

2018 Annual Report to Parliament

VIA Rail Canada

Administration of the *Privacy Act*



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1. INTRODUCTION

According to the *Federal Accountability Act* effective September 1, 2007, VIA Rail Canada Inc. ("VIA Rail") is subject to the legal requirements of the *Privacy Act* ("PA").

The PA gives Canadian citizens and all people living in Canada the right to access information about them that is held by the Federal Government. The PA also protects Canadian citizens against unauthorized disclosure of their personal information and controls how the institution will collect, use, store, disclose and dispose of personal information.

This annual report is tabled in Parliament according to section 72 of the PA and covers the period from April 1, 2018 to March 31, 2019.

2. INSTITUTION

VIA Rail operates Canada's national passenger rail service on behalf of the Government of Canada. An independent Crown corporation established in 1977, VIA Rail provides a safe, cost-effective and environmentally responsible service from coast to coast in both official languages. The Corporation operates close to 514 train departures weekly on a 12,500-kilometre network, connecting over 400 Canadian communities. With 3,115 active employees, VIA Rail carried almost 4,8 million passengers in 2018.

VIA Rail's Services

Inter-city Travel (The Corridor)

In the densely populated Corridor between Québec City, QC and Windsor, ON, VIA Rail's trains provide downtown-to-downtown travel between major urban centres, suburban centres and communities. These trains carry more than 90% of the Corporation's total ridership.

Long-distance Travel and Tourism

In Western and Eastern Canada, VIA Rail's trains attract travellers from around the world and support Canada's tourism industry. The *Canadian*, VIA Rail's Western transcontinental train, provides service between Vancouver and Toronto. In Eastern Canada, The *Ocean* runs between Montreal and Halifax.

Mandatory Services

VIA Rail provides a passenger service in several rural and remote regions of Canada. Mandated by the Government of Canada to meet essential transportation needs, these trains serve many

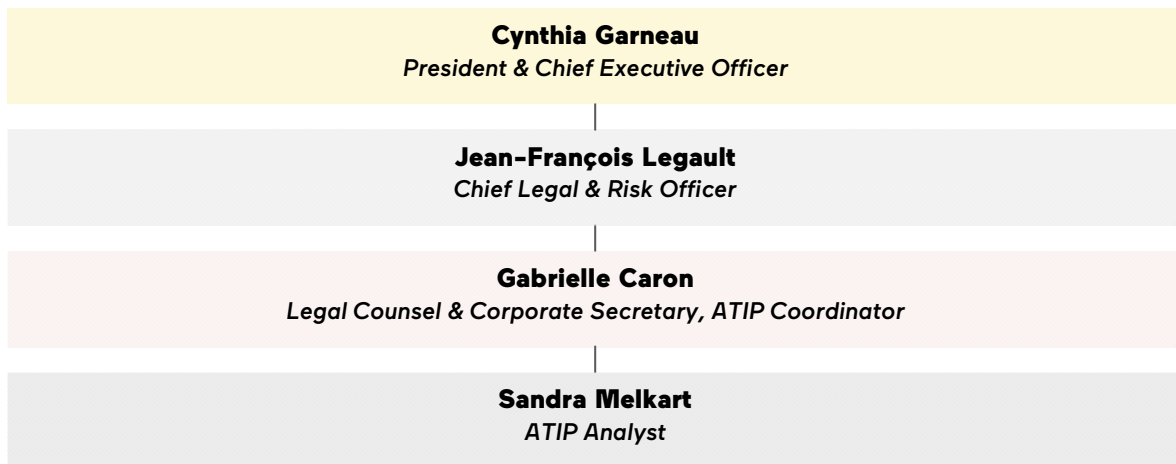
communities where alternative, year-round transportation is limited or unavailable.

3. VIA RAIL’S ACCESS TO INFORMATION AND PRIVACY (“ATIP”) UNIT

VIA Rail’s ATIP unit was created in 2007. ATIP falls under the responsibility of VIA Rail’s ATIP Coordinator, who currently also acts as Legal Counsel & Corporate Secretary.

