



Information
Commissioner
of Canada

Commissaire
à l'information
du Canada



Annual Report on the Administration of the PRIVACY ACT

2010-2011

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1 Introduction

This report to Parliament describes the activities of the Office of the Information Commissioner of Canada (OIC) for 2010–2011 that support compliance with the *Privacy Act*.¹ It is submitted pursuant to section 72 of the *Privacy Act*.¹

The purpose of the *Privacy Act* is to protect the privacy of individuals with respect to personal information about themselves held by federal institutions, and to provide individuals with a right of access to that information.

The mandate of the Information Commissioner is to investigate complaints under the *Access to Information Act* (the Act) from individuals who feel that their rights to access have not been respected by federal institutions. The Commissioner is also authorized to initiate a complaint relating to requesting or obtaining access to records under the Act if there are reasonable grounds to do so.²

This report details the activities and accomplishments of the Access to Information and Privacy program as they pertain to the *Privacy Act*. Some highlights include:

- We completed formal requests in an average of 16.5 days.
- We completed two Preliminary-Privacy Impact Assessments (PPIAs) regarding the implementation of the electronic corporate records repository and the new corporate Intranet website.
- We contributed innovative approaches to enhance the organization's ability to respond to evolving business requirements. One initiative provided for the temporary deployment of two members of the Access to Information and Privacy Secretariat to help with the investigative function.

2 Organization

The Information Commissioner is an Agent of Parliament and ombudsperson appointed by Parliament under the *Access to Information Act*. The Commissioner is supported by the OIC, an independent public body established in 1983 under the Act to respond to complaints from the public about access to information.

The OIC was restructured at the end of the reporting period into three branches as follows:

- The **Complaints Resolution and Compliance (CRC) Branch** investigates individual complaints about the processing of access requests, conducts dispute resolution activities and makes formal recommendations to institutions, as required. It also assesses federal institutions' compliance with their obligations and carries out systemic investigations and analysis.

¹ *Privacy Act*, R.S., 1985, c. P-21

² *Access to information Act*, R.S. 1985, c. A-1, section 30

- **Legal Services** represents the Commissioner in court and provides legal advice on investigations, legislative issues and administrative matters. It closely monitors the range of cases having potential litigation ramifications for the OIC and access to information in general. It also assists investigators by providing them with up-to-date and customized reference tools on the evolving technicalities of the case law.
- **Corporate Services** provides strategic and corporate leadership in human resources and financial management, internal audit as well as information management and technology. It provides policy direction and conducts the OIC's external relations with a wide range of stakeholders, notably Parliament, government and representatives of the media. It is also responsible for managing the OIC's access to information and privacy function.

The **Access to Information and Privacy (ATIP) Secretariat** processes access requests filed under the Act for records under the control of the OIC. Prior to the restructuring of the Corporate Services Branch, the ATIP Secretariat comprised four staff members:

- the Director, Information Management Division, who also holds full delegated authority under the Act as institutional ATIP Coordinator;
- the Director, ATIP Secretariat, who is responsible for the management of the Secretariat, including oversight of request administration, policy development and training, and holds full delegated authority under the Act as ATIP Coordinator;
- the Senior ATIP Analyst, who is responsible for the processing of complex and/or voluminous files and the second review of completed requests; and
- the Junior ATIP Analyst, who administers less complex and smaller volume applications under the Act.

Since the demand in the ATIP Secretariat decreased this year, we were in a position to offer additional support to increase the organization's investigation capacity. Two staff members were temporarily assigned to the CRC Branch to boost capacity and maximize efficiencies.

3 Delegation Order

Under the Act, the Information Commissioner is the designated head of the institution, for the purpose of administering the legislation.

The delegation order signed January 18, 2010 was still in force at the start of the reporting period. The order delegated full authority under section 73 to the Interim Assistant Commissioner, Policy, Communications and Operations; the Acting Director, Information Management; and the ATIP Manager (see Appendix A).

