



Indian and Northern  
Affairs Canada

Affaires indiennes  
et du Nord Canada

## 1998-1999 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 1998-1999 fiscal year as required under subsections 72(1) and 72(2) of the *Access to Information Act*.

## 2. HIGHLIGHTS

During fiscal year 1998-1999, there has been a 44 percent increase in requests received. It is to be noted that the requests have also increased in complexity and volume. To meet these challenges, the Department of Indian Affairs and Northern Development (DIAND) has shown its commitment by taking concrete measures to improve its timeliness. For example, it has contracted the services of three Access to Information and Privacy (ATIP) consulting firms. Additional resources including five new full-time employees have been allocated to the ATIP Unit as of 1999-2000.

The ATIP Unit is developing information and awareness sessions to meet the needs of all departmental employees. This will foster a better understanding and acceptance of the *Access to Information and Privacy Acts*. Improvements to the ATIP unit's internal policies and procedures are ongoing. These activities confirm DIAND's commitment to meeting the needs of the public within the spirit of the Acts.

## 3. 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.

#### **4. STATISTICAL REPORT**

Appendix A contains the detailed report on the *Access to Information Act* from April 1, 1998 to March 31, 1999. It includes the following:

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

DIAND received 419 requests under the *Access to Information Act* during this reporting period and had 139 outstanding from the previous year. Of the total 558 requests, 419 were completed by March 31, 1999. One hundred and thirty-nine were carried forward because their processing had not been completed by the end of the reporting period.

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

The 419 requests processed were disposed of in the following manner:

- **All Disclosed**  
In 90 (21.5%) cases, the requesters were provided with total access to the relevant requested records.
- **Disclosed in Part**  
In 135 (32.2%) cases, the requesters were granted partial access to the records requested. Portions of the information were inaccessible due to exemptions,
- **Nothing Disclosed (Excluded)**  
In one (0.2%) case, the information was totally excluded from disclosure under section 69 of the *Access to Information Act*.
- **Nothing Disclosed (Exempt)**  
In 12 (2.9%) cases, requests were for records that were totally exempt under the *Access to Information Act* and severability could not be applied.
- **Transferred**  
In seven (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**

One hundred and five (25%) requests fell into this category. In the majority of cases, these were requests either for records which had been disposed of under the Management of Government Information Holdings (MGIH) Policy or for non-existent records.

- **Abandoned by Requester**

Thirty-eight (9.1%) requests were abandoned by the requesters, including requests that were either formally withdrawn by the requester or requests for which fees were not paid.

- **Treated Informally**

Thirty-one (7.4%) of the completed requests were 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 were waived in 141 cases. In 27 cases, fees were waived in the public interest. These discretionary decisions were made on a case-by-case basis,

## **5. CONSULTATIONS WITH OTHER INSTITUTIONS**

When a request contains records that are of greater interest to another federal institution, the ATIP Coordinator of that institution is consulted. Our department received 70 requests for consultations from other institutions in 1998-1999. DIAND reviewed these records pursuant to the Act and made recommendations on disclosure. In turn, DIAND initiated 116 consultations with other institutions. Departmental ATIP officials and their counterparts in other federal institutions also consult on an informal basis to exchange information, coordinate multi-departmental requests and ensure consistency of interpretation.

## **6. 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 Coordinator have been delegated full responsibility for all sections of the Act.

## **7. COMPLAINTS AND INVESTIGATIONS**

To ensure that federal institutions fully comply with the Act and that all requesters 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.

One hundred and fifty-eight complaints were filed with the Information Commissioner against the department during the reporting period. Although this appears to be a significant increase in the number of complaints received, compared to 36 in 1997-1998, it should be noted that 142 (89.9%) of the 158 complaints were filed by one requester, who submitted a large volume of requests simultaneously (consistently 20 to 60 requests at a time). Within this context, the Information Commissioner concluded, in his 1998-1999 Annual Report, that "...the high number of complaints against Indian and Northern Affairs Canada does not appear to be indicative of a systemic problem."

Seven complaints were outstanding from 1997-1998. One hundred and forty-three cases were completed by the Office of the Information Commissioner and the remaining 22 are still under investigation. Of the 143 completed cases, 70 were not substantiated and the other 73 were resolved.

There were no appeals to the Federal Court in 1998-1999.

## **8. INFORMAL CHANNELS**

Access by individuals to information under the department's control, which was generally available from the department before the implementation of the *Access to Information Act*, continues to be made available informally. If informal access cannot readily be given, requesters are advised of their rights under the *Access to Information Act* and how these can be exercised.

***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.

This Annual Report to Parliament is for the 1998-1999 fiscal year as required under subsections 72(1) and 72(2) of the *Privacy Act*.

