



Indian and Northern  
Affairs Canada

Affaires indiennes  
et du Nord Canada

## 1997-1998 Annual Report to Parliament



Canada

# ***ACCESS TO INFORMATION ACT AND PRIVACY ACT***

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***ACCESS TO INFORMATION ACT***

## 1. INTRODUCTION

The *Access to Information Act*, proclaimed in July 1983, extends the laws of Canada to grant all individuals and incorporated entities in Canada a right of access to information in records under the control of government institutions. Three principles underlie this legislation:

- government information should be available to the public;
- necessary exceptions to the right of access should be limited and specific; and
- decisions on the disclosure of government information should be reviewed independently of government.

This Annual Report to Parliament is for the 1997-98 fiscal year as required under subsections 72(1) and 72(2) of the *Access to Information Act*.

### **Types of Information Requested**

Last year, the most common requests were for information on First Nations, such as band audits, funding agreements, land claims, environmental issues, and band membership and elections. A variety of reports, studies, audits, information on government policies and plans relating to Aboriginal issues, as well as financial and contractual information, and information about reserve lands were of interest to requesters. Most of the remaining requests dealt with general departmental information.

Some of the requests processed were extremely complex, requiring lengthy searches encompassing thousands of pages and extensive consultations. Such large cases required, in some instances, formal extensions due to volume, consultations and notification of third parties.

## 2. STATISTICAL REPORT

Appendix A contains the detailed report on the *Access to Information Act* from April 1, 1997 to March 31, 1998. It includes the following:

### (1) Requests under the *Access to Information Act*

The Department of Indian Affairs and Northern Development (DIAND) received 292 requests under the *Access to Information Act* during this reporting period and had 139 outstanding from the previous year. Of the total 431 requests, 289 were completed by March 31, 1998. One hundred and forty-two were carried forward because their processing had not been completed by the end of the reporting period.

### (2) Disposition of Requests Completed

The 289 requests processed were disposed of in the following manner:

- **All Disclosed**  
In 60 (20.8%) cases, the applicants were provided with total access to the relevant requested records.
- **Disclosed in Part**  
In 132 (45.6%) cases, the applicants were granted partial access to the records requested. Portions of the information were inaccessible due to exemptions or because the records did not exist.
- **Nothing Disclosed (Excluded)**  
In four (4) (1.4%) cases, the information was totally excluded from disclosure under sections 68 or 69 of the *Access to Information Act*.
- **Nothing Disclosed (Exempt)**  
In 15 (5.2%) cases, requests were for records that were totally exempt under the *Access to Information Act* and severability could not be applied.
- **Transferred**  
In five (5) (1.7%) cases, requests were transferred to another federal institution having greater interest in the records requested, in accordance with subsection 8(1) of the Act.

- **Unable to Process**  
Twenty-one (7.3%) requests fell into this category. In the majority of cases, these were requests for non-existent records.
- **Abandoned by Applicant**  
Fifty-one (17.6%) requests were abandoned by the applicants, including requests that were formally withdrawn by the applicant or requests for which fees were not paid.
- **Treated Informally**  
One (1) (0.3%) of the completed requests was treated informally.

### **(3) Fees and Costs**

The methodology used for calculating fees is based on the *Access to Information Act* and attendant regulations. A five-dollar application fee is required for processing a request. Search, preparation and reproduction fees of less than \$25 are waived.

## **3. CONSULTATIONS WITH OTHER INSTITUTIONS**

When a request contains records that are of greater interest to another federal institution, the ATIP co-ordinator of that institution is consulted. Our department received 43 requests for consultations from other institutions in 1997-98. DIAND reviewed these records pursuant to the Act and made recommendations on disclosure. In turn, DIAND initiated consultations with other institutions. Departmental ATIP officials and their counterparts in other federal institutions consult on an informal basis to exchange information, co-ordinate and ensure consistency of interpretation.

## **4. DELEGATED AUTHORITIES RELATED TO THE ADMINISTRATION OF THE ACT**

The Minister's authority under the *Access to information Act* is delegated to enable the department to meet the requirements of the Act and exercise its powers. The Director, Departmental Secretariat, and the Departmental Access to Information and Privacy Co-ordinator have been delegated full responsibility for all sections of the Act.