During the reporting period, one change was made in the delegated authority. In September 2010, the delegation to the ATIP Deputy Director was revoked as this individual was being assigned temporarily to assist in investigating complaints (see Appendix B). The revocation of the delegation ensured there was no conflict of interest as the employee assumed new responsibilities. A new delegation order was then issued authorising the Acting Assistant Commissioner, Policy, Communications and Operations as well as the Director, Information Management to exercise authority under the *Act*, (see Appendix C).

4 Statistical Report

The statistical report is attached as Appendix D.

5 Interpretation of the Statistical Report

This section provides details on the six requests the ATIP Secretariat processed under the *Privacy Act* during the reporting period. Only those sections of the *Act* that were applicable to those requests will be discussed in this section.

5.1 Requests received under the Privacy Act

We received six requests under the *Privacy Act* during this fiscal year. All of these, were completed before March 31, 2011.

5.2 Disposition of requests completed

Of the six requests completed, two were disclosed in part, two were transferred to another institution with a greater interest, one was disclosed in full and one was abandoned by the applicant.

5.3 Exemptions invoked

Section 22 of the *Act* was invoked three times in order to protect OIC investigations.

5.4 Completion times

All files were completed within the original 30 days. The average turnaround time for a request under the *Privacy Act* was 16.5 days.

5.5 Method of access

In all three cases, copies of the records were provided to the requester in a CD format.

5.6 Costs

Costs to administer the OIC privacy program between April 1, 2010, and March 31, 2011	
Financial	Amount
Salary	\$8,606.42
Administration (O&M)	\$328.62
Total	\$8,935.04
Person Year (decimal format)	0.3

6 Privacy Impact Assessments

During the reporting period two Preliminary-Privacy impact assessments (PPIA) were completed. The first PPIA covered the implementation of the electronic corporate records repository – RDIMS. No significant privacy risks were identified. The PPIA will be posted on the corporate website upon approval by the OIC Executive Committee.

A second PPIA was done to assess privacy risks associated with the implementation of the new corporate Intranet website. The PPIA identified the need for signed consent forms to be completed by OIC employees prior to their pictures or other personal information being posted on the site. The OIC has therefore mitigated any risks to privacy rights by implementing a procedure requiring consent forms to be completed before any employees' personal information is posted on the site.

7 Data-sharing Activities

There were no new data-sharing activities during the reporting period.

8 Education and Training Activities

During 2010–2011, the ATIP Secretariat conducted three training sessions, in both official languages, on the *Access to Information Act* and the *Privacy Act* and related processes.

Legal Services provided one-on-one training on the legislation for all new employees. They also offered four sessions on the Act in general, two sessions on the duty to assist, and four sessions on the exercise of discretion.

The ATIP staff attended the 18th Congress of the *Association sur l'accès et la protection de l'information* held in Quebec City. This three-day conference provided an opportunity to see the developments underway in the Quebec provincial access to information and privacy community.

9 Changes to the Organization, Programs, Operations or Policies

9.1 Organizational restructuring

As discussed above, the OIC underwent a restructuring at the end of the reporting period. The former Policy, Communications and Operations Branch was streamlined with a view to enhancing controls and accountability for all corporate functions, including access to information. Policy development and systemic affairs are now under the responsibility of the Complaints Resolution and Compliance Branch. The new Corporate Services Branch includes human resource management.

9.2 IM/IT strategy

The continued implementation of the organization's strategy to renew its information management and information technology further contributed to maintaining our excellent performance in quickly handling access to information and privacy requests.

In 2008 a preliminary assessment of our information management and information technology (IM/IT) program was completed and a five-year strategic plan was developed and approved by the Treasury Board Secretariat. The plan sets out the roadmap to integrate the IM/IT infrastructure and develop it to full maturity with the applications, policies and processes needed to fully meet the organization's business requirements.

