



Office of the Chief Electoral Officer

For the period ending March 31, 2010

Annual Report on the *Privacy Act*

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Chief Electoral Officer of Canada

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Introduction

The *Privacy Act* extends to individuals the right of access to personal information about themselves held by a government institution. The Act also protects individuals' privacy by preventing others from having access to their personal information. In addition, it limits federal institutions' use of the personal information that they collect and retain.

Section 72 of the *Privacy Act* requires that the head of every institution subject to the Act submit an annual report to Parliament on the administration of the Act during the financial year. This report describes how Elections Canada administered its responsibilities under the *Privacy Act* during the fiscal year from April 1, 2009 to March 31, 2010.

Mandate of the Office of the Chief Electoral Officer

The Office of the Chief Electoral Officer, commonly known as Elections Canada, is an independent, non-partisan agency that reports directly to Parliament. Its mandate is to:

- be prepared at all times to conduct a federal general election, by-election or referendum
- administer the political financing provisions of the *Canada Elections Act*
- monitor compliance with and enforce electoral legislation
- conduct voter education and information programs
- provide support to the independent commissions in charge of adjusting the boundaries of federal electoral districts following each decennial census
- carry out studies on alternative voting methods and, with the approval of Parliament, test electronic voting processes for future use during electoral events

In fulfilling its mandate, Elections Canada appoints, trains and supports 308 returning officers and retains the services of 30 field liaison officers across Canada. It also maintains the National Register of Electors, which it uses to prepare preliminary lists of electors at the start of electoral events, as well as electoral geography information, which provides the basis for maps and other geographic products used during electoral events.

The agency also:

- registers political entities, including political parties, electoral district associations, candidates, leadership contestants, third parties that engage in election advertising and referendum committees
- administers the allowances, reimbursements and subsidies paid to eligible candidates, registered political parties and auditors
- monitors compliance with the *Canada Elections Act*, including compliance with political financing rules, during and between elections

- discloses information on registered parties and electoral district associations, nomination contestants and leadership contestants of registered parties, candidates, third parties and referendum committees, including their financial returns
- recommends to Parliament amendments to the *Canada Elections Act* for its better administration. This is done by submitting a recommendations report after a general election as well as by providing expert advice when Parliament studies electoral reform.

In addition, the Chief Electoral Officer appoints the Commissioner of Canada Elections, whose mandate is to ensure that the provisions of the *Canada Elections Act* and the *Referendum Act* are complied with and enforced.

Structure of the Access to Information and Privacy Directorate

The Access to Information and Privacy (ATIP) Directorate is part of the Legal Services Sector and is managed on a full-time basis by the agency's ATIP Coordinator, to whom the Chief Electoral Officer has delegated his authority under section 73 of the *Privacy Act*. A copy of the delegation order setting out the responsibilities under that Act appears in Appendix 1 to this report.

The ATIP Directorate was allocated the financial resources for six full-time equivalent positions. Due to staffing difficulties that stemmed primarily from a lack of qualified personnel, not all of these positions were filled. During the fiscal year covered by this report, three indeterminate employees accepted opportunities in other federal institutions. Consequently, a variety of short-term measures were implemented to ensure the continued provision of services, including the use of students, casual employees and consultants. One indeterminate position was filled through a collective staffing action. A staffing process was ongoing at the end of the fiscal year, and several new staffing actions will be undertaken in the near future.

The ATIP Directorate 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
- providing ongoing legal and business advice as well as guidance to senior management and agency staff on access to information and privacy legislation and related matters
- monitoring institutional compliance with the aforementioned Acts, regulations, relevant procedures and policies
- acting on behalf of Elections Canada 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 application of the above legislation as it relates to Elections Canada
- preparing annual reports to Parliament, in addition to other statutory reports and material that may be required by central agencies

- developing and delivering awareness training to Elections Canada managers and employees to ensure departmental responsiveness to the legal obligation imposed on them by both Acts and regulations
- coordinating the annual update of the descriptions of the agency's organization and its record holdings for inclusion in the Treasury Board of Canada publication *Info Source*
- representing Elections Canada by participating in ATIP community forums, such as the Treasury Board Secretariat's ATIP Community meetings
- providing advice regarding privacy issues and privacy impact assessments
- developing and implementing internal policies

Report on the Administration of the *Privacy Act*

This section provides information about the processing of requests to Elections Canada made under the *Privacy Act*. Appendix 2 provides a statistical summary of the privacy requests received and/or finalized in 2009–2010.

Number of Requests

Elections Canada received 50 formal requests for information under the *Privacy Act* during the period from April 1, 2009 to March 31, 2010. With no request outstanding from the previous reporting period, a total of 50 formal requests required action.

