



Public Prosecution
Service of Canada

Service des poursuites
pénales du Canada



**Public Prosecution
Service of Canada**

**Annual Report
on the
*Privacy Act***

2008-2009

Canada 

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Introduction

The *Privacy Act* was proclaimed into force on July 1, 1983. The *Act* grants Canadian citizens, permanent residents or any person present in Canada a right of access to their personal information that is held by federal government institutions, subject to specific and limited exceptions and to an independent review of decisions on disclosure.

Section 72 of the *Privacy Act* requires the head of each government institution to table an annual report on the administration of the *Act* within the institution.

This Annual Report provides a summary of the management and administration of the *Privacy Act* within the Public Prosecution Service of Canada for the fiscal year 2008-2009.

Mandate of the Public Prosecution Service of Canada

The Public Prosecution Service of Canada (PPSC) was created on December 12, 2006 with the coming into force of the *Director of Public Prosecutions Act*, Part 3 of the *Federal Accountability Act*. The PPSC replaced the former Federal Prosecution Service of the Department of Justice Canada.

The mandate of the PPSC is set out in the *Director of Public Prosecutions Act*. The *Act* calls on the Director of Public Prosecutions (the Director) to:

- initiate and conduct federal prosecutions;
- intervene in proceedings that raise a question of public interest that may affect the conduct of prosecutions or related investigations;
- issue guidelines to federal prosecutors;
- advise law enforcement agencies or investigative bodies on general matters relating to prosecutions and on particular investigations that may lead to prosecutions;
- communicate with the media and the public on all matters respecting the initiation and conduct of prosecutions;
- exercise the authority of the Attorney General of Canada in respect of private prosecutions;
- exercise any other power or carry out any other duty or function assigned by the Attorney General of Canada that is compatible with the Office of the Director;
- initiate and conduct prosecutions under the *Canada Elections Act*; and
- act, when requested by the Attorney General of Canada, in matters under the *Extradition Act* and the *Mutual Legal Assistance in Criminal Matters Act*.

The *Director of Public Prosecutions Act* empowers the Director to act independently in respect of federal prosecutions. With the exception of *Canada Elections Act* matters, the Attorney General of Canada can issue a directive to the Director in respect of a prosecution or assume conduct of a prosecution, but must do so in writing and a notice must be published in the *Canada Gazette*. To assist the Attorney General in deciding whether to give direction or assume conduct, the Director must inform the Attorney General of any prosecution or planned intervention that may raise important questions of general interest.

Roles and Responsibilities of the Public Prosecution Service of Canada

The Public Prosecution Service of Canada (PPSC) provides prosecution-related advice to law enforcement agencies across Canada and prosecutes offences within federal jurisdiction. Approximately 50 federal statutes contain offences in respect of which the PPSC undertakes these roles.

The PPSC is not an investigative agency and conducts a prosecution when a charge of violating federal law has been laid by an investigative or law enforcement agency, following an investigation.

In all provinces and territories, except Quebec and New Brunswick, the PPSC is responsible for prosecuting all drug offences under the *Controlled Drugs and Substances Act*, regardless of which police agency investigates the alleged offences. In Quebec and New Brunswick, the PPSC prosecutes only those drug offences that were investigated by the Royal Canadian Mounted Police.

In all provinces and territories, the PPSC prosecutes violations of federal statutes such as the *Income Tax Act*, the *Fisheries Act*, the *Excise Act*, the *Customs Act*, the *Canadian Environmental Protection Act*, and the *Competition Act*, as well as conspiracies and attempts to violate these statutes.

In the three territories, the PPSC is responsible for prosecuting all *Criminal Code* offences. In the provinces, the PPSC has jurisdiction to prosecute a limited number of *Criminal Code* offences, including those related to terrorism, criminal organizations, money laundering, proceeds of crime, and fraud. Under arrangements with the provinces, the PPSC may also prosecute *Criminal Code* offences that are otherwise within provincial jurisdiction when the accused also faces drug-related charges.

Access to Information and Privacy (ATIP) Office

The ATIP Office is the focal point for the application of access to information and privacy legislation at the PPSC. The mandate of the ATIP Office is to implement and administer the *Access to Information Act* and the *Privacy Act*. The ATIP Office deals directly with the public in relation to access to information and privacy requests and, in collaboration with the Offices of Primary Interest (OPI), serves as the centre of ATIP expertise in enabling the PPSC to meet its statutory obligations under these *Acts*.