## 5. COMPLAINTS AND INVESTIGATIONS

To ensure that federal institutions fully comply with the Act and that all applicants are treated fairly and consistently, sections 41 to 53 of the *Access to Information Act* provide for a two-tiered system of review of decisions made under the Act. The first step is a complaint to the Information Commissioner; the second is an appeal to the Federal Court.

Thirty-six complaints were filed with the Information Commissioner against the department during the reporting period and 32 complaints were outstanding from the previous period. Sixty-one cases were completed and the remaining seven (7) are still under investigation. Of the 61 completed cases, 20 were not substantiated, one (1) was well-founded and the other 40 were resolved.

***PRIVACY ACT***



## 1. INTRODUCTION

The purpose of the *Privacy Act*, proclaimed in July 1983, is to extend the present laws of Canada protecting the privacy of individuals with respect to personal information about themselves held by a government institution. The Act also provides individuals with a right of access to such information.

### **Informal Channels**

Access by individuals to personal information about themselves, which was generally available from the department before the implementation of the *Privacy Act*, continues to be made available informally. If informal access cannot readily be given, applicants are advised of their rights under the *Privacy Act* and how these can be exercised.

Disclosure of personal information to third parties is not possible without the consent of the individual to whom it relates, unless authorized under subsection 8(2) of the *Privacy Act*.

This Annual Report to Parliament is for the 1997-98 fiscal year as required under subsections 72(1) and 72(2) of the *Privacy Act*.

## 2. STATISTICAL REPORT

Appendix B contains the detailed statistical report on the *Privacy Act* from April 1, 1997 to March 31, 1998. It includes the following:

### **(1) Requests under the *Privacy Act***

The Department of Indian Affairs and Northern Development received 50 requests during the reporting period in addition to the 12 outstanding from the previous year. Fifty-four requests were processed during the year, and eight (8) were carried forward.

### **(2) Disposition of Requests Completed**

- **All Disclosed**  
Applicants were provided total access to the relevant personal records in seven (7) (13.0%) cases.

- **Disclosed in Part**  
Portions of the records were disclosed in 37 (68.5%) cases. The information that had to be protected was information about individuals other than the requester.
- **Nothing Disclosed (Excluded)**  
There were no requests where records were totally excluded.
- **Nothing Disclosed (Exempt)**  
There was one (1) (1.9%) request where records were totally exempt.
- **Unable to Process**  
Six (6) (11.1 %) requests fell into this category. These were requests for which records did not exist.
- **Abandoned by Applicant**  
Three (3) (5.6%) requests were abandoned by the applicants.

### **3. DELEGATED AUTHORITIES RELATED TO THE ADMINISTRATION OF THE ACT**

The Minister's authority under the *Privacy Act* is delegated to enable the department to meet the requirements of the Act and to exercise its powers. The Director, Departmental Secretariat, and the Departmental Access to Information and Privacy Co-ordinator have been delegated full responsibility for all sections of the Act.

### **4. COMPLAINTS AND INVESTIGATIONS**

During the fiscal year, six (6) complaints were made to the Privacy Commissioner and five (5) complaints were carried over from the previous year. Five (5) complaints were deemed well-founded; one (1) complaint was addressed by amending the 1997-98 Info Source; and three (3) complaints were settled in the course of the investigation. Two (2) complaints are still under investigation by the Privacy Commissioner.

### **5. USE AND DISCLOSURE OF PERSONAL INFORMATION**

Sections 7 and 8 of the *Privacy Act* constitute a code governing the use and disclosure of all personal information under the control of government institutions. Any uses or disclosures of personal information other than those stipulated in these sections can only occur with the consent of the individual to whom the information relates.

An underlying principle of the privacy legislation is that the right of the individual to privacy includes the right to control the use and disclosure of information about the individual and, when exceptions to this principle exist, to know what use can be made of the information and to whom and for what purposes the information may be disclosed.