This person is responsible for interpreting and applying the statutory and policy requirements as they relate to the public’s right of access to VIA Rail’s records under the *Access to Information Act* and to their personal information under the *PA*. In more complex cases, the ATIP Coordinator makes recommendations to the President & Chief Executive Officer on the disclosure of information. The ATIP Coordinator’s responsibilities include administering the process by which access to information and personal information requests are received and responded to, in compliance with the applicable statutory and policy requirements.

The organizational structure of VIA Rail’s ATIP unit as of May 9, 2019 is as follows:



4. DELEGATION ORDER

Pursuant to section 73 of the *PA*, VIA Rail’s President & Chief Executive Officer has delegated the totality of her functions as they relate to the administration of the *PA* within VIA Rail to the Corporation’s ATIP Coordinator.

The delegation order is attached as Appendix 1.

5. INTERPRETATION OF THE STATISTICAL REPORT

The complete statistical report for 2018 is attached as Appendix 2.

Requests:

VIA Rail received twenty-four (24) personal information requests between April 1, 2018 and March 31, 2019. Of these twenty-four (24) requests, only one (1) request was carried over to the next reporting period.

One (1) request was carried over from the previous reporting period (April 1, 2017 to March 31, 2018). The percentage of response to these requests is therefore 96%.

No consultation requests were completed for other institutions during the period covered by this report.

Completion time:

VIA Rail's average completion time for the closure of requests during the 2018-2019 reporting period was sixteen (16) days in comparison to the legislative requirement of trente (30) days. The median completion time was fifteen (15) days. The percentage of requests responded to within the established deadline is 92%.

	2016-2017	2017-2018	2018-2019
Number of requests by completion time	1 to 15 days	5	15
	16 to 30 days	9	11
	31 to 60 days	0	1
	61 to 120 days	1	1
	121 to 180 days	0	2

Extensions

During this reporting period, no extensions were taken.

Exemptions applied

The main exemptions applied by VIA Rail during this reporting period are the following:

		2016-2017	2017-2018	2018-2019
Number of requests based on the applied exemption	s. 26 PA – personal information	8	9	2
	s. 27 PA – solicitor-client privilege	0	1	0

Costs:

The total costs incurred by the ATIP unit with respect to the protection of personal information for the 2018-2019 reporting period was \$108,200. This amount includes \$95,000 in salary and \$13,200 in consultation fees.

Human resources:

As for human resources, it has been estimated that 1.00 FTE (full time equivalent) was dedicated to activities associated with the protection of personal information.

6. EDUCATIONAL AND TRAINING ACTIVITIES

New employees are required to complete an on-line Code of Conduct module which includes questions about privacy with respect to both individual and corporate responsibility.

In July 2018, a new hire joined the VIA Rail ATIP Unit as an ATIP Analyst. The ATIP Analyst works very closely with the ATIP Coordinator regarding all aspects related to ATIP matters. Additionally, VIA Rail hired an Advisor who oversees all aspects with regards to Privacy and Information Management, from governance to educational matters. Many new initiatives have been implemented, such as raising awareness throughout the company and the creation of an e-learning course on information security to eventually be taken by all current and new employees.

7. POLICIES, GUIDELINES AND PROCEDURES

VIA Rail did not implement or review any policies, guidelines or procedures related to privacy during this reporting period.

8. COMPLAINTS

No complaints were filed between April 1, 2018 and March 31, 2019.

One (1) material privacy breach took place during the previous reporting period (from April 1, 2017 to March 31, 2018) affecting 128,311 individuals. VIA Rail's service provider had insufficient security measures in place to protect the personal information of VIA Rail's customers. VIA Rail took prompt action to prevent further unauthorized access to customer information and to resolve, with the support of the service provider, the technical issue that led to the privacy breach. Furthermore, an independent cyber-forensics investigation was carried out to gain a better understanding of the incident's circumstances and extent of the unauthorized access in order to prevent a similar situation from occurring in the future.

