

Ombudsman

National Defence and
Canadian Armed Forces



Défense nationale et
Forces armées canadiennes

Annual Report to Parliament on the Administration of the Privacy Act

2020-2021

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1 Introduction

The purpose of the *Privacy Act* is to extend to individuals the right of access to information about themselves held by the government, subject to specific and limited exemptions. It protects individuals' privacy by preventing others from having access to their personal information and by affording individuals substantial control over how their personal information is collected, used, and disclosed.

1.1 Background

Section 72 of the *Privacy Act* requires that the head of every government institution prepare and submit to Parliament an annual report on the administration of the Act within the institution. This is the nineteenth report to Parliament on performance with respect to administration of the act by the Office of the Ombudsman for the Department of National Defence and the Canadian Forces (the Office or the Office of the Ombudsman).

The Office of the Ombudsman is committed to openness and transparency about its administration and functioning. The Office endeavours to ensure that information about its work is widely disseminated and easily available. For example, the Ombudsman's annual reports, special reports and press releases are posted on the Office's website as soon as they are released. The website also contains case studies and statistics on the Office's caseload, and educational material on subjects of interest to our constituents.

Critical to the resolution of complaint files and investigations is the confidentiality of the information provided by the constituents who come forward. Therefore, before any case study or report is released, identifying information is removed to ensure the protection of personal information and confidentiality of our communications.

As the Ombudsman's Office is part of the Defence portfolio, disclosure of the Ombudsman's travel and hospitality expenses, contracts over \$10,000 and position reclassifications are reported on the National Defence website

<https://www.canada.ca/en/department-national-defence/corporate/transparency.html>.

The Office of the Ombudsman proactively posts to its website correspondence between the Ombudsman and senior officials on matters of interest to our constituency. This initiative is in keeping with the Ombudsman's goal of promoting transparency and with the Open Government initiative. In accordance with the Directive on Open Government, correspondence is reviewed prior to release to ensure it does not contain any information raising concerns about privacy, confidentiality or security. The Access to Information and Privacy Unit conducts the review of correspondence prior to release. Correspondence can be found on the Ombudsman website in the Letters and Statements section; at

<https://www.canada.ca/en/ombudsman-national-defence-forces/reports-news-statistics/ombudsman-letters.html>.

1.2 Mandate of the Office of the Ombudsman for the Department of National Defence and the Canadian Forces

The first Ombudsman for the Department of National Defence and the Canadian Forces was appointed in June 1998 by Governor in Council (Federal Cabinet). The creation of an Ombudsman institution was part of a wide range of initiatives brought forth by the Government of Canada to enhance the overall fairness and effectiveness of the military justice system, enhance the transparency of internal review mechanisms, streamline the Canadian Armed Forces grievance process, and promote greater openness, accountability and transparency within the Department of National Defence and the Canadian Forces.

The duties and functions of the Ombudsman are set out in the *Ministerial Directives Respecting the Ombudsman for the Department of National Defence and the Canadian Forces*: <https://www.canada.ca/en/department-national-defence/corporate/policies-standards/defence-administrative-orders-directives/5000-series/5047/5047-1-office-of-the-ombudsman.html>.

The *Ministerial Directives* confirm that the Ombudsman and the Office operate outside the military chain of command as well as outside the civilian management of the Department of National Defence. The Ombudsman reports directly to, and is accountable only to, the Minister of National Defence, who is responsible for the management and direction of the Canadian Armed Forces and of all matters relating to national defence. However, the Ombudsman operates at arm's-length from the Minister, preserving the Ombudsman's independence from the executive function.

The *Ministerial Directives* governing the Office provide that the Ombudsman is to act, on the Minister's behalf, as a neutral and objective sounding board, mediator, investigator and reporter on matters related to the Department of National Defence and the Canadian Armed Forces. The Ombudsman also acts as a direct source of information, referral and education to assist individuals in accessing existing internal channels of assistance and redress. The overall goal of the Office of the Ombudsman is to contribute to substantial and long-lasting improvements to the welfare of the Defence community.

Under the *Ministerial Directives*, the Ombudsman is required to issue an annual report to the Minister of National Defence on the operations of the Office. The *Ministerial Directives* further provide that the Ombudsman may publish reports concerning any investigation if the Ombudsman considers that it is in the public interest to do so.