The ATIP Office undertakes the responsibility of the administration of the *Privacy Act* by:

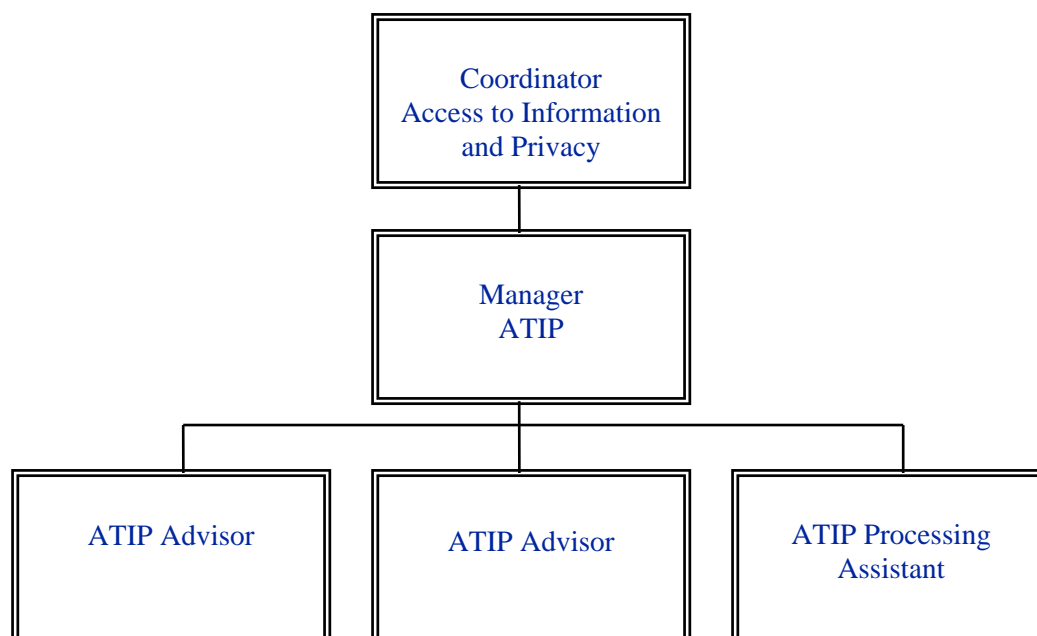
- processing requests for information submitted under the *Privacy Act* in accordance with legislation, regulations and Treasury Board of Canada Secretariat policies and guidelines;
- responding to consultations submitted by other federal institutions on PPSC records being considered for release;

- responding to requests received from other federal institutions for the review of solicitor-client privilege in records related to criminal proceedings in which the PPSC is involved;
- developing and providing guidance to PPSC managers and staff regarding the interpretation and application of the *Privacy Act* and other related Treasury Board Secretariat policies and guidelines;
- reviewing departmental policies, procedures and agreements to ensure that they are in compliance with the provisions of the *Act* and making recommendations for amendments;
- monitoring and advising on the organization's compliance with the *Act*, regulations, procedures and policies;
- acting as the spokesperson for the PPSC in dealings with the Treasury Board Secretariat, the Office of the Privacy Commissioner of Canada, and other government departments and agencies;
- reviewing the organizations documents prior to proactive disclosure on the PPSC's website, such as audits and evaluations, and contracts over \$25,000, in order to ensure that such disclosures do not compromise legal proceedings and/or personal information;
- coordinating the preparation of the PPSC chapter of the federal government's *Info Source* publication;
- preparing the annual report to the Treasury Board and Parliament on the *Privacy Act*; and
- participating in forums for the ATIP community, such as the Treasury Board Secretariat's ATIP Community meetings and working groups.

During the reporting period of April 1, 2008 to March 31, 2009, the ATIP Office became fully operational with the implementation of software for the tracking and processing of requests.

In the last half of the reporting period, two ATIP Advisor positions were staffed. During the previous two reporting years, the PPSC faced challenges in recruiting and retaining experienced and qualified personnel, and, as a result, the ATIP Office experienced staff turnover.

Organizational Structure



The Access to Information and Privacy (ATIP) Office is comprised of a Manager, two Advisors and one Processing Assistant. The A/Senior Counsel and Director, Ministerial and External Relations, served as the organization's ATIP Coordinator during the reporting year.