As a result of this privacy breach, two (2) complaints were filed in 2018 with the Office of the Privacy Commissioner of Canada. During this reporting period, these two (2) complaints were closed to the satisfaction of the Office of the Privacy Commissioner of Canada. More information below:

OPC File 050652

This complaint was filed with the Office of the Privacy Commissioner of Canada in February 2018 and was closed in February 2019. The complainant alleged that VIA Rail contravened the disclosure provisions of the *PA* when it improperly disclosed files containing his personal information (such as his full name, postal code, e-mail address, certain travel details and VIA Preference membership number). The Office of the Privacy Commissioner considered the complaint resolved to its satisfaction. The Office of the Privacy Commissioner concluded that, as a result of the privacy breach, VIA Rail had implemented risk mitigation measures, including providing advice to individuals on how to protect themselves from harm against a potential threat. The Office of the Privacy Commissioner was also satisfied that VIA Rail implemented certain measures to prevent a recurrence of this type of breach.

OPC File 052174

This complaint was filed with the Office of the Privacy Commissioner of Canada in February 2018 and was closed in July 2018. The complainant alleged that VIA Rail contravened the provisions of the *PA* relating to accuracy when it continued to use his original VIA Preference membership number in certain correspondence after he had requested that it be changed. The Office of the Privacy Commissioner considered the complaint resolved to its satisfaction as VIA Rail replaced the complainant's old account with a new one in its database and implemented measures to prevent a recurrence of this type of situation.

On-going Files

There are currently one (1) on-going complaint at the Office of the Privacy Commissioner of Canada. This complaint is being carried over into the next reporting period.

9. MONITORING OF PROCESSING TIME

VIA Rail analyzes each request as soon as they are received in order to determine the time required to process such request which is established based on discussions held with appropriate information holders, the necessity for consultations with third parties, etc.

Since 2017, requests are processed with the additional assistance of a computer software that allows the ATIP analysts to more effectively process these requests. In addition, a file consolidates all relevant information regarding the status of each active request. This file is being monitored on a weekly basis by the ATIP Coordinator.

10. MATERIAL PRIVACY BREACHES

No material privacy breaches took place during the reporting period.

11. PRIVACY IMPACT ASSESSMENTS ("PIA")

No formal PIAs were initiated or completed during this reporting period. However, VIA Rail performs risk assessments for all of its projects, which includes a privacy component when applicable.

12. PUBLIC INTEREST DISCLOSURES

No disclosures were made under paragraph 8 (2)(m) of the PA during this reporting period.

Appendix 1

Delegation of authority

A large, stylized yellow 'V' logo with white diagonal stripes, positioned on the left side of the page.

DÉLÉGATION D'AUTORITÉ
*LOI SUR L'ACCÈS À L'INFORMATION ET LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS*

DELEGATION OF AUTHORITY
ACCESS TO INFORMATION ACT AND PRIVACY ACT

Le 9 mai 2019

May 9, 2019

Je, soussignée, présidente, conformément à l'article 73 de la *Loi sur l'accès à l'information* et à l'article 73 de la *Loi sur la protection des renseignements personnels*, autorise par la présente les agents et les employés de VIA Rail occupant les postes identifiés dans l'annexe ci-jointe à assumer au nom de la présidente les pouvoirs de signature ainsi que les attributions, fonctions et pouvoirs qui y sont spécifiés.

I, the undersigned, President, pursuant to Section 73 of the *Access to Information Act* and Section 73 of the *Privacy Act*, hereby authorize officers and employees of VIA Rail occupying positions identified within the attached appendix to exercise signing authorities or perform any of the President's powers, duties or functions specified therein.

Signée à Montréal, ce 9 mai, 2019

Signed in Montreal this May 9, 2019

A handwritten signature in black ink that reads 'Cynthia Garneau'.

