosure practices. ● Innovative and cost-effective complaint resolutions.

Figure 2: Linkage Between Business Lines and Key Results

Business Lines	Key Results/Outcomes	Measurement Strategy	Accountability
Access to Information	<ul style="list-style-type: none"> • Effective and efficient access to information held by federal institutions. 	<ul style="list-style-type: none"> • Improved knowledge of rights of access to information in federal institutions. • Access to information without legal formalities. • Greater transparency of information held by federal institutions. • Innovative and cost-effective complaint resolutions. 	Information Commissioner
Privacy	<ul style="list-style-type: none"> • Protection of personal information held by federal institutions. 	<ul style="list-style-type: none"> • Improved awareness on personal information rights. • Easy access to personal information held by federal institutions. • Compliance with established data disclosure practices. • Innovative and cost-effective complaint resolutions. 	Privacy Commissioner
Corporate Services	<ul style="list-style-type: none"> • Cost-effective administrative support services that meet the operational requirements of the program. 	<ul style="list-style-type: none"> • Service quality within published standards. • Assessment of client satisfaction with service levels. 	Director General, Corporate Management

Results Achieved

In recent years, the Information and Privacy Commissioners have improved their operations. Some of the business line process changes and key accomplishments that have resulted in improvements of performance follow.

i) Business Line Process Changes

Both the access to information and privacy business lines have made the following changes to the manner in which business is conducted:

- o information technology is used to streamline and speed-up client service--a staff local area network, a case tracking system (CTS) for complaint investigations, a corporate memory system (CMS) to help legal, research and investigation work, and a correspondence tracking system;
- o costs of transmitting information and publications have been reduced by putting material on Internet sites (one each for access to information and privacy); and
- o business line performance measures and service standards have been developed.

ii) Access to Information Business Line

In addition to its ongoing business (complaint investigations, settlement negotiations, departmental reviews, inquiries, court applications and reports to Parliament), the Office adapted to changing circumstances resulting from more demanding requests of the users of the Access Act (Annex 2), the increased complexity of access cases, and the budget reductions imposed in 1993, 1994 and 1995. Thus the Office:

- o places more emphasis on the resolution of complaints without recourse to the courts;
- o investigates complaints more expeditiously, making better use of information technologies; and
- o has reduced the number of managers and eliminated in house public affairs, research and policy development positions.

A professional working relationship with government institutions is key to the business line's effectiveness and, thus, the public's success. The Commissioner's effectiveness is measured by a high proportion of resolved complaints and by convincing government to release information informally, without application under the Act.

The Commissioner's findings and recommendations, made to heads of government institutions, serve to ensure that the rights of complainants are respected and to encourage the growth of more open government. The categories of complaints made under the Access to Information Act reflect solution-finding rather than fault-finding philosophy. The findings and dispositions of all complaints from 1993-94 to 1996-97 are as follows.

	1993-94 <u>Actual</u>	1994-95 <u>Actual</u>	1995-96 <u>Actual</u>	1996-97 <u>Actual</u>
Resolved	448	601	980	963
Not Resolved	4	8	6	9
Not Substantiated	253	281	319	390
Discontinued	<u>28</u>	<u>70</u>	<u>225</u>	<u>135</u>
Total	<u>733</u>	<u>960</u>	<u>1,530</u>	<u>1,497</u>

Figure 3 shows the success the business line has already achieved in improving productivity--measured in turnaround time for investigations. None of the productivity gains were achieved by means of increased human resources; and they were achieved despite an increasing workload.

Figure 3: Complaints Completed - Turnaround Time (Months)

<u>Complaint Category</u>	1993-94 <u>Actual</u>	1994-95 <u>Actual</u>	1995-96 <u>Actual</u>	1996-97 <u>Actual</u>
Refusal to Disclose	5.40	5.87	6.26	7.39
Delay (Deemed Refusal)	2.18	2.36	2.54	2.79
Time Extension	2.54	3.22	2.40	3.31
Fees	2.96	4.36	5.58	7.28
Language	3.68	-	3.48	9.07
Miscellaneous	3.86	4.02	5.76	4.46
Overall	<u>4.03</u>	<u>4.22</u>	<u>3.88</u>	<u>5.00</u>

iii) Privacy Business Line

Mindful of the government's restraint programs and in addition to ongoing activities (complaint investigation, audit of departmental privacy performance, inquiry resolution and issue research), the Office implemented the recommendations of an internal review of business practices and service standards in order to provide clients better and more timely service; and continued to produce annual and special reports and speeches in-house, restrict travel and printing.