## 2. HIGHLIGHTS

During fiscal year 1998-1999, there was a significant increase in the volume and complexity of requests received. To meet these challenges, DIAND has shown its commitment by taking concrete measures to improve its timeliness. For example, it has contracted the services of three ATIP consulting firms. Additional resources including five new full-time employees have been allocated to the ATIP Unit as of 1999-2000.

The ATIP Unit is developing information and awareness sessions to meet the needs of all departmental employees. This will foster a better understanding and acceptance of the *Access to Information* and *Privacy Acts*. Improvements to the ATIP Unit's internal policies and procedures are ongoing. These activities confirm DIAND's commitment to meeting the needs of the public within the spirit of the Acts.

## 3. TYPES OF INFORMATION REQUESTED

Last year, the most common requests were for residential school information and staff relations and registration issues. Some of the requests processed were extremely complex, requiring lengthy searches encompassing thousands of pages.

## 4. STATISTICAL REPORT

Appendix B contains the detailed statistical report on the *Privacy Act* from April 1, 1998 to March 31, 1999. It includes the following:

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

The Department of Indian Affairs and Northern Development received 193 requests during the reporting period in addition to the 31 outstanding from the previous year. One hundred and ninety-one requests were processed during the year and 33 were carried forward.

## (2) Disposition of Requests Completed

- **All Disclosed**  
Requesters were provided total access to the relevant personal records in 52 (27.2%) cases.
- **Disclosed in Part**  
Portions of the records were disclosed in 75 (39.3%) 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 were two (1%) requests where records were totally exempt.
- **Unable to Process**  
Forty-two (22%) requests fell into this category. These were requests for which records did not exist or no longer existed.
- **Abandoned by Requester**  
Ten (5.2%) requests were abandoned by the requesters.
- **Transferred**  
In 10 cases, with the consent of the requester, requests were transferred to other areas of the department or to another government institution.

## 5. 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 Coordinator have been delegated full responsibility for all sections of the Act.

## 6. COMPLAINTS AND INVESTIGATIONS

During the fiscal year, two complaints were made to the Privacy Commissioner and two complaints were carried over from the previous year. These complaints are still under investigation by the Privacy Commissioner.

## **7. 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**

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*.

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.

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

Thirty-nine requests were made by federal investigative bodies for personal information. In 15 cases, full disclosure was granted and in 23 cases partial disclosure was granted, pursuant to paragraph 8(2)(e) of the *Privacy Act*. In one case the records did not exist.

## **9. 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, requesters are advised of their rights under the *Privacy Act* and how these can be exercised.

## **APPENDICES**

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

Institution				INDIAN AND NORTHERN AFFAIRS AFFAIRES INDIENNES ET DU NORD CANADA		Reporting period - Période visée par le rapport From - Du 1998/4/1 To - Au 1999/3/31									
Source		Media - Médias 39	Academia - Secteur universitaire 1	Business - Secteur commercial 208		Organization - Organisme 81		Public 90							
I		Requests under the Access to Information Act Demandes en vertu de la Loi sur l'accès à l'information		II		Disposition of requests completed Disposition à l'égard des demandes traitées									
Received during reporting period Reçues pendant la période visée par le rapport		419		1		All disclosed Communication totale		90		6		Unable to process Traitement impossible		105	
Outstanding from previous period En suspens depuis la période antérieure		139		2		Disclosed in part Communication partielle		135		7		Abandoned by applicant Abandon de la demande		38	
TOTAL		558		3		Nothing disclosed (excluded) Aucune communication (exclusion)		1		8		Treated informally Traitement non officiel		31	
Completed during reporting period Traitées pendant la période visée par le rapport		419		4		Nothing disclosed (exempt) Aucune communication (exemption)		12							
Carried forward Reportées		139		5		Transferred Transmission		7						TOTAL 419	
III		Exemptions invoked Exceptions invoquées													
S. Art. 13(1)(a)		2	S. Art. 16(1)(a)		3	S. Art. 18(b)		0	S. Art. 21(1)(a)					38	
(b)		0	(b)		0	(c)		0	(b)					43	
(c)		8	(c)		2	(d)		4	(c)					18	
(d)		0	(d)		0	S. Art. 19(1)		106	(d)					3	
S. Art. 14		12	S. Art. 16(2)		2	S. Art. 20(1)(a)		3	S. Art. 22					0	
S. International rel. Art. 15(1) Relations intern.		2	S. Art. 16(3)		2	(b)		70	S. Art. 23					28	
Defence Défense		3	S. Art. 17		0	(c)		24	S. Art. 24					4	
Subversive activities Activités subversives		0	S. Art. 18(a)		4	(d)		20	S. Art. 26					0	
IV		Exclusions cited Exclusions citées				V		Completion time Délai de traitement		VI		Extensions Prorogations des délais			
S. Art. 68(a)		4	S. Art. 69(1)(c)		3	30 days or under 30 jours ou moins		128			30 days or under 30 jours ou moins	31 days or over 31 jours ou plus			
(b)		0	(d)		5	31 to 60 days 31 à 60 jours		105	Searching Recherche		29		27		
(c)		0	(e)		9	61 to 120 days 61 à 120 jours		108	Consultation		26		6		
S. Art. 69(1)(a)		12	(f)		0	121 days or over 121 jours et plus		78	Third party Tiers		3		56		
(b)		0	(g)		15				TOTAL		58		89		
VII		Translations Traductions		VIII		Method of access Méthode de communication		IX		Fees Frais					
Translations requested Traductions demandées		0	Copies given Copies de l'original		220					Net fees collected Frais nets perçus					
Translations prepared English to French Anglais au français		0	Examination Examen de l'original		2	Application fees Frais de la demande		\$1,830.00	Preparation Préparation		\$975.00				
Traductions préparées French to English Français à anglais		0	Copies and examination Copies et examen		3	Reproduction		\$1,747.60	Computer processing Traitement informatique		\$130.00				
X		Costs Coûts			(\$000)		Searching Recherche		\$330.00	TOTAL		\$5,012.60			
Financial (all reasons) Financiers (raisons)							Fees waived Dispense de frais				No. of times Nombre de fois		\$		
Salary Salaire					\$327.30		\$25.00 or under 25 \$ ou moins				141		\$1,031.90		
Administration (O and M) Administration (F et M)					\$226.60		Over \$25.00 Plus de 25 \$				27		\$2,331.80		
TOTAL					\$553.90										
Person year utilization (all reasons) Années-personnes utilisées (raisons)															
Person year (decimal format) Années-personnes utilisées (nombre décimal)					7.5										