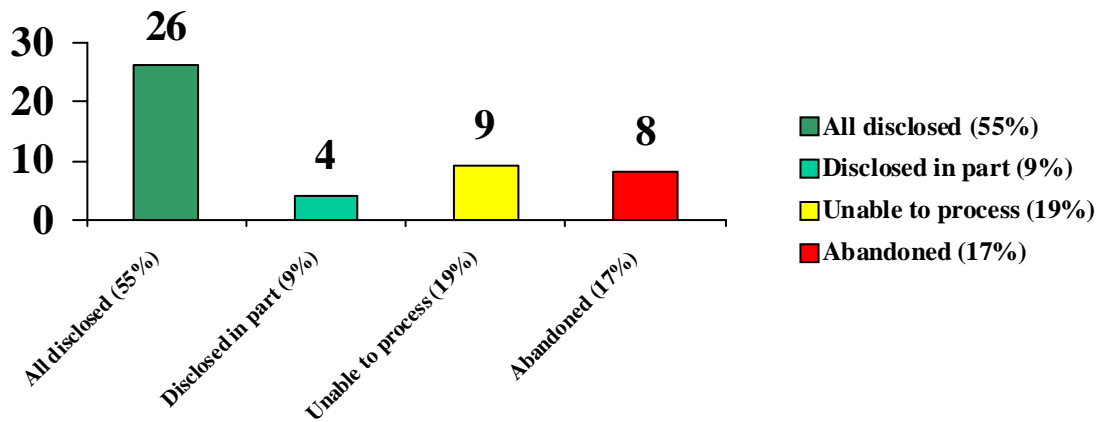
By the end of the fiscal year, the ATIP Directorate had completed a total of 47 formal requests. The Directorate carried forward 3 outstanding requests into the 2010–2011 fiscal year. Elections Canada received them in the second week of March; therefore, their legislated due date was in the next fiscal year.

Disposition of Completed Requests

Of the 47 requests completed during the reporting period, the disposition was as follows:

- **All disclosed:** In 26 cases (55 percent), applicants were granted access to all of the information they sought.
- **Disclosed in part:** In 4 cases (9 percent), personal information pertaining to an individual other than the applicant was withheld by virtue of section 26 of the *Privacy Act*. Documents were therefore disclosed only in part.
- **Unable to process:** The ATIP Directorate was unable to process the requests in 9 cases (19 percent), as the documents requested did not exist.
- **Abandoned by applicant:** Finally, in 8 cases (17 percent), the requests were considered abandoned by the applicant. In most cases, the ATIP Directorate was unable to authenticate the person requesting the personal information.

The following graph shows the disposition of completed requests for the reporting period.



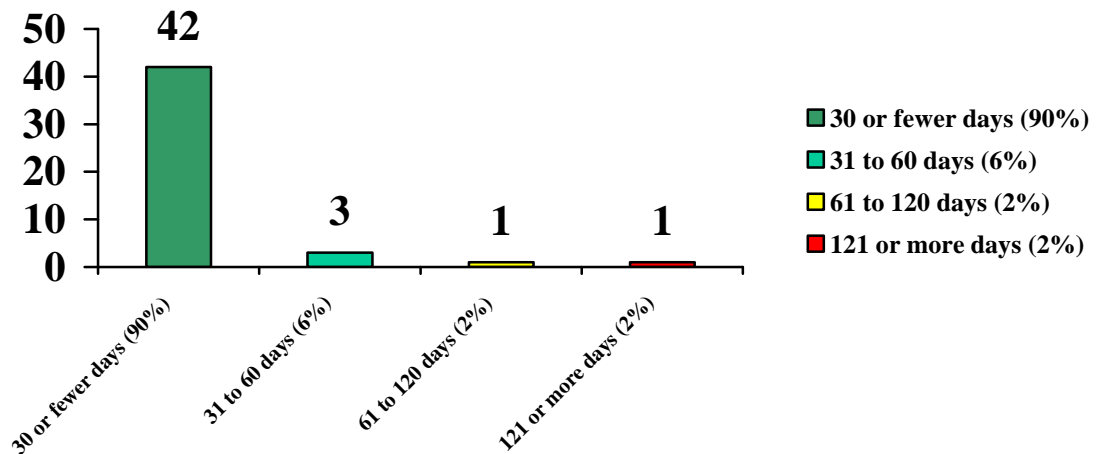
Exemptions Invoked

The Privacy Statistical Report 2009–2010 (Appendix 2) provides details on the exemptions that the agency invoked during the current fiscal year. If an exemption is invoked several times within the same request, it is reported only once.