The Privacy Commissioner hosted the 18th International Data Protection and Privacy Commissioners' Conference in Ottawa in September 1996--the annual meeting of commissioners responsible for enforcement or oversight of their countries' data protection laws.

The Office implemented a new case investigation and review process to streamline handling of its heavy caseload (Annex 3) and reduce the current caseload under investigation (now 1,600). The new process reduced the paper burden, removed some of the formality, eliminated steps in the review process and allowed greater reliance on the telephone. In short, a fast track approach to handling many of the complaints, one that builds on the strength and flexibility of the ombudsman role.

At the same time, the Office implemented quality service standards aimed at reducing the time and effort required to investigate complaints, created a unit to focus on backlogged complaints, and another to concentrate on complaints about improper collection, use, disclosure and disposal of personal records (sections 4 to 8 of the Privacy Act). The Office will monitor the impact of these changes carefully, and fine-tune where needed.

The Privacy Act gives the Commissioner the power (and the discretion) to investigate (audit) federal government compliance with the Act's fair information code. Given the near impossibility of systemic auditing, the Office shifted its emphasis to examining specific departmental privacy issues and others that are government-wide.

During the year, more time was spent on consultation and assistance to government staff and less on formal audits and follow-ups. Privacy staff are more often consulted early in the design and service delivery of government programs and new initiatives.

Figure 4 shows the success the business line has already achieved in improving productivity (measured in turnaround time for investigations) despite an increasing workload.

Figure 4: Complaints Completed - Turnaround Time (Months)

<u>Complaint Category</u>	<u>1993-94 Actual</u>	<u>1994-95 Actual</u>	<u>1995-96 Actual</u>	<u>1996-97 Actual</u>
Access	13.0	11.9	13.7	12.5
Privacy	16.3	18.6	15.6	16.4
Time Limit	7.3	5.5	4.7	4.3
Overall	<u>11.9</u>	<u>10.2</u>	<u>9.6</u>	<u>10.0</u>

iv) Corporate Services Business Line

During the year, Corporate Management Branch staff provided the requisite administrative support services to both the access to information and privacy business lines. The services included finance, personnel, information technology and general administration (records management, security, procurement, library, reception and management services). The Branch is a frugal operation with a staff of 15 (who perform multi-functional tasks) and a budget that represents approximately 15 per cent of total 1996-97 expenditures.

Financial Performance

The Offices of the Information and Privacy Commissioners (OIPC), continue to barely manage their programs in an efficient and effective way because of its reduced resource base from year to year.

Although OIPC continually pursues innovative approaches to delivery of its programs without adversely affecting business line objectives; the Offices did not live within its approved level of funding for 1996-97, and incurred a business line net operating deficit of approximately \$65,000 (Annex 4). The deficit was due principally to unforeseen private sector legal counsel costs and a small salary and wage shortfall.

i) Access to Information Business Line

During 1996-97, the business line, in the face of workload increases and current resource levels, could only cope through service reductions (longer completion times for investigations as well as a reduced capacity to respond to queries from MP's and provide constructive advice to government on system-wide access issues).

All possible efficiency improvements, such as exploitation of technology, management delayering, abolition of jobs not directly related to investigations (such as public affairs, research and policy positions) have been implemented. Efforts to ensure that investigators have effective conflict resolution skills are ongoing to help reduce the number of cases that might otherwise result in litigation before the Federal Court.

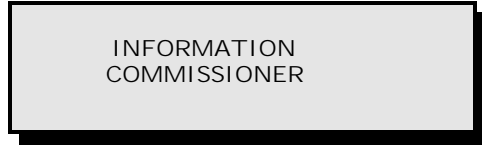
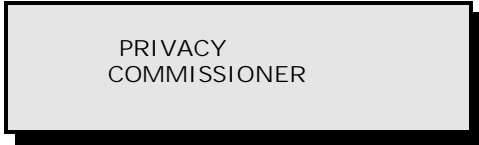
ii) Privacy Business Line

Operating budget reductions to-date hampered the business line's ability to provide a quality (if any in some circumstances) level of service to its publics during 1996-97. The cumulative effect of budget reductions between 1992-93 and 1996-97 reduced the program's "other goods and services" operating budget to \$140,000 or, \$3,500 per Privacy employee for supplies, services, travel, etc. for the 1996-97 operating year.

The Privacy Commissioner submitted a report to the Standing Committee on Justice and Legal Affairs, following his May 1994 appearance at Estimates. The report set out the Office's financial crisis. In June of 1995, the Commissioner forwarded to Treasury Board Secretariat Program Branch officials a "Resource Analysis" report that set out the office's workload, the cumulative impact of budget cuts on program delivery, and some options for dealing with the problem. The Treasury Board provided a one-time infusion of \$200,000 (\$50,000 for 1995-96 and \$150,000 for 1996-97) to help reduce the Office's backlog--funds were used to hire contract investigators. However, despite the one-time infusion of funds, the business line incurred an \$86,000 operating deficit during 1996-97 due principally to unforeseen private sector legal counsel costs.