During the reporting period we operationalized Year 2 of the IM/IT strategy. Our projects included implementing an electronic corporate records repository (RDIMS). The IM section developed and delivered group training on RDIMS and IM, and subsequently posted the training on the OIC website in both official languages to facilitate access. A support function for RDIMS was implemented, including a network of trained IM practitioners representing each business area. The IT team provided programming and technical support to the project.

The IM Section also finished the work on a corporate wide effort to identify and describe all records held by the OIC into a corporate universal classification system.

The division also made an electronic training module on the classification of sensitive information available on the website for all users.

Finally, the first-ever disposition of records under the Multi-Institutional Disposition Authority (MIDA) for case files took place this year. We disposed of more than 20,000 investigative files and began shipping records of archival value to Library and Archives Canada (LAC) to preserve the documentary heritage of Canadians. We also began the disposition of records under the MIDAs for common administrative functions. We anticipate completing the disposition of financial records and ATI files by the end of 2011–2012.

In the IT area, we focused on upgrades to our network which resulted in a 30% reduction in service calls overall to the IT Help Desk. We also worked closely with the investigative branch to customize an off-the shelf software solution to its case management needs. Through user

acceptance testing, we further refined the product to fully meet investigators' needs. The new system will be deployed starting in April 2011.

The IT team also focussed on developing sound reporting tools that would enable senior management to monitor the progress of investigations more effectively.

10 New Policies or Procedures

Throughout the year we revised and refined our ATIP Procedures Manual. This document provides a detailed look at the steps required to process an access to information request. The six pillars of the access to information and privacy regime at the OIC are as follows:

1. Full implementation of duty to assist

- Exercise discretion to waive application fee.
- Advise requesters on ways to clarify their requests to facilitate faster and greater disclosure.
- Expedite consultation process when required.
- Provide interim releases when time extensions are necessary.

2. Maximum disclosure

- Apply a presumption in favour of disclosure and due consideration to the public interest in the information requested. Severances are applied only when the access to information and privacy coordinator is satisfied that disclosure would result in specific and probable harm to the interest covered under a discretionary exemption.

3. Minimal extensions of deadlines

- Resort to extensions only when unavoidable and for the shortest time possible.

4. Timeliness of responses

- Release as soon as possible without waiting for the 30-day deadline.

5. Confidentiality of the investigative process

- Refrain from making recommendations to institutions consulting the office regarding information that could be the subject of a subsequent investigation, thereby eliminating any potential conflict of interest.

6. Protection of personal information

- Guarantee the privacy, confidentiality and security of personal information in accordance with the *Privacy Act*.

In the interest of reducing the request processing time as much as possible, the ATIP Secretariat, with the full support of the executive committee, reduced the tasking time for document retrieval from 7 days to 5 days. As a result, we are able to process our requests more quickly. This initiative was key to our achieving and maintaining an average turnaround time of 16.5 days on requests.

11 Privacy Complaints and Investigations

Four complaints were lodged with the Office of the Privacy Commissioner (OPC) during the reporting period, and three were still open as of March 31, 2011.

The complaint investigation that was closed this year had a finding of “not-well founded”. In this instance the requester complained that OIC was denying him access to his personal information by applying exemptions to the records he requested under the *Privacy Act*. The Privacy Commissioner reviewed our application of the exemptions and found that none of the requester’s personal information had been withheld from him.



Office of the
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Appendix A

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Delegation orders for the purpose of the *Access to Information Act* and the *Privacy Act* Arrêté de délégation en vertu de la *Loi sur l'accès à l'information* et de la *Loi sur la protection des renseignements personnels*

The Interim Information Commissioner of Canada, pursuant to Section 73 of the *Access to Information Act* and *Privacy Act*, hereby designates the persons holding the positions set out in the schedule hereto, or the persons occupying on an acting basis those positions, to exercise the powers and functions of the Interim Information Commissioner of Canada as the head of a government institution that is, the Office of the Information Commissioner of Canada.