The only exemption invoked during the reporting period was section 26 of the *Privacy Act*. This exemption aims to protect personal information about an individual other than the individual who made the request.

Completion Time

Of the 47 formal requests completed during the reporting period, the Directorate completed 42 requests (90 percent) within the 30-day time limit. It completed a further 3 requests (6 percent) within 31 to 60 days, 1 request (2 percent) within 61 to 120 days, and 1 request (2 percent) in more than 120 days.



Extensions

Section 15 of the *Privacy Act* provides for the extension of the statutory time limits if processing a request within the original time limit would unreasonably interfere with the operations of the institution or if consultations are necessary. Elections Canada took one 30-day extension and completed the request on time.

Costs

Forty percent of the resources required for the administration of the ATIP program was allocated for the administration of the *Access to Information Act*, while 60 percent was allocated for the administration of the *Privacy Act*. This allocation takes into account the work done in various areas, including processing access requests, producing periodic reports, providing administrative or legal advice, developing and implementing policy, delivering ongoing training, conducting privacy impact assessments, and conducting routine administration. This work was performed by employees and consultants as well as by casual personnel.

For fiscal year 2009–2010, the budget to cover the salaries of employees assigned to the administration of the *Privacy Act* totalled \$228,566, while that for consultant fees totalled \$232,046. A small proportion of those amounts – less than 10 percent – was spent on processing requests for access to personal information. The three main activities carried out by the ATIP Directorate were developing and implementing policy, conducting privacy impact assessments and delivering ongoing training. Those activities accounted for over 57 percent of the budgets allocated for the administration of the *Privacy Act*.

Complaints and Judicial Review

One complaint was filed against Elections Canada in 2009–2010. The request in question involved an election-day worker seeking employment records. After working with a representative of the Office of the Privacy Commissioner (OPC), this complaint was settled to the satisfaction of all parties. A new set of documents was released and the complaint was resolved. The OPC concluded that this complaint was well founded and that it had been resolved.

Informal Requests

In addition to formal requests, the ATIP Directorate received 10 informal requests for personal information during the reporting period from April 1, 2009 to March 31, 2010.

Disclosure of Personal Information Under Paragraph 8(2)(m)

Subsection 8(2) of the *Privacy Act* describes the circumstances under which a government institution may disclose personal information under its control without the consent of the individual to whom the information pertains. Such disclosures are discretionary and are subject to any other Act of Parliament.

Paragraph 8(2)(m) stipulates that an institution may disclose personal information for any purpose where, in the opinion of the head of the institution, the public interest in the disclosure clearly outweighs any invasion of privacy that could result from it, or the disclosure would clearly benefit the individual to whom the information relates.

Elections Canada did not disclose any personal information pursuant to paragraph 8(2)(m) during the reporting period.

Information-Sharing Agreements

The Chief Electoral Officer has authority pursuant to section 44 of the *Canada Elections Act* to maintain a register of Canadians who are qualified electors – known as the National Register of Electors. The Register contains the name, address, sex, date of birth and a randomly generated unique identifier for each elector in it.

The Register is updated with information supplied by federal, provincial and territorial data sources and by electors themselves (section 46 of the *Canada Elections Act*). Elections Canada currently has agreements with data suppliers including the Canada Revenue Agency, Canada Post Corporation, Citizenship and Immigration Canada, and provincial and territorial registrars of motor vehicles and vital statistics.

Elections Canada also provides the information in the National Register of Electors, in accordance with section 55 of the *Canada Elections Act*, to any body responsible under provincial or territorial law for establishing a list of electors. These information-sharing agreements must include conditions regarding the use and protection of that personal information.

Elections Canada currently has two-way data-sharing agreements with all provincial and territorial electoral agencies except for those in Saskatchewan and Yukon. For both of these jurisdictions, Elections Canada has negotiated agreements to receive data but not to provide any in return. Elections Canada also has a two-way information-sharing agreement with the Ontario Municipal Property Assessment Corporation (MPAC), as MPAC has the responsibility under provincial law to establish lists of electors for municipal and school board elections.

During this reporting period, the information-sharing agreement template to be used between Elections Canada and municipalities and school boards in Manitoba was substantially redrafted to reflect best practices in this area. This template will form the basis of other data-sharing agreements to be established with our electoral partners.

Institutional Access to Information Policies and Procedures / Response to the 2009 Privacy Commissioner Audit

Elections Canada undertook several initiatives this fiscal year in response to concerns raised in the audit completed by the Office of the Privacy Commissioner in 2008–2009.

Consent

In response to concerns identified in the OPC audit surrounding the consent individuals give to Elections Canada, the ATIP Directorate has modified the privacy statements included in various registration forms. In conjunction with the Canada Revenue Agency, Elections Canada has revised the question included on income tax forms as well as the explanation in the accompanying income tax guide. Elections Canada has also worked to revise the consent to share personal information that permits Citizenship and Immigration Canada to share information with Elections Canada regarding those who complete the Adult Citizenship Application. The goal has been to give an individual the ability to provide meaningful consent to share his or her information.

Elections Canada has also revised its Web page providing details on the National Register of Electors. It has updated the information in order to provide the electorate with detailed information regarding the Register, including an individual's right to inclusion or exclusion from the Register as well as how the agency will use and disclose personal information.

Privacy Breach Protocol

Elections Canada has also done extensive work on a privacy breach protocol, a concern raised in the OPC audit.

Privacy Impact Assessments

Pursuant to Elections Canada's response to the OPC audit, Elections Canada has designed and implemented a privacy impact assessment process. This process is based on the guidelines issued by the Treasury Board Secretariat and customized for Elections Canada.

Elections Canada has completed the two privacy impact assessments initiated in the previous reporting period, executive summaries of which are available on its Web site at www.elections.ca under Proactive Disclosure. Since the privacy impact assessment process has been in effect, those in charge of various programs have consulted the ATIP Directorate about new initiatives: the agency has started several privacy impact assessments and will report on them in the next annual report.

Education and Training Activities

In 2009–2010, the ATIP Directorate undertook many initiatives to increase awareness and improve client service under the *Access to Information Act* and the *Privacy Act*.

The Directorate delivered a total of 17 sessions to 202 Elections Canada staff and 82 newly appointed returning officers and assistant returning officers. This included the delivery of awareness sessions to increase knowledge and understanding of ATIP throughout the agency.

The Directorate held four refresher sessions with liaison officers of the offices of primary interest regarding ATIP internal processes, their roles and responsibilities under the legislation, the identification of sensitive information and tips regarding the handling of information.

The ATIP Directorate staff pursued training opportunities, including sessions held by the Treasury Board Secretariat, the Canadian Association of Professional Access and Privacy Administrators, and the Canada School of Public Service.

Appendix 1

Delegation of Authority Under Section 73 of the *Privacy Act*

PRIVACY ACT DELEGATION ORDER

The Chief Electoral Officer of Canada, in accordance with section 73 of the *Privacy Act*, hereby designates the person holding the position set out below, or the person acting in that position, to exercise the powers and perform the duties and functions of the Chief Electoral Officer of Canada, as the head of the government institution under the Act.

POSITION

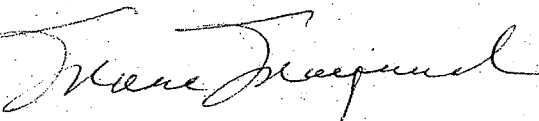
SECTIONS OF THE *PRIVACY ACT*

Access to Information and Privacy
Coordinator

All sections

Date: 1^{er} mai 19A1, 2007

Signature:



Appendix 2

Privacy Statistical Report 2009–2010



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

Institution Elections Canada	Reporting period / Période visée par le rapport 2009-04-01 to 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	50
Outstanding from previous period / En suspens depuis la période antérieure	0
TOTAL	50
Completed during reporting period / Traitées pendant la période visées par le rapport	47
Carried forward / Reportées	3

II Disposition of request completed / Disposition à l'égard des demandes traitées	
1. All disclosed / Communication totale	26
2. Disclosed in part / Communication partielle	4
3. Nothing disclosed (excluded) / Aucune communication (exclusion)	
4. Nothing disclosed (exempt) / Aucune communication (exemption)	
5. Unable to process / Traitement impossible	9
6. Abandoned by applicant / Abandon de la demande	8
7. Transferred / Transmission	
TOTAL	47

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)	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	4
S. Art. 27	0
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	42
31 to 60 days / De 31 à 60 jours	3
61 to 120 days / De 61 à 120 jours	1
121 days or over / 121 jours ou plus	1

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	1	
Consultation	0	
Translation / Traduction	0	0
TOTAL	1	0

VII Translations / Traductions		
Translations requested / Traductions demandées		
Translations prepared / Traductions préparées	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	34
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	\$228 566
Administration (O and M) / Administration (fonctionnement et maintien)	\$232 046
TOTAL	\$460 612
Person year utilization (all reasons) / Années-personnes utilisées (raisons)	
Person year (decimal format) / Années-personnes (nombre décimal)	2.48