1.3 Structure of the Access to Information and Privacy Unit

The ATIP unit for the Office of the Ombudsman is part of the Legal Services Directorate and is managed by the institution's Access to Information and Privacy Coordinator. Pursuant to section 73 of the *Privacy Act*, the Minister of National Defence designated the Office's ATIP Coordinator to exercise all powers and perform the duties and functions of the Minister under the Act as it concerns the Office of the Ombudsman. This arrangement reflects the Office's independent, arm's length relationship with the Department of National Defence and Canadian Armed Forces. A copy of the delegation order appears in Appendix A to this report.

A major challenge to the application of the ATIP legislation lies in the *Ministerial Directives* that establish the Office of the Ombudsman. One of the main functions of the Office is to conduct confidential investigations, yet the records are not fully protected by having either the status of an investigative body under the regulation or having a specific provision protecting the Office's investigative records. A further challenge is caused by the fact that some of the information that is required by this Office to conduct its investigations is held by other parts of the Defence community that are designated as investigative bodies or who claim exemptions under the ATIP legislation.

Because of the interplay of the Office's mandate and the ATIP legislation, legal guidance is often called upon to find the balance between the application of the mandate and compliance with the ATIP legislation, whether it be protection of personal information or access to information.

The ATIP Unit is responsible for the following activities:

- Processing requests under the *Access to Information Act* and the *Privacy Act*;
- Responding to consultation requests from other government institutions;
- Monitoring institutional compliance with the aforementioned Acts, regulations and relevant procedures and policies;
- Acting on behalf of the Office of the Ombudsman in dealings with the Treasury Board of Canada Secretariat, the offices of the Information Commissioner and Privacy Commissioner of Canada and other government institutions regarding the administration and application of the above legislation as it relates to the Office of the Ombudsman;
- Preparing annual reports to Parliament and other statutory reports and material that may be required by central agencies;
- Developing and delivering awareness training to the managers and employees of the Office to ensure responsiveness to the legal obligations imposed by both Acts and regulations;
- Conducting and providing direction to program managers regarding the completion of Privacy Impact Assessments (PIAs);
- Reviewing potential privacy breaches, and taking steps to deal with breaches;

- Publishing updates to *Info Source* annually or as needed;
- Participating in ATIP networks such as the Treasury Board Secretariat's ATIP Community meetings;
- Developing and implementing internal policies and office standards.

The ATIP unit has one ATIP Officer who administers the processing of ATIP files, among other duties. The ATIP Unit also engages a consultant, on an as-needed basis, to assist with processing of requests.

2 Key Activities and Accomplishments

2.1 Education and Training Activities

Those responsible for the delivery of the Ombudsman's ATIP services regularly attend learning activities presented by the Treasury Board of Canada Secretariat, Information and Privacy Policy Division and other learning institutions.

- ATIP staff attended (virtually) three (3) Treasury Board Secretariat coordinators and community meetings.
- A presentation was delivered to all staff (57 employees) on access to information and privacy in a pandemic.
- The ATIP unit was also responsible for providing information to respond to four (4) Parliamentary inquiries (order paper questions) on the administration of the ATIP legislation.

2.2 Institutional Privacy Policies and Procedures

The Office of the Ombudsman has not implemented any new and/or revised institution-specific policy, guideline or procedure during this reporting period.

2.3 Summary of Material Privacy Breaches

The Office of the Ombudsman did not have any material privacy breaches over the reporting period.

2.4 Privacy Impact Assessments

During the reporting period, no Privacy Impact Assessments or Preliminary Privacy Impact Assessments were initiated, completed or forwarded to the Office of the Privacy Commissioner.

2.5 Data Matching

No data matching or sharing activities were undertaken by the Office during the reporting period.

2.6 Disclosures under 8(2)(m) of the *Privacy Act*

Paragraph 8(2)(m) allows for the disclosure of personal information when the public interest clearly outweighs any invasion of privacy or when the disclosure would benefit the individual. There were no disclosures under paragraph 8(2)(m) during this reporting period.

2.7 Effects of COVID-19 Measures on ATIP activities

To comply with public health directives, most of the ATIP activities for the entire period were conducted off-site. ATIP employees were able to monitor requests received by email remotely, and to process and provide records in electronic format. A mailroom employee was able to access the premises periodically in a safe manner, to deal with any correspondence received by mail. By these means, the Access to Information and Privacy section was not impacted by COVID-19 measures.

3 Statistical Report on the Administration of the *Privacy Act*

This section provides information about the processing of requests under the *Privacy Act*. Appendix B provides a statistical summary of the requests received and/or finalized during this reporting period 2019-2020.