En vertu de l'article 73 de la *Loi sur l'accès à l'information* et de la *Loi sur la protection des renseignements personnels*, la Commissaire par intérim à l'information du Canada délègue aux titulaires des postes mentionnés à l'annexe ci-après, ainsi qu'aux personnes occupant à titre intérimaire les dits postes, les attributions dont elle est investie en qualité de responsable d'une institution fédérale, c'est-à-dire le Commissariat à l'information du Canada.

Schedule / Annexe

Position/ Poste

	<i>Privacy Act and Regulations/ Loi sur la protection des renseignements personnels et règlements.</i>	<i>Access to Information Act and Regulations/ Loi sur l'accès à l'information et règlements.</i>
Layla Michaud Interim Assistant Information Commissioner/ Commissaire adjointe à l'information par intérim	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue
Monica Fuijkschot A/Director, Information Management/ Directrice intérimaire, Gestion de l'information	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue
Mario Perrier ATIP Manager, Access to Information and Privacy /Gestionnaire AIPRP, Accès à l'information et protection des renseignements personnels	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue

Dated, at the City of Ottawa,
this 18th day of January 2010

Daté, à la ville d'Ottawa
ce 18^{ème} jour de Janvier 2010

Suzanne Legault

Interim Information Commissioner of Canada
Commissaire par intérim à l'information du Canada



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Appendix B

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Delegation Orders for the purpose of the *Access to Information Act* and the *Privacy Act*

Arrêté sur la délégation en vertu de la *Loi sur l'accès à l'information* et de la *Loi sur la protection des renseignements personnels*

The delegation to Mario Perrier, ATIP
Manager, Access to Information and
Privacy effective January 18, 2010 is
hereby revoked.

La délégation à Mario Perrier, Gestionnaire
AIPRP Accès à l'information et protection
des renseignements personnels, du 18
janvier 2010 est révoquée.

Dated at Ottawa, this 22th day of *Septembre*
2010.

Signée à Ottawa, le *22 septembre* 2010.

Suzanne Legault
Information Commissioner of Canada
Commissaire à l'information du Canada

Appendix C



Office of the
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Delegation orders for the purpose of the *Access to Information Act* and the *Privacy Act* Arrêté de déléation en vertu de la *Loi sur l'accès à l'information* et de la *Loi sur la protection des renseignements personnels*

The Information Commissioner of Canada, pursuant to Section 73 of the *Access to Information Act* and of the *Privacy Act*, hereby designates the persons holding the positions set out in the schedule hereto, or the persons occupying on an acting basis those positions, to exercise the powers and functions of the Information Commissioner of Canada as the head of a government institution that is, the Office of the Information Commissioner of Canada.

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Schedule / Annexe

Position/ Poste	<i>Privacy Act and Regulations/ Loi sur la protection des renseignements personnels et règlement.</i>	<i>Access to Information Act and Regulations/ Loi sur l'accès à l'information et règlement.</i>
Layla Michaud Interim Assistant Information Commissioner (Policy, Communications and Operations) / Commissaire adjoint à l'information par intérim (Politiques, communications et opérations)	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue
Director, Information Management/ Directeur, Gestion de l'information	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue

Dated, at the City of Ottawa,
this 22 day of September 2010

Daté, à la ville d'Ottawa
ce 22 jour de Septembre 2010

Suzanne Legault
Information Commissioner of Canada
Commissaire à l'information du Canada

Appendix D

REPORT ON THE PRIVACY ACT RAPPORT CONCERNANT LA LOI SUR LA PROTECTION DES RENSEIGNEMENTS PERSONNELS

Institution Office of the Information Commissioner	Reporting period / Période visée par le rapport 2010-2011
-------------------------------------------------------	--------------------------------------------------------------

I Requests under the Privacy Act / Demandes en vertu de la Loi sur la protection des renseignements personnels	
Received during reporting period / Reçues pendant la période visée par le rapport	6
Outstanding from previous period / En suspens depuis la période antérieure	0
TOTAL	6
Completed during reporting period / Traitées pendant la période visée par le rapport	6
Carried forward / Reportées	0

