



Public Prosecution  
Service of Canada

Service des poursuites  
pénales du Canada

Annual Report  
on the *Privacy Act*

2010-2011

Canada

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## Introduction

The *Privacy Act* was proclaimed into force on July 1, 1983. The *Act* grants Canadian citizens, permanent residents or any person present in Canada a right of access to their personal information that is held by federal government institutions, subject to specific and limited exceptions, and to an independent review of decisions on disclosure.

This annual report is prepared and is being tabled before each House of Parliament in accordance with section 72 of the *Privacy Act*.

This Annual Report provides a summary of the management and administration of the *Privacy Act* within the Public Prosecution Service of Canada for the fiscal year 2010-2011.

## Background

The Public Prosecution Service of Canada (PPSC) became subject to the *Privacy Act* when it was established as an independent organization on December 12, 2006. The PPSC was created with the coming into force of the *Director of Public Prosecutions Act*, Part 3 of the *Federal Accountability Act*. The PPSC replaced the former Federal Prosecution Service of the Department of Justice Canada.

## Mandate of the Public Prosecution Service of Canada

The mandate of the PPSC is set out in the *Director of Public Prosecutions Act*. The *Act* empowers the Director of Public Prosecutions (DPP) to:

- initiate and conduct federal prosecutions;
- intervene in proceedings that raise a question of public interest that may affect the conduct of prosecutions or related investigations;
- issue guidelines to federal prosecutors;
- advise law enforcement agencies or investigative bodies on general matters relating to prosecutions and on particular investigations that may lead to prosecutions;
- communicate with the media and the public on all matters that involve the initiation and conduct of prosecutions;
- exercise the authority of the Attorney General of Canada in respect of private prosecutions; and
- exercise any other power or carry out any other duty or function assigned by the Attorney General of Canada that is compatible with the office of the Director.

The *Director of Public Prosecutions Act* also empowers the DPP to:

- initiate and conduct prosecutions under the *Canada Elections Act*; and
- act, when requested by the Attorney General of Canada, in matters under the *Extradition Act* and the *Mutual Legal Assistance in Criminal Matters Act*.

With the exception of *Canada Elections Act* matters, the Attorney General of Canada can issue a directive to the DPP in respect of a prosecution or assume conduct of a prosecution, but must do so in writing and a notice must be published in the *Canada Gazette*. As part of the DPP's accountability to the Attorney General, and to assist the Attorney General in deciding whether to give direction in, or assume conduct of, a case, the DPP must inform the Attorney General of any prosecution or planned intervention that may raise important questions of general interest.

Most of the responsibilities of the DPP are carried out by federal prosecutors employed by the PPSC or private-sector agents retained by the DPP. Whether staff counsel or private-sector agents, all federal prosecutors work pursuant to delegations issued by the DPP under the *Director of Public Prosecutions Act*.

## **Roles and Responsibilities of the Public Prosecution Service of Canada**

The PPSC provides prosecution-related advice to law enforcement agencies across Canada and prosecutes offences within federal jurisdiction. In total, over 250 federal statutes contain offences that fall under the PPSC's jurisdiction to prosecute. However, charges are regularly laid under approximately 60 of those statutes.

The PPSC is not an investigative agency and conducts a prosecution when a charge of violating federal law has been laid by an investigative or law enforcement agency, following an investigation.

In all provinces and territories, except Quebec and New Brunswick, the PPSC is responsible for prosecuting all drug offences under the *Controlled Drugs and Substances Act*, regardless of which police agency investigates the alleged offences. In Quebec and New Brunswick, the PPSC prosecutes only those drug offences that were investigated by the Royal Canadian Mounted Police.

In all provinces and territories, the PPSC prosecutes violations of federal statutes such as the *Income Tax Act*, the *Fisheries Act*, the *Excise Act*, the *Customs Act*, the *Canadian Environmental Protection Act*, and the *Competition Act*, as well as conspiracies and attempts to violate these statutes.

In the three territories, the PPSC is responsible for prosecuting all *Criminal Code* offences. In the provinces, the PPSC has jurisdiction to prosecute a limited number of *Criminal Code* offences, including those related to terrorism, criminal organizations, money laundering, proceeds of crime and fraud. Under arrangements with the provinces, the PPSC may also prosecute *Criminal Code* offences that are otherwise within provincial jurisdiction when the accused also faces drug-related charges.

## **Access to Information and Privacy (ATIP) Office**