3.1 Formal Requests under the *Privacy Act*

The Office of the Ombudsman received seven (7) new requests under the *Privacy Act* during the period from April 1, 2020 to March 31, 2021. Five (5) requests were dealt with during the reporting period, and two (2) were carried over to the next fiscal year. The total number of pages reviewed was 5,629.

For all five (5) requests completed during the reporting period, partial disclosure was made. One (1) requestor was provided with paper copies of their records, and four (4) with electronic copies.

There were no (0) requests for corrections to personal information in the reporting period.

3.2 Exemptions to the Release of Information

In the five (5) cases of partial release, exemptions were invoked based on section 26 (personal information of another individual) of the *Privacy Act*. In one (1) request, information was also withheld on the basis of section 21(1)(a)(ii) (designated investigative body) and section 27 (solicitor-client privilege) of the Act.

The Office of the Ombudsman does not receive a high volume of requests for personal information; over the last five years, the number of requests has not exceeded twelve (12). Therefore, it is not possible to report on trends with any statistical significance. Having said that, over the same five year time period, information was mainly withheld on the basis of sections 26 and 27 (solicitor-client privilege) of the *Privacy Act*.

3.3 Extension of the Time Limit

In three (3) cases, the requests were completed in 30 days or less. In two (2) cases, extensions were taken under section 15(a)(ii) of the *Privacy Act* to consult with another government institution. Both were completed in less than 60 days.

While the low volume of requests to the Office requires a caution as to the statistical significance of any trend analysis, it is possible to say that the vast majority of requests over the past five years have been completed within the statutory timeline of 30 days. During that period, the reason that an extension was required most often related to the need to consult with another organization prior to the release of the

information. When delays relate to consultations, the Office attempts to provide the requestor with records that were not sent for consultation, and will release the remaining records once the consultation is complete.

3.4 Informal Privacy Requests

During the current reporting period the ATIP Unit did not process any informal requests for personal information.

The Office's policy is to keep all parties informed of the progress of each case, and keep constituents informed of the status of their file.

3.5 Complaints and Audits

During this reporting period, no complaints were filed with the Privacy Commissioner regarding the handling of requests under the *Privacy Act*, and no audits or investigations were conducted.

3.6 Fees and Costs

There are no costs associated with ATIP specific software as the volume of requests does not warrant the expenditure.

- The total cost assigned to the salaries related to the administration of the *Privacy Act* totaled \$28,664
- There were no other administrative costs
- The total costs were \$28,664

4 Monitoring – Privacy Requests

The ATIP Unit uses a tracking spreadsheet to monitor processing times for privacy requests. The ATIP Coordinator reports to the senior management committee as necessary for their situational awareness. The senior management committee includes the Ombudsman, Directors General and Directors.

Annex 1: Delegation Order

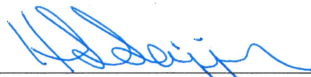
DESIGNATION ORDER

Access to Information Act and Privacy Act

The Minister of National Defence, pursuant to section 95(1) of the *Access to Information Act* and section 73(1) of the *Privacy Act*, hereby designates the person holding the position of Access to Information and Privacy Coordinator for Office of the Ombudsman for the Department of National Defence and the Canadian Forces, or the person acting in that position, to exercise all powers and perform the duties and functions of the Minister of National Defence under these acts, concerning the Office of the Ombudsman for the Department of National Defence and the Canadian Forces.

This designation replaces all previous designation orders.

Date: **AUG 07 2019**



The Hon. Harjit S. Sajjan, PC, OMM, MSM,
CD, MP
Minister of National Defence

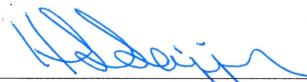
ARRÊTÉ SUR LA DÉLÉGATION

Loi sur l'accès à l'information et Loi sur la protection des renseignements personnels

En vertu de l'article 95(1) de la *Loi sur l'accès à l'information* et l'article 73(1) de la *Loi sur la protection des renseignements personnels*, le ministre de la Défense nationale délègue au titulaire du poste de coordonnateur de l'accès à l'information et de la protection des renseignements personnels du Bureau de l'ombudsman du ministère de la Défense nationale et des Forces canadiennes, ou à la personne occupant à titre intérimaire ledit poste, tous les pouvoirs et toutes les fonctions dont il est investi par les dispositions de ces lois, au sujet du Bureau de l'ombudsman du ministère de la Défense nationale et des Forces canadiennes.

Le présent document remplace et annule tout arrêté antérieur.