### **Requests from Third Parties under Subsection 8(2) of the Act**

Subsection 8(2) of the *Privacy Act* sets out 13 specific provisions under which personal information under the control of a government institution may be disclosed to third parties (e.g., to another government institution, person, groups or organizations) without obtaining the consent of the individual to whom the information relates. Such requests are examined to ensure that personal information not relevant to the request is protected before disclosure.

Of 112 requests for personal information received during the current reporting period and 24 carried forward from the last reporting period, 108 of the requests were processed as follows: full or partial disclosure was granted in 74 cases; no information was disclosed in 10 cases; in two (2) cases, no records were found to exist; in two (2) cases, the information was already publicly available; in 13 cases, requests were withdrawn; in seven (7) cases, requests were transferred. Twenty-eight cases were carried forward at the end of the reporting period. Of the 74 cases in which personal information was communicated, 17 disclosures were made for the purpose for which the information was obtained pursuant to paragraph 8(2)(a); 22 disclosures were made pursuant to paragraph 8(2)(e), see below; 29 disclosures were made to provincial institutions pursuant to paragraph 8(2)(f); and six (6) disclosures were made to Aboriginal organizations pursuant to paragraph 8(2)(k). An undertaking is signed by the applicant to ensure that personal information disclosed under paragraph 8(2)(k) is protected.

## **6. DISCLOSURES UNDER PARAGRAPH 8(2)(e) OF THE ACT**

Thirteen requests were made by federal investigative bodies for personal information and 12 were carried forward from the last reporting period. In 22 cases, full disclosure was granted, pursuant to paragraph 8(2)(e) of the *Privacy Act*. Disclosure was denied in two (2) cases. One (1) case was withdrawn by the institution.

## **APPENDICES**



Government of Canada  
Gouvernement du Canada

# REPORT ON THE ACCESS TO INFORMATION ACT RAPPORT CONCERNANT LA LOI SUR L'ACCÈS À L'INFORMATION

Institution <b>INDIAN AND NORTHERN AFFAIRS CANADA</b> <b>AFFAIRES INDiennes ET DU NORD CANADA</b>				Reporting period Période visée par le rapport <b>4/1/1997 to/à 3/31/1998</b>		
Source	Media Médias 23	Academia Secteur universitaire 0	Business Secteur commercial 50	Organization Organisme 149	Public 70	

<b>I</b> Requests under the Access to Information Act Demandes en vertu de la Loi sur l'accès à l'information	
Received during reporting period Reçues pendant la période visée par le rapport	292
Outstanding from previous period En suspens depuis la période antérieure	139
<b>TOTAL</b>	<b>431</b>
Completed during reporting period Traitées pendant la période visée par le rapport	289
Carried forward Reportées	142

<b>II</b> Disposition of requests completed Disposition à l'égard des demandes traitées			
1. All disclosed Communication totale	60	6. Unable to process Traitement impossible	21
2. Disclosed in part Communication partielle	132	7. Abandoned by applicant Abandon de la demande	51
3. Nothing disclosed (excluded) Aucune communication (exclusion)	4	8. Treated informally Traitement non officiel	1
4. Nothing disclosed (exempt) Aucune communication (exemption)	15	<b>TOTAL</b>	<b>289</b>
5. Transferred Transmission	5		

III Exemptions Invoked Exemptions							
S. Art. 13(1)(a)	1	S. Art. 16(1)(a)	0	S. Art. 18(b)	2	S. Art. 21(1)(a)	25
(b)	1	(b)	1	(c)	0	(b)	26
(c)	12	(c)	3	(d)	10	(c)	14
(d)	0	(d)	0	S. Art. 19(1)	102	(d)	3
S. Art. 14	18	S. Art. 16(2)	3	S. Art. 20(1)(a)	4	S. Art. 22	0
S. 15(1) International rel. Art. Relations intern.	0	S. Art. 18(3)	0	(b)	56	S. Art. 23	33
Defence Défense	0	S. Art. 17	0	(c)	24	S. Art. 24	4
Subversive activities Activités subversives	4	S. Art. 18(a)	1	(d)	25	S. Art. 28	1