SECTION IV - APPENDICES

Annex 1: Accountability for Business Line Results and Resources Allocated for 1996-97 (\$000's)

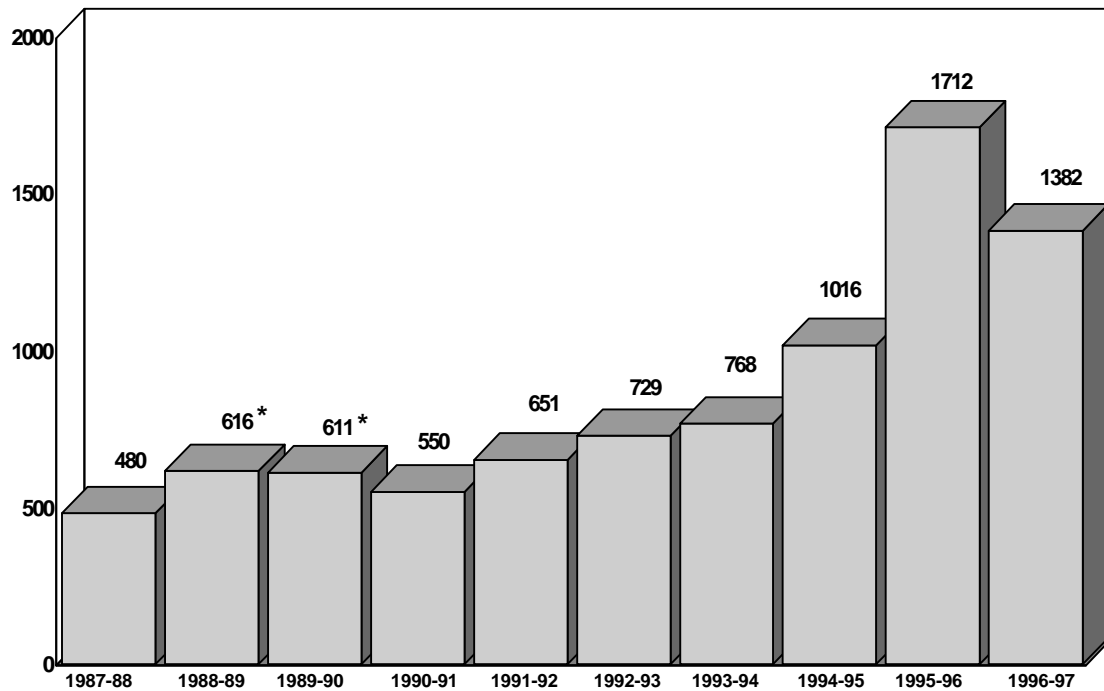


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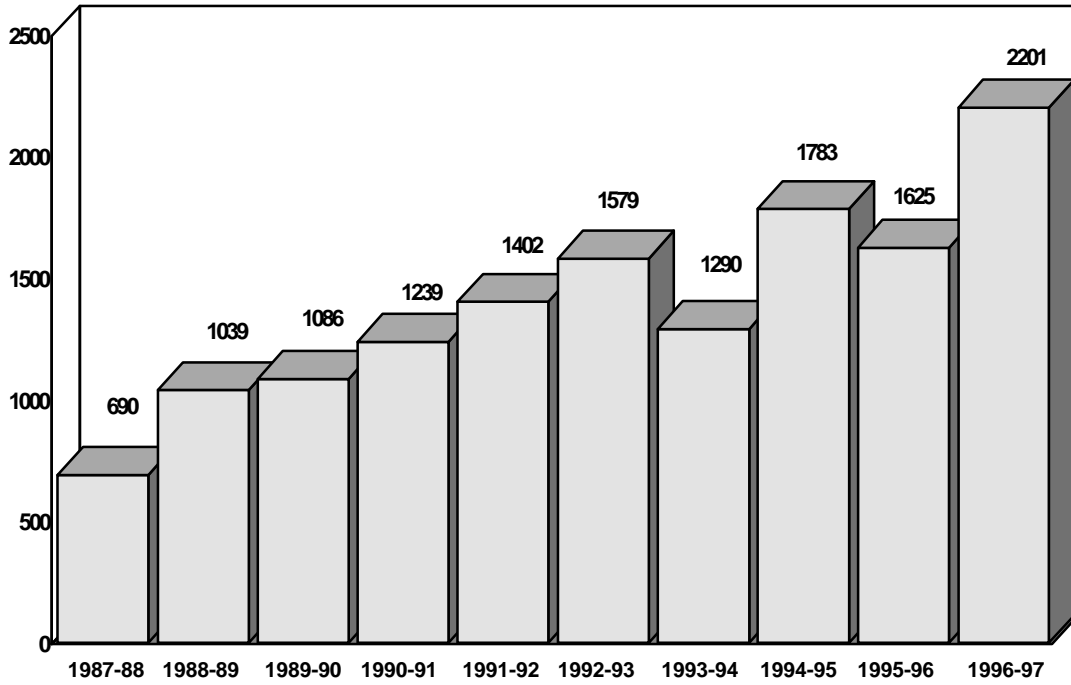
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Annex 2: Access to Information Business Line - actual complaints received between 1987-88 and 1996-97