Cynthia Garneau
Présidente et chef de la direction
President and Chief Executive Officer

VIA Rail Canada Inc.
Delegation of Authority
Under the *Privacy Act*

Subject	<i>Privacy Act</i> Section	Position / Title		
		ATIP Coordinator	ATIP Analyst	Chief of Police

Disclosure for any purposes in accordance with any Act of Parliament	8(2)(b)	●	●	●
Disclosure for any purposes in accordance with the <i>Security of Canada Information Act</i>	8(2)(b)	●	●	●
Disclosure to investigative bodies	8(2)(e)	●	●	●
Disclosure for research and statistics	8(2)(j)	●	●	●
Disclosure in public interest, benefit of individual	8(2)(m)	●	●	●
Copy of requests under paragraph 8(2) e) to be retained	8(4)	●	●	●
Notice of disclosure under paragraph 8(2)(m)	8(5)	●	●	●
Record of disclosures to be retained	9(1)	●	●	●
Notify Privacy Commissioner of consistent uses	9(4)	●	●	●
Personal information in banks	10(1)	●	●	●
Notice where access is requested	14	●	●	●
Extension of time limits	15	●	●	●
Notice where access is refused	16	●	●	●
Decision regarding translation	17(2)(b)	●	●	●
Conversion to alternate format	17(3)(b)	●	●	●
Refuse access - exempt bank	18(2)	●	●	●
Refuse access - confidential information obtained from another government	19(1)	●	●	●
Disclose confidential information obtained from another government	19(2)	●	●	●
Refuse access - federal-provincial affairs	20	●	●	●
Refuse access - international affairs and defence	21	●	●	●
Refuse access - law enforcement and investigation	22	●	●	●
National Security and Intelligence Committee	22.4	●	●	●
Refuse access - security clearance	23	●	●	●
Refuse access – individual sentenced for an offence	24	●	●	●
Refuse access - safety of individuals	25	●	●	●

Refuse access - another individual's information	26	●	●	●
Refuse access - solicitor-client privilege	27	●	●	●
Patent or Trademark privilege	27.1	●	●	●
Refuse access - medical record	28	●	●	●
Action to take in response to the notice of intention to investigate	31	●	●	●
Representation to Privacy Commissioner	33(2)	●	●	●
Information previously exempted	35(1)(b)	●	●	●
Access to be given	35(4)	●	●	●
Response to review of exempt banks	36(3)(b)	●	●	●
Report of findings and recommendations	37(3)	●	●	●
Request court hearing in the National Capital Region	51(2)(b)	●	●	●
Ex-parte representation to court	51(3)	●	●	●

Appendix 2

Statistical Report



Statistical Report on the *Privacy Act*

Name of institution: VIA Rail Canada Inc.

Reporting period: 2018-04-01 to 2019-03-31

Part 1: Requests Under the *Privacy Act*

	Number of Requests
Received during reporting period	24
Outstanding from previous reporting period	1
Total	25
Closed during reporting period	24
Carried over to next reporting period	1

Part 2: Requests Closed During the Reporting Period

2.1 Disposition and completion time

Disposition of Requests	Completion Time							Total
	1 to 15 Days	16 to 30 Days	31 to 60 Days	61 to 120 Days	121 to 180 Days	181 to 365 Days	More Than 365 Days	
All disclosed	6	9	1	0	0	0	0	16
Disclosed in part	2	3	1	0	0	0	0	6
All exempted	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0
No records exist	2	0	0	0	0	0	0	2
Request abandoned	0	0	0	0	0	0	0	0
Neither confirmed nor denied	0	0	0	0	0	0	0	0
Total	10	12	2	0	0	0	0	24

