



Public Prosecution
Service of Canada

Service des poursuites
pénales du Canada

Annual Report on the *Privacy Act*

2009-2010



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 2009-2010.

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.

The prosecution responsibilities of the Director are carried out by prosecutors employed by the PPSC or private-sector legal agents retained by the PPSC. Whether staff counsel or private-sector legal agents, all federal prosecutors work pursuant to delegations issued by the Director under the *Director of Public Prosecution Act*.

Roles and Responsibilities of the Public Prosecution Service of Canada

The PPSC provides prosecution-related advice to law enforcement agencies across Canada and prosecutes offences within federal jurisdiction. In total, over 250 federal statutes contain offences that fall under the PPSC's jurisdiction to prosecute. However, charges are regularly laid under approximately 60 of those statutes.

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

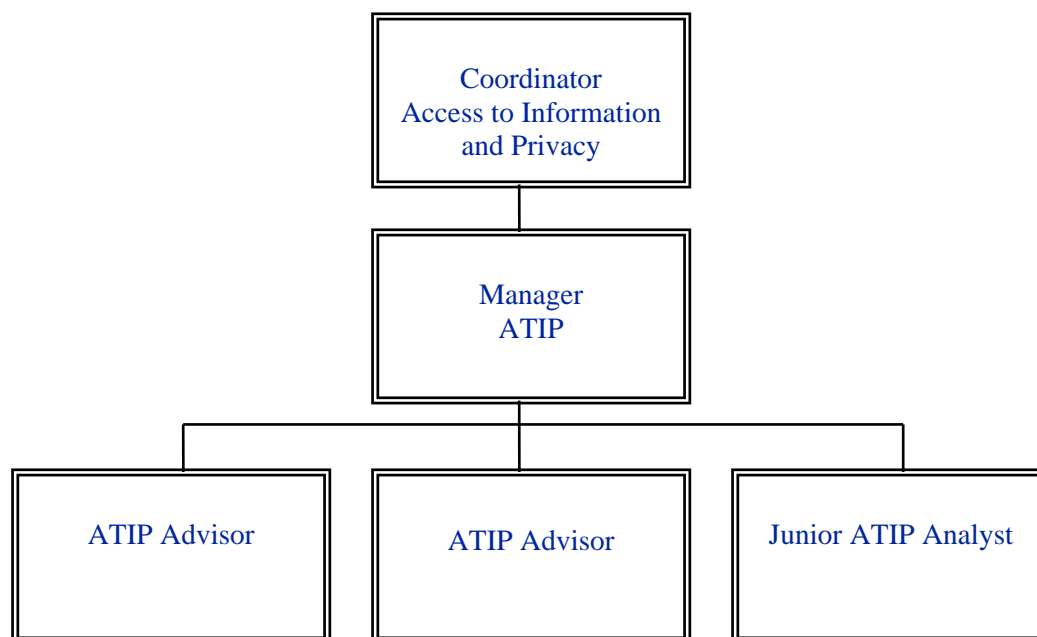
The ATIP Office is the focal point for the application of access to information and privacy legislation at the PPSC. The mandate of the ATIP Office is to implement and administer the *Access to Information Act* and the *Privacy Act*. The ATIP Office deals directly with the public in relation to access to information and privacy requests and, in collaboration with the Offices of Primary Interest (OPIs), 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 ATIP forums, such as the Treasury Board Secretariat's ATIP Community meetings and working groups.

During the reporting period of April 1, 2009 to March 31, 2010, the ATIP Office faced challenges in recruiting and retaining experienced and qualified personnel. As a result, the ATIP Office used the services of an experienced privacy consultant. In addition, the Office's Processing Assistant position was reclassified to that of Junior ATIP Analyst to attract more qualified individuals who can also perform analytical duties and allow for career progression.

Organizational Structure



The PPSC'S ATIP Office is comprised of a Manager, two Advisors and one Junior Analyst. The Executive Director and Senior Counsel, Ministerial and External Relations Secretariat, served as the organization's ATIP Coordinator during the reporting year.

A counsel in the Ministerial and External Relations Secretariat also provides legal advice to the ATIP Office on the application and interpretation of *the Privacy Act*, its regulations, as well as relevant case law.

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 Executive Director and Senior Counsel, Ministerial and External Relations Secretariat, 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>
Executive Director and Senior Counsel, Ministerial and External Relations Secretariat / Directeur exécutif et Conseiller principal, Secrétariat des relations ministérielles et externes	Full authority/Autorité absolue	Full authority/Autorité absolue
Manager, ATIP, Access to Information and Privacy Office / Gestionnaire, AIPRP, 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 11 day of January, 2010	Daté, en la ville d'Ottawa, ce 11 jour de janvier 2010
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Brian Saunders
Director of Public Prosecutions
Directeur des poursuites pénales