Delegated Authorities

Under section 73 of the *Privacy Act*, the head of a government institution may by order designate one or more officers or employees of that institution to exercise or perform any of the powers, duties or functions of the head of the institution under this *Act*. Full delegated authority is provided to the Director and A/Senior Counsel, Ministerial and External Relations, and also to the Manager of the Access to Information and Privacy Office. A copy of the Delegation Order can be found on the following page.

Access to Information Act and Privacy Act Delegation Order

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

The Director of Public Prosecutions, pursuant to section 73 of the <i>Access to Information Act</i> and the <i>Privacy Act</i> , 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 Director as the head of a government institution.	En vertu de l'article 73 de la <i>Loi sur l'accès à l'information</i> et la <i>Loi sur la protection des renseignements personnels</i> , le Directeur des poursuites pénales délègue aux titulaires des postes mentionnés à l'annexe ci-après, ainsi qu'aux personnes occupant à titre intérimaire lesdits postes, les attributions dont le Directeur est investi en qualité de responsable d'une institution fédérale.
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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>
The Director and A/Senior Counsel, Ministerial and Strategic Services Division / Le Directeur et Conseiller juridique par intérim, Division des services ministériels et stratégiques	Full authority/Autorité absolue	Full authority/Autorité absolue
Senior ATIP Advisor/Team Leader, Access to Information and Privacy Office / Conseillère principale en AIPRP/Chef d'équipe, Bureau de l'accès à l'information et de la protection des renseignements personnels	Full authority/Autorité absolue	Full authority/Autorité absolue

Dated, at the City of Ottawa, this 10 day of April, 2008	Daté, en la ville d'Ottawa, ce 10 jour de avril 2008
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Brian J. Saunders
Acting Director of Public Prosecutions
Directeur des poursuites pénales par intérim

Statistical Report on the *Privacy Act* 2008-2009



Government
of Canada

Gouvernement
du Canada

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

Institution Public Prosecution Service of Canada		2008-04-01 to/à 2009-03-31	
I Requests under the Privacy Act / Demandes en vertu de la Loi sur la protection des renseignements personnels		IV Exclusions cited / Exclusions citées	
Received during reporting period / Reçues pendant la période visée par le rapport	7	S. Art. 69(1)(a)	0
Outstanding from previous period / En suspens depuis la période antérieure	2	(b)	0
TOTAL	9	S. Art. 70(1)(a)	0
Completed during reporting period / Traitées pendant la période visées par le rapport	8	(b)	0
Carried forward / Reportées	1	(c)	0
		(d)	0
		(e)	0
		(f)	0
II Disposition of request completed / Disposition à l'égard des demandes traitées		V Completion time / Délai de traitement	
1. All disclosed / Communication totale	0	30 days or under / 30 jours ou moins	7
2. Disclosed in part / Communication partielle	5	31 to 60 days / De 31 à 60 jours	0
3. Nothing disclosed (excluded) / Aucune communication (exclusion)	0	61 to 120 days / De 61 à 120 jours	0
4. Nothing disclosed (exempt) / Aucune communication (exemption)	0	121 days or over / 121 jours ou plus	1
5. Unable to process / Traitement impossible	3		
6. Abandoned by applicant / Abandon de la demande	0		
7. Transferred / Transmission	0		
TOTAL	8		
III Exemptions invoked / Exceptions invoquées		VI Extensions / Prorogations des délais	
S. Art. 18(2)	0		
S. Art. 19(1)(a)	1	Interference with operations / Interruption des opérations	2
(b)	0	Consultation	1
(c)	0	Translation / Traduction	0
(d)	0	TOTAL	3
S. Art. 20	0		
S. Art. 21	0		
S. Art. 22(1)(a)	0		
(b)	0		
(c)	0		
S. Art. 22(2)	0		
S. Art. 23 (a)	0		
(b)	0		
S. Art. 24	0		
S. Art. 25	0		
S. Art. 26	5		
S. Art. 27	0		
S. Art. 28	0		
VII Translations / Traductions		IX Corrections and notation / Corrections et mention	
Translations requested / Traductions demandées	0	Corrections requested / Corrections demandées	1
Translations prepared / Traductions préparées	0	Corrections made / Corrections effectuées	0
English to French / De l'anglais au français	0	Notation attached / Mention annexe	1
French to English / Du français à l'anglais	0		
VIII Method of access / Méthode de consultation		X Costs / Coûts	
Copies given / Copies de l'original	5	Financial (all reasons) / Financiers (raisons)	
Examination / Examen de l'original	0	Salary / Traitement	\$ 37,479
Copies and examination / Copies et examen	0	Administration (O and M) / Administration (fonctionnement et maintien)	\$ 16,291
		TOTAL	\$ 53,770
		Person year utilization (all reasons) / Années-personnes utilisées (raisons)	
		Person year (decimal format) / Années-personnes (nombre décimal)	3.5

TBS/SCT 350-63 (Rev. 1999/03)



Supplemental Reporting Requirements - *Privacy Act*

Treasury Board Secretariat monitors compliance with the Privacy Impact Assessment Policy, which came into effect on May 2, 2002, through a variety of means. Institutions are therefore required to report the following information for this reporting period.

Preliminary Privacy Impact Assessments initiated: **0**

Preliminary Privacy Impact Assessments completed: **0**

Privacy Impact Assessments initiated: **0**

Privacy Impact Assessments completed: **0**

Privacy Impact Assessments forwarded to the Office of the Privacy Commissioner (OPC): **0**

Statistical Report – Interpretation and Explanation

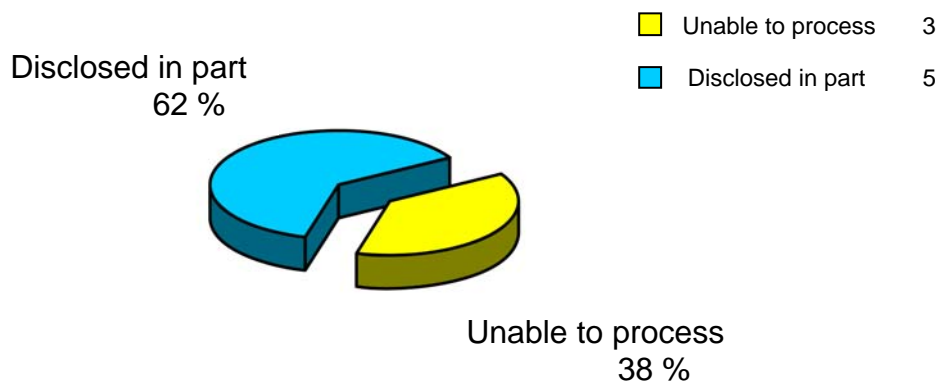
The Public Prosecution Service of Canada's Statistical Report on the *Privacy Act* for fiscal year 2008-2009 provides a summary of activity under the *Act* during the period from April 1, 2008 to March 31, 2009. The following provides explanations and interpretations for information contained in this report.

I. Requests under the *Privacy Act*

The PPSC received seven (7) formal privacy requests during 2008-2009. Two (2) requests were carried over from the previous reporting period.

II. Disposition of Requests Completed

Eight (8) requests were completed during the fiscal year.



None of the privacy requests were disclosed in their entirety, as the type of information requested usually pertains to legal proceedings involving more than one person. Information pertaining to individuals other than the requester is not disclosed without the proper consent. Also, three (3) requests could not be processed, as no relevant records existed under the control of the PPSC.

III. Exemptions invoked

Section III of the Statistical Report categorizes exemptions according to the section(s) of the *Privacy Act* invoked. As noted, the PPSC invoked exemptions pursuant to sections 19(1) [Personal information obtained in confidence] and 26 [Information about another individual] of the *Act*.

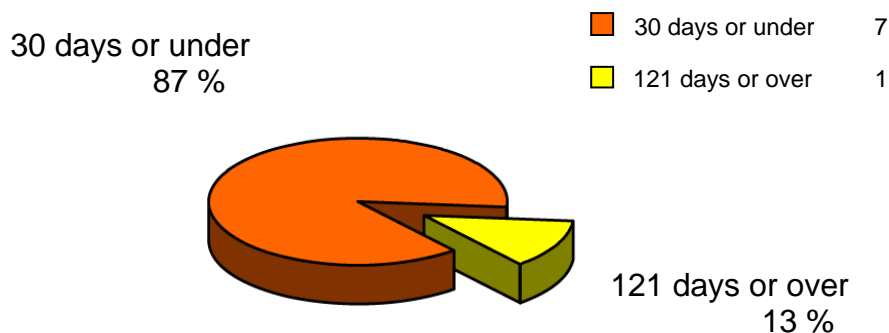
IV. Exclusions cited

The *Privacy Act* does not apply to library or museum material preserved solely for public record, material placed in the Library and Archives Canada, as well as records considered to be confidences of the Queen's Privy Council, pursuant to sections 69 and 70 of the *Act* respectively.

In the 2008-2009 reporting period, no exclusions were invoked pursuant to sections 69 and 70 of the *Act* by the PPSC.

V. Completion Time

The time required to process the eight (8) completed requests is summarized below:



VI. Extensions

Section 15 of the *Privacy Act* allows institutions to extend the legal deadline for processing a request if a search for responsive records cannot be completed within 30 days of receipt of the request, or if the institution must consult with other institutions.

Three (3) extensions were taken during the reporting period for the following reasons.

Volume	2
Consultation with federal institution	1

VII. Translations

There were no requests for the translation of information from one official language to the other.

VIII. Method of Access

Statistics compiled for this section are based solely on those requests for which information was disclosed. Access to the relevant documents was given for five (5) requests and copies of material were provided in all cases.

IX. Corrections and Notations

The PPSC received one (1) request for correction to personal information during the reporting period. The PPSC was unable to accept this request for correction. The individual was informed that, as the records did not originate from this institution, a notation reflecting that a correction was requested but refused in whole would be attached to the individual's personal information in the Crown file.

X. Costs

The PPSC spent a total of \$53,770 administering the *Privacy Act*, of which salaries accounted for \$37,479 and operational costs accounted for \$16,291.

Consultations by Other Institutions

Where documents originate from other institutions, or are of interest to another institution, the Access to Information and Privacy Office normally consults the concerned institution on those records. The PPSC responded to seven (7) privacy consultations from other federal institutions during the reporting period.

Complaints and Investigations

To ensure that federal institutions comply with their privacy obligations, and that all requesters are treated fairly and consistently, section 29 and sections 41 to 52 of the *Privacy Act* provide for a review of decisions made under the *Act*. The first level of review is a formal complaint to the Privacy Commissioner of Canada, and the second is an appeal to the Federal Court.

During the reporting period, one (1) complaint was filed with the Office of the Privacy Commissioner of Canada against the PPSC. The complaint was in regards to a delay in the PPSC's response to the applicant. The Privacy Commissioner's finding was that the complaint was well founded.

Trends

The majority of the PPSC files contain significant amounts of personal and sensitive information. In responding to privacy requests, a single file can involve more than 30,000 pages of sensitive information. To ensure that the information is secure when transferring records from the Office of Primary Interest (OPI) to the ATIP Office in response to requests, the PPSC procured a portable, secure USB hard disk drive. This technology is currently being used to transport large volumes of data which can only be accessed through the use of both password and biometrics.

Privacy Impact Assessments (PIAs) and Preliminary Privacy Impact Assessments (PPIAs)

There were no Privacy Impact Assessments or Preliminary Privacy Impact Assessments initiated or completed during this reporting period. Therefore, no Privacy Impact Assessments were forwarded to the Office of the Privacy Commissioner.

New Data Sharing Activities

No new data sharing activities were undertaken during the 2008-2009 reporting period.

Privacy-Related Education and Training Activities

During this reporting period, the ATIP Manager led awareness sessions regarding the PPSC's ATIP processes and employee obligations under the *Privacy Act*. The awareness sessions focused on the collection and use of personal information, and the process of responding to Privacy requests. The ATIP Manager held sessions in the following regions in the reporting period: Whitehorse, Winnipeg, Saskatoon, and Toronto. On-site sessions were also held in the National Capital Region. All sessions were attended by management, crown counsel, paralegals and administrative staff.

Permissible Disclosures made pursuant to subsection 8(2) of the *Privacy Act*

During the reporting period, the PPSC made no disclosures of personal information pursuant to subsections 8(2)(e) [disclose to an investigative body], 8(2)(f) [disclose under agreement or arrangement between the Government of Canada and a provincial or foreign government], 8(2)(g) [disclose to a Member of Parliament for the purpose of assisting an individual], or 8(2)(m) [disclose in the public interest] of the *Act*.