2.2 Exemptions

Section	Number of Requests	Section	Number of Requests	Section	Number of Requests
18(2)	0	22(1)(a)(i)	0	23(a)	0
19(1)(a)	0	22(1)(a)(ii)	0	23(b)	0
19(1)(b)	0	22(1)(a)(iii)	0	24(a)	0
19(1)(c)	0	22(1)(b)	0	24(b)	0
19(1)(d)	0	22(1)(c)	0	25	0
19(1)(e)	0	22(2)	0	26	2
19(1)(f)	0	22.1	0	27	0
20	0	22.2	0	28	0
21	0	22.3	0		

2.3 Exclusions

Section	Number of Requests	Section	Number of Requests	Section	Number of Requests
69(1)(a)	0	70(1)	0	70(1)(d)	0
69(1)(b)	0	70(1)(a)	0	70(1)(e)	0
69.1	0	70(1)(b)	0	70(1)(f)	0
		70(1)(c)	0	70.1	0

2.4 Format of information released

Disposition	Paper	Electronic	Other formats
All disclosed	16	0	0
Disclosed in part	6	0	0
Total	22	0	0

2.5 Complexity

2.5.1 Relevant pages processed and disclosed

Disposition of Requests	Number of Pages Processed	Number of Pages Disclosed	Number of Requests
All disclosed	2199	2199	16
Disclosed in part	181	181	6
All exempted	0	0	0
All excluded	0	0	0
Request abandoned	0	0	0
Neither confirmed nor denied	0	0	0
Total	2380	2380	22

2.5.2 Relevant pages processed and disclosed by size of requests

Disposition	Less Than 100 Pages Processed		101-500 Pages Processed		501-1000 Pages Processed		1001-5000 Pages Processed		More Than 5000 Pages Processed	
	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed
All disclosed	11	159	4	1266	1	774	0	0	0	0
Disclosed in part	6	181	0	0	0	0	0	0	0	0
All exempted	0	0	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0	0	0
Request abandoned	0	0	0	0	0	0	0	0	0	0
Neither confirmed nor denied	0	0	0	0	0	0	0	0	0	0
Total	17	340	4	1266	1	774	0	0	0	0

2.5.3 Other complexities

Disposition	Consultation Required	Legal Advice Sought	Interwoven Information	Other	Total
All disclosed	0	0	0	0	0
Disclosed in part	0	0	0	0	0
All exempted	0	0	0	0	0
All excluded	0	0	0	0	0
Request abandoned	0	0	0	0	0
Neither confirmed nor denied	0	0	0	0	0
Total	0	0	0	0	0

2.6 Deemed refusals

2.6.1 Reasons for not meeting statutory deadline

Number of Requests Closed Past the Statutory Deadline	Principal Reason			
	Workload	External Consultation	Internal Consultation	Other
1	0	0	0	1

2.6.2 Number of days past deadline

Number of Days Past Deadline	Number of Requests Past Deadline Where No Extension Was Taken	Number of Requests Past Deadline Where An Extension Was Taken	Total
1 to 15 days	0	0	0
16 to 30 days	1	0	1
31 to 60 days	0	0	0
61 to 120 days	0	0	0
121 to 180 days	0	0	0
181 to 365 days	0	0	0
More than 365 days	0	0	0
Total	1	0	1

2.7 Requests for translation

Translation Requests	Accepted	Refused	Total
English to French	0	0	0
French to English	0	0	0
Total	0	0	0

Part 3: Disclosures Under Subsections 8(2) and 8(5)

Paragraph 8(2)(e)	Paragraph 8(2)(m)	Subsection 8(5)	Total
0	0	0	0

Part 4: Requests for Correction of Personal Information and Notations

Disposition for Correction Requests Received	Number
Notations attached	0
Requests for correction accepted	0
Total	0

Part 5: Extensions

5.1 Reasons for extensions and disposition of requests

Disposition of Requests Where an Extension Was Taken	15(a)(i) Interference With Operations	15(a)(ii) Consultation		15(b) Translation or Conversion
		Section 70	Other	
All disclosed	0	0	0	0
Disclosed in part	0	0	0	0
All exempted	0	0	0	0
All excluded	0	0	0	0
No records exist	0	0	0	0
Request abandoned	0	0	0	0
Total	0	0	0	0