# RAPPORT CONCERNANT LA LOI SUR LA PROTECTION DES RENSEIGNEMENTS PERSONNELS

## REPORT ON THE PRIVACY ACT

Institution INDIAN AND NORTHERN AFFAIRS AFFAIRES INDIENNES ET DU NORD CANADA		Reporting period - Période visée par le rapport From - Du 1998/4/1		To - Au 1999/3/31
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I Requests under the Privacy Act Demandes en vertu de la Loi sur la protection des renseignements personnels		II Disposition of requests completed Disposition à l'égard des demandes traitées					
Received during reporting period Reçues pendant la période visée par le rapport	193	1	All disclosed Communication totale	52	5	Unable to process Traitement impossible	42
Outstanding from previous period En suspens depuis la période antérieure	31	2	Disclosed in part Communication partielle	75	6	Abandoned by applicant Abandon de la demande	10
TOTAL	224	3	Nothing disclosed (excluded) Aucune communication (exclusion)	0	7	Transferred Transmission	10
Completed during reporting period Traitées pendant la période visée par le rapport	191	4	Nothing disclosed (exempt) Aucune communication (exemption)	2	TOTAL		191
Carried forward Reportées	33						

III Exemptions invoked Exceptions invoquées			
S. Art. 18(2)	0	S. Art. 21	0
S. Art. 19(1)(a)	0	S. Art. 22(1)(a)	0
(b)	0	(b)	3
(c)	0	(c)	0
(d)	0	S. Art. 22(2)	0
S. Art. 20	0	S. Art. 23(a)	0
		S. Art. 23(b)	0
		S. Art. 24	0
		S. Art. 25	1
		S. Art. 26	72
		S. Art. 27	1
		S. Art. 28	0

IV Exclusions cited Exclusions citées		V Completion time Délai de traitement		VI Extensions Prorogations des délais		
S. Art. 69(1) (a)	0	30 days or under 30 jours ou moins	80			
(b)	0	31 to 60 days 31 à 60 jours	39	Interference with operations Interruption des opérations	0	0
S. Art. 70(1) (a)	0	61 to 120 days 61 à 120 jours	11	Consultation	5	0
(b)	0	121 days or over 121 jours et plus	61	Translation Traduction	0	0
(c)	0			<b>TOTAL</b>	<b>5</b>	<b>0</b>

VII Translations Traductions		VIII Method of access Méthode de communication	
(e)	0	Translations requested Traductions demandées	0
(f)	0	Translations prepared Traductions préparées	0
		English to French Anglais au français	0
		French to English Français à anglais	0
		Copies given Copies de l'original	127
		Examination Examen de l'original	0
		Copies and examination Copies et examen	0

IX Corrections and notation Corrections et mention		X Costs Coûts	
Corrections requested Corrections demandées	0	Financial (all reasons) Financiers (raisons)	
Corrections made Corrections effectuées	0	Salary Salaire	150.7
Notation attached mention annexée	0	Administration (O and M) Administration (F et M)	104.4
		<b>TOTAL</b>	<b>255.1</b>
		Person year utilization (all reasons) Années-personnes utilisées (raisons)	
		Person year (decimal format) Années-personnes utilisées (nombre décimal)	3.5