II Disposition of request completed / Disposition à l'égard des demandes traitées	
1 All disclosed / Communication totale	1
2 Disclosed in part / Communication partielle	2
3 Nothing disclosed (excluded) / Aucune communication (exclusion)	0
4 Nothing disclosed (exempt) / Aucune communication (exemption)	0
5 Unable to process / Traitement impossible	0
6 Abandoned by applicant / Abandon de la demande	1
7 Transferred / Transmission	2
TOTAL	6

III Exemptions invoked / Exceptions invoquées	
§ Art 18(2)	0
§ Art 19(1)(a)	0
(b)	0
(c)	0
(d)	0
§ Art 20	0
§ Art 21	0
§ Art 22(1)(a)	1
(b)	2
(c)	0
§ Art 22(2)	0
§ Art 23 (a)	0
(b)	0
§ Art 24	0
§ Art 25	0
§ Art 26	0
§ Art 27	0
§ Art 28	0

IV Exclusions cited / Exclusions citées	
§ Art 69(1)(a)	0
(b)	0
§ Art 70(1)(a)	0
(b)	0
(c)	0
(d)	0
(e)	0
(f)	0

V Completion time / Délai de traitement	
30 days or under / 30 jours ou moins	6
31 to 60 days / De 31 à 60 jours	0
61 to 120 days / De 61 à 120 jours	0
121 days or over / 121 jours ou plus	0

VI Exemptions / Prorogations des délais		
	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Interference with operations / Interruption des opérations	0	0
Consultation	0	0
Translation / Traduction	0	0
TOTAL	0	0

VII Translations / Traductions		
Translations requested / Traductions demandées		0
Translations prepared / Traductions préparées	English to French / De l'anglais au français	0
	French to English / Du français à l'anglais	0

VIII Method of access / Méthode de consultation	
Copies given / Copies de l'original	3
Examination / Examen de l'original	0
Copies and examination / Copies et examen	0

IX Corrections and notation / Corrections et mention	
Corrections requested / Corrections demandées	0
Corrections made / Corrections effectuées	0
Notation attached / Mention apposée	0

X Costs / Coûts	
Financial (all reasons) / Financiers (raisons)	
Salary / Traitement	\$ 8606.42
Administration (O and M) / Administration (fonctionnement et maintien)	\$ 328.62
TOTAL	\$ 8935.04
Person year utilization (all reasons) / Années-personnes utilisées (raisons)	
Person year (decimal format) / Années-personnes (nombre décimal)	0.3



Additional Reporting Requirements – Privacy Act

Treasury Board Secretariat is monitoring compliance with the Privacy Impact Assessment (PIA) Policy (which came into effect on May 2, 2002) and the Directive on Privacy Impact Assessment (which takes effect April 1, 2010) through a variety of means. Institutions are therefore required to report the following information for this reporting period. Note that because some institutions are using the Core PIA as outlined in the Directive in advance of the implementation deadline, they will not have Preliminary PIAs to report.

Indicate the number of:

- Preliminary Privacy Impact Assessments initiated - 1
- Preliminary Privacy Impact Assessments completed - 2
- Privacy Impact Assessments initiated - 0
- Privacy Impact Assessments completed - 0
- Privacy Impact Assessments forwarded to the Office of the Privacy Commissioner (OPC) - 0

Note: If your institution did not undertake any of the activities noted above during the reporting period, this must be stated explicitly.

In addition, institutions are required to report on the following:

Part III – Exemptions invoked

Paragraph 19(1)(e)

Paragraph 19(1)(f)

Subsection 22.1

Subsection 22.2

Subsection 22.3

Part IV – Exclusions cited

Subsection 69.1

Subsection 70.1

The OIC did not invoke any exemptions or cite any exclusion noted in Part III and IV above during the reporting period.