5.2 Length of extensions

Length of Extensions	15(a)(i) Interference with operations	15(a)(ii) Consultation		15(b) Translation purposes
		Section 70	Other	
1 to 15 days	0	0	0	0
16 to 30 days	0	0	0	0
Total	0	0	0	0

Part 6: Consultations Received From Other Institutions and Organizations

6.1 Consultations received from other Government of Canada institutions and other organizations

Consultations	Other Government of Canada Institutions	Number of Pages to Review	Other Organizations	Number of Pages to Review
Received during the reporting period	0	0	0	0
Outstanding from the previous reporting period	0	0	0	0
Total	0	0	0	0
Closed during the reporting period	0	0	0	0
Pending at the end of the reporting period	0	0	0	0

6.2 Recommendations and completion time for consultations received from other Government of Canada institutions

Recommendation	Number of Days Required to Complete Consultation Requests							Total
	1 to 15 Days	16 to 30 Days	31 to 60 Days	61 to 120 Days	121 to 180 Days	181 to 365 Days	More Than 365 Days	
All disclosed	0	0	0	0	0	0	0	0
Disclosed in part	0	0	0	0	0	0	0	0
All exempted	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0
Consult other institution	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0

6.3 Recommendations and completion time for consultations received from other organizations

Recommendation	Number of days required to complete consultation requests							
	1 to 15 Days	16 to 30 Days	31 to 60 Days	61 to 120 Days	121 to 180 Days	181 to 365 Days	More Than 365 Days	Total
All disclosed	0	0	0	0	0	0	0	0
Disclosed in part	0	0	0	0	0	0	0	0
All exempted	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0
Consult other institution	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0

Part 7: Completion Time of Consultations on Cabinet Confidences

7.1 Requests with Legal Services

Number of Days	Fewer Than 100 Pages Processed		101-500 Pages Processed		501-1000 Pages Processed		1001-5000 Pages Processed		More than 5000 Pages Processed	
	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed
1 to 15	0	0	0	0	0	0	0	0	0	0
16 to 30	0	0	0	0	0	0	0	0	0	0
31 to 60	0	0	0	0	0	0	0	0	0	0
61 to 120	0	0	0	0	0	0	0	0	0	0
121 to 180	0	0	0	0	0	0	0	0	0	0
181 to 365	0	0	0	0	0	0	0	0	0	0
More than 365	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0

7.2 Requests with Privy Council Office

Number of Days	Fewer Than 100 Pages Processed		101-500 Pages Processed		501-1000 Pages Processed		1001-5000 Pages Processed		More than 5000 Pages Processed	
	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed
1 to 15	0	0	0	0	0	0	0	0	0	0
16 to 30	0	0	0	0	0	0	0	0	0	0
31 to 60	0	0	0	0	0	0	0	0	0	0
61 to 120	0	0	0	0	0	0	0	0	0	0
121 to 180	0	0	0	0	0	0	0	0	0	0
181 to 365	0	0	0	0	0	0	0	0	0	0
More than 365	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0

Part 8: Complaints and Investigations Notices Received

Section 31	Section 33	Section 35	Court action	Total
0	1	2	0	3

Part 9: Privacy Impact Assessments (PIAs)

Number of PIA(s) completed	0
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Part 10: Resources Related to the Privacy Act

10.1 Costs

Expenditures		Amount
Salaries		\$95 000
Overtime		\$0
Goods and Services		\$13 200
• Professional services contracts	\$13 200	
• Other	\$0	
Total		\$108 200

10.2 Human Resources

Resources	Person Years Dedicated to Privacy Activities
Full-time employees	1,00
Part-time and casual employees	0,00
Regional staff	0,00
Consultants and agency personnel	0,00
Students	0,00
Total	1,00

Note: Enter values to two decimal places.