Date : **AUG 07 2019**



L'hon. Harjit S. Sajjan, c.p., OMM, MSM,
CD, député
Ministre de la Défense nationale

Annex 2: Statistical Report on the *Privacy Act*



Statistical Report on the *Privacy Act*

Name of institution: Ombudsman for National Defence and Canadian Forces

Reporting period: 2020-04-01 to 2021-03-31

Section 1: Requests Under the *Privacy Act*

1.1 Number of requests

	Number of Requests
Received during reporting period	7
Outstanding from previous reporting period	0
Total	7
Closed during reporting period	5
Carried over to next reporting period	2

Section 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	0	0	0	0	0	0	0	0
Disclosed in part	0	3	2	0	0	0	0	5
All exempted	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0
No records exist	0	0	0	0	0	0	0	0
Request abandoned	0	0	0	0	0	0	0	0
Neither confirmed nor denied	0	0	0	0	0	0	0	0
Total	0	3	2	0	0	0	0	5

TBS/SCT 350-63



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)	1	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	5
19(1)(f)	0	22.1	0	27	1
20	0	22.2	0	27.1	0
21	0	22.3	0	28	0
		22.4	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

Paper	Electronic	Other
1	4	0

2.5 Complexity

2.5.1 Relevant pages processed and disclosed

Number of Pages Processed	Number of Pages Disclosed	Number of Requests
5629	1288	5

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	0	0	0	0	0	0	0	0	0	0
Disclosed in part	1	79	0	0	0	0	4	1209	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	1	79	0	0	0	0	4	1209	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	2	0	0	0	2
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	2	0	0	0	2

2.6 Closed requests

2.6.1 Number of requests closed within legislated timelines

	Requests closed within legislated timelines
Number of requests closed within legislated timelines	5
Percentage of requests closed within legislated timelines (%)	100

2.7 Deemed refusals

2.7.1 Reasons for not meeting legislated timelines

Number of Requests Closed Past the Legislated Timelines	Principal Reason			
	Interference with Operations / Workload	External Consultation	Internal Consultation	Other
0	0	0	0	0

2.7.2 Requests closed beyond legislated timelines (including any extension taken)

Number of Days Past Legislated Timelines	Number of Requests Past Legislated Timeline Where No Extension Was Taken	Number of Requests Past Legislated Timelines Where an Extension Was Taken	Total
1 to 15 days	0	0	0
16 to 30 days	0	0	0
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	0	0	0

2.8 Requests for translation

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

Section 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

Section 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

Section 5: Extensions

5.1 Reasons for extensions and disposition of requests

Number of requests where an extension was taken	15(a)(i) Interference with operations				15 (a)(ii) Consultation			15(b) Translation purposes or conversion
	Further review required to determine exemptions	Large volume of pages	Large volume of requests	Documents are difficult to obtain	Cabinet Confidence Section (Section70)	External	Internal	
2	0	0	0	0	0	2	0	0

5.2 Length of extensions

Length of Extensions	15(a)(i) Interference with operations				15 (a)(ii) Consultation			15(b) Translation purposes or conversion
	Further review required to determine exemptions	Large volume of pages	Large volume of requests	Documents are difficult to obtain	Cabinet Confidence Section (Section70)	External	Internal	
1 to 15 days	0	0	0	0	0	0	0	0
16 to 30 days	0	0	0	0	0	2	0	0
31 days or greater								0
Total	0	0	0	0	0	2	0	0

Section 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
Carried over to the next 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							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

Section 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

Section 8: Complaints and Investigations Notices Received

Section 31	Section 33	Section 35	Court action	Total
0	0	0	0	0

Section 9: Privacy Impact Assessments (PIA) and Personal Information Banks (PIB)

9.1 Privacy Impact Assessments

Number of PIA(s) completed	0
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9.2 Personal Information Banks

Personal Information Banks	Active	Created	Terminated	Modified
	44	0	0	0

Section 10: Material Privacy Breaches

Number of material privacy breaches reported to TBS	0
Number of material privacy breaches reported to OPC	0

Section 11: Resources Related to the *Privacy Act*

11.1 Costs

Expenditures	Amount
Salaries	\$28,664
Overtime	\$0
Goods and Services	\$0
• Professional services contracts	\$0
• Other	\$0
Total	\$28,664

11.2 Human Resources

Resources	Person Years Dedicated to Privacy Activities
Full-time employees	0.280
Part-time and casual employees	0.000
Regional staff	0.000
Consultants and agency personnel	0.000
Students	0.000
Total	0.280

Note: Enter values to three decimal places.