<b>IV</b> Exclusions cited Exclusions citées			
S. Art. 68(a)	0	S. Art. 69(1)(c)	3
(b)	0	(d)	4
(c)	0	(e)	7
S. Art. 69(1)(a)	11	(f)	0
(b)	0	(g)	16

<b>V</b> Completion time Délai de traitement	
30 days or under 30 jours ou moins	66
31 to 60 days De 31 à 60 jours	39
61 to 120 days De 61 à 120 jours	60
121 days or over 121 jours et plus	124

<b>VI</b> Extensions Prorogations des délais		
	30 days or under 30 jours ou moins	31 days or over 31 jours ou plus
Searching Recherche	5	9
Consultation	14	3
Third party Tiers	3	63
<b>TOTAL</b>	<b>22</b>	<b>75</b>

<b>VII</b> 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

<b>VIII</b> Method of access Méthode de communication	
Copies given Copies de l'original	184
Examination Examen de l'original	6
Copies and examination Copies et examen	2

<b>IX</b> Fees Frais			
Net fees collected Frais nets perçus			
Application fees Frais de la demande	\$1,415.00	Preparation Préparation	\$327.60
Reproduction	\$1,978.40	Computer processing Traitement informatique	\$0.00
Searching Recherche	\$0.00	<b>TOTAL</b>	<b>\$3,721.00</b>
Fees waived Dispense de frais		No. of times Nombre de fois	\$
\$25.00 or under 25 \$ ou moins		107	\$727.70
Over \$25.00 De plus de 25 \$		23	\$2,052.60

<b>X</b> Costs Coûts	
Financial (all reasons) Financiers (raisons) (\$000)	
Salary Traitement	417.0
Administration (O and M) Administration (fonctionnement et mainben)	289.0
<b>TOTAL</b>	<b>706.0</b>
Person year utilization (all reasons) Années-personnes utilisées (raisons)	
Person year (decimal format) Années-personnes (nombre décimal)	9.2

## REPORT ON THE PRIVACY ACT

RAPPORT CONCERNANT LA LOI SUR LA PROTECTION  
DES RENSEIGNEMENTS PERSONNELS

Institution	INDIAN AND NORTHERN AFFAIRS CANADA AFFAIRES INDIENNES ET DU NORD CANADA	Reporting period Période visée par le rapport	4/1/1997 to/à 3/31/1998
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**I** Requests under the Privacy Act  
Demandes en vertu de la Loi sur la  
protection

Received during reporting period Reçus pendant la période visée par le rapport	50
Outstanding from previous period En suspens depuis la période antérieure	12
<b>TOTAL</b>	<b>62</b>
Completed during reporting period Traitées pendant la période visée par le rapport	54
Carried forward Reportées	8

**II** Disposition of requests completed  
Disposition à l'égard des demandes traitées

1. All disclosed Communication totale	7
2. Disclosed in part Communication partielle	37
3. Nothing disclosed (excluded) Aucune communication (exclusion)	0
4. Nothing disclosed (exempt) Aucune communication (exemption)	1
5. Unable to process Traitement impossible	6
6. Abandoned by applicant Abandon de la demande	3
7. Transferred Transmission	0
<b>TOTAL</b>	<b>54</b>

**III** Exemptions invoked  
Exceptions invoquées

S. Art. 18(2)	0
S. Art. 19(1)(a)	0
(b)	0
(c)	1
(d)	0
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	34
S. Art. 27	4
S. Art. 28	0

**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	11
31 to 60 days De 31 à 60 jours	15
61 to 120 days De 61 à 120 jours	9
121 days or over 121 jours ou plus	19

**VI** Extensions  
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	3	0
Translation Traduction	0	0
<b>TOTAL</b>	<b>3</b>	<b>0</b>

**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	44
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)	(\$000)
Salary Traitement	61.0
Administration (O and M) Administration (fonctionnement et maintien)	42.0
<b>TOTAL</b>	<b>103.0</b>
<b>Person year utilization (all reasons) Années-personnes utilisées (raisons)</b>	
Person year (decimal format) Années-personnes (nombre décimal)	1.3