* Statistics previously reported for 1988-89 and 1989-90 included 2219 and 453 complaints received from one individual. These have been excluded for comparison purposes here since their inclusion would distort the figures.

Annex 3: Privacy Business Line - actual complaints received between 1987-88 and 1996-97



Annex 4: Resource Plan

The figures in the following tables have been re-stated from those previously reported in Estimates Part III and Public Accounts to reflect a more refined identification of resources within each business line--contributions to Employee Benefit Plans have been excluded.

Budget Reduction Trend - by business line

	(\$ millions)				
	<u>1993-94</u>	<u>1994-95</u>	<u>1995-96</u>	<u>1996-97</u>	<u>1997-98</u>
Access to Information	2.5	2.4	2.3	2.3	2.2
Privacy	2.4	2.5	2.4	2.5*	2.3
Corporate Services	<u>1.3</u>	<u>.9</u>	<u>.9</u>	<u>.8</u>	<u>.8</u>
Total	<u>6.2</u>	<u>5.8</u>	<u>5.6</u>	<u>5.6</u>	<u>5.3</u>

* Includes \$140,000 (for 1996-97 only) to host the 1996 International Data Protection and Privacy Commissioners' Conference in Ottawa.

Departmental Planned versus Actual Spending - by business line

	(\$ millions)				
	<u>Actual 1993-94</u>	<u>Actual 1994-95</u>	<u>Actual 1995-96</u>	<u>Planned 1996-97</u>	<u>Actual 1996-97</u>
Access to Information	2.3	2.4	2.4	2.3	2.4
Privacy	2.5	2.6	2.6	2.5	2.8
Corporate Services	<u>1.2</u>	<u>.9</u>	<u>.9</u>	<u>.8</u>	<u>.8</u>
Total	<u>6.0</u>	<u>5.9</u>	<u>5.9</u>	<u>5.6</u>	<u>6.0</u>

Annex 5: Summary of Voted Appropriations

Authorities for 1996-97 - Part II of the Estimates Financial Requirements by Authority (\$ millions)

Vote (Millions of dollars)	1996-97 Main Estimates	1996-97 Total Authorities	1996-97 Actual
Offices of the Information and Privacy Commissioners of Canada			
(30) Operating Expenditures	5.6	5.9	6.0
(S) Contributions to employee benefit plans	0.7	0.7	0.7
Total Department	6.3	6.6	6.7

Annex 6: Legislation Administered by the Offices of the Information and Privacy Commissioners of Canada

The Commissioners have sole responsibility to Parliament for the following Acts:

Access to Information Act
Privacy Act

R.S.C., 1985, ch. A-1, amended 1997, c.23, s.21
R.S.C. 1985, ch. P-21, amended 1997, c.20, s. 55

**Annex 7: Comparison of Total Planned Spending to Actual Expenditures, 1996-97
(\$ millions)**

Business Line	FTEs	Operating ¹	Capital	Voted Grants and Contributions	Subtotal : Gross Voted Expenditures	Statutory Grants and Contributions	Total Gross Expenditures	Less: Revenue Credited to the Vote	Total Net Expenditures
OIPC	89	6.3	--	--	6.3	--	6.3	--	6.3
	84	6.7	--	--	6.7	--	6.7	--	6.7
Totals	89	6.3	--	--	6.3	--	6.3	--	6.3
	84	6.7	--	--	6.7	--	6.7	--	6.7
Revenue credited to the Consolidated Revenue Fund								0.0	
									(0.1)
Cost of services provided by other departments								1.0	
									1.0²
Net Cost of the Program								7.3	
									7.6

Note: Shaded numbers denote actual expenditures/revenues in 1996-97.

1. Operating includes contributions to employee benefit plans and ministers' allowances.

2. Actuals not available at this time.