Statistical Report – Interpretation and Explanation

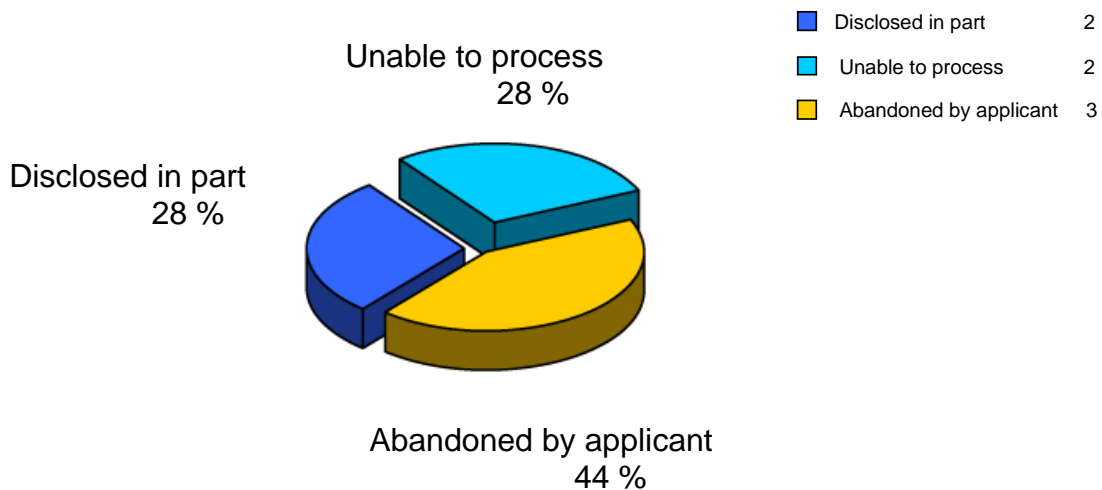
The following provides explanations and interpretations of the summarized statistical information contained in Appendix A of this annual report.

I. Requests under the *Privacy Act*

The PPSC received seventeen (17) formal privacy requests during 2009-2010. This represents a 143% increase from the 2008-2009 reporting period when the PPSC received seven (7) requests. One (1) request was carried over from the previous year.

II. Disposition of requests completed

Seven (7) requests were completed during the reporting period. The completed requests are categorized as follows:



The cases in which no access could be provided were mostly attributable to situations beyond the control of the PPSC. These requests are categorized as follows:

a. Unable to process

Two (2) requests could not be processed as no relevant records existed under the control of the PPSC.

b. Abandoned

Three (3) requests were abandoned. The applicants did not provide sufficient information to allow the institution to easily locate the requested documents.

III. Exemptions invoked

Section III of the Statistical Report illustrates the types of exemptions invoked by the PPSC in the processing of requests in accordance with the *Act*. For further details, please refer to Appendix A.

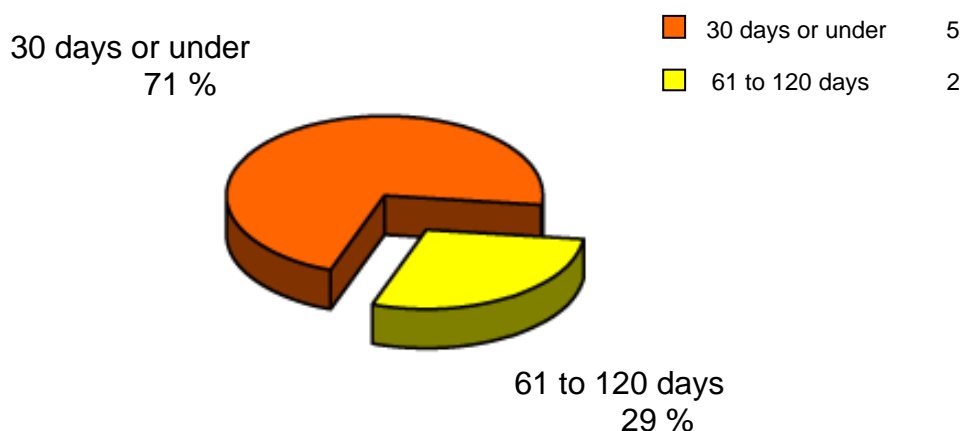
IV. Exclusions cited

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 2009-2010 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 seven (7) 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.

One (1) extension was taken during the reporting period. The statutory deadline was extended as it was necessary to consult another government institution.

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 of the Statistical Report are based solely on those requests for which information was disclosed. Access to the relevant documents was given in part for two (2) requests and copies of material were provided in those cases.

IX. Corrections and notations

The PPSC received no request for corrections to personal information during the reporting period, nor were notations required.

X. Costs

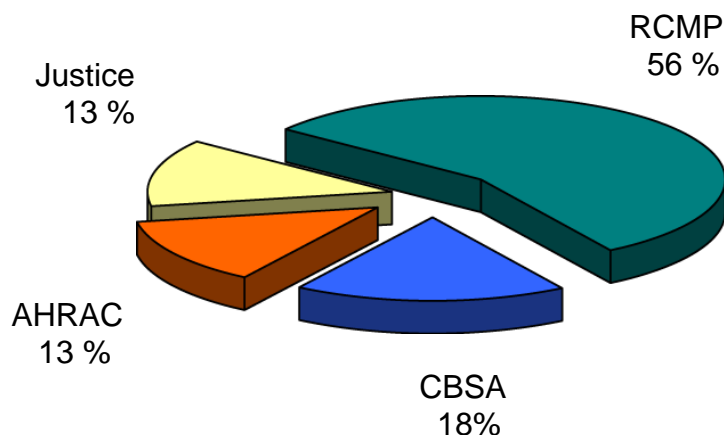
The PPSC spent a total of \$192,011 administering the *Privacy Act*, of which salaries accounted for \$105,349 and operational costs accounted for \$86,662.

The increase in costs from the previous reporting period is due to the hiring of a consultant to help reduce a backlog of requests, as well as a consultant to examine the PPSC's existing privacy practices and procedures.

Consultations by Other Institutions

Where documents originate from other institutions, or are of interest to another institution, the ATIP Office consults the concerned institution on those records.

The PPSC responded to sixteen (16) privacy consultations from the following four (4) federal institutions during the reporting period: Royal Canadian Mounted Police (9), Canada Border Services Agency (3), Department of Justice (2), and Assisted Human Reproduction Agency of Canada (2).



This represents an increase of nine (9) consultations from the previous reporting period. This increase is due to the fact that the RCMP has received a request in response to which it is processing over 100,000 pages of records. In order to facilitate the processing of this request, the RCMP periodically forwards consultation packages to the PPSC for review.

Trends

As a new organization, the PPSC recognizes the need to effectively manage personal information within the organization to ensure compliance with the *Privacy Act* and Treasury Board policies and guidelines on the protection of personal information.

To assure that the PPSC meets its obligations, the organization has determined that it is necessary to examine its personal information holdings and assess whether any privacy gaps exist between its current practices for the management of personal information and its obligations under the *Act* and related regulations. It was also determined that a Privacy Management Framework should be developed to mitigate privacy risks to PPSC's operations and observe sound privacy practices.

In this regards, a consulting firm has been retained to assist the PPSC. The consultants have begun their preliminary analysis and are expected to continue their work during the next reporting period.

Privacy-Related Education and Training Activities

During this reporting period, a training and awareness session regarding the PPSC's ATIP processes and employee obligations under the *Privacy Act* was conducted by the ATIP Office in the Yukon Regional Office. The session focused on the collection and use of personal information, and the process of responding to Privacy requests. Although the number of attendees was not recorded, the session was very well attended by managers, Crown counsels, paralegals and administrative staff.

In addition to this training and awareness session, informal privacy-related training was provided to PPSC employees throughout the year on an ad hoc basis.

Privacy-Related Policies, Guidelines and Procedures

The PPSC did not revise or implement any new institution-specific privacy-related policies, guidelines or procedures during the 2009-2010 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, no complaints were filed with the Office of the Privacy Commissioner of Canada against the PPSC.

Privacy Impact Assessments (PIAs)

During the reporting period, the PPSC did not complete any Privacy Impact Assessments (PIAs).

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

During the reporting period, the PPSC made no disclosures of personal information pursuant to paragraph 8(2)(m) [disclose in the public interest] of the *Act*.

Appendix A - Statistical Report on the Privacy Act 2009-2010

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

Institution Public Prosecution Service of Canada / Service des poursuites pénales du Canada	Reporting period / Période visée par le rapport 2009-04-01 to/à 2010-03-31
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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	17
Outstanding from previous period / En suspens depuis la période antérieure	1
TOTAL	18
Completed during reporting period / Traitées pendant la période visées par le rapport	7
Carried forward / Reportées	11

II Disposition of request completed / Disposition à l'égard des demandes traitées	
1. All disclosed / Communication totale	0
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	2
6. Abandoned by applicant / Abandon de la demande	3
7. Transferred / Transmission	0
TOTAL	7

III Exemptions invoked / Exceptions invoquées	
S. Art. 18(2)	0
S. Art. 19(1)(a)	0
(b)	0
(c)	0
(d)	0
S. Art. 20	0
S. Art. 21	0
S. Art. 22(1)(a)	1
(b)	1
(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	2
S. Art. 27	2
S. Art. 28	0

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

IV Exclusions cited / Exclusions citées	
S. Art. 69(1)(a)	0
(b)	0
S. 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	5
31 to 60 days / De 31 à 60 jours	0
61 to 120 days / De 61 à 120 jours	2
121 days or over / 121 jours ou plus	0

VI Extentions / 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	1	0
Translation / Traduction	0	0
TOTAL	1	0

VII Translations / Traductions	
Translations requested / Traductions demandées	0
Translations prepared / Traductions préparées	0
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	2
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 annexée	0

X Costs / Coûts	
Financial (all reasons) / Financiers (raisons)	
Salary / Traitement	\$ 105,349
Administration (O and M) / Administration (fonctionnement et maintien)	\$ 86,662
TOTAL	\$ 192,011
Person year utilization (all reasons) / Années-personnes utilisées (raisons)	
Person year (decimal format) / Années-personnes (nombre décimal)	3.45



Appendix B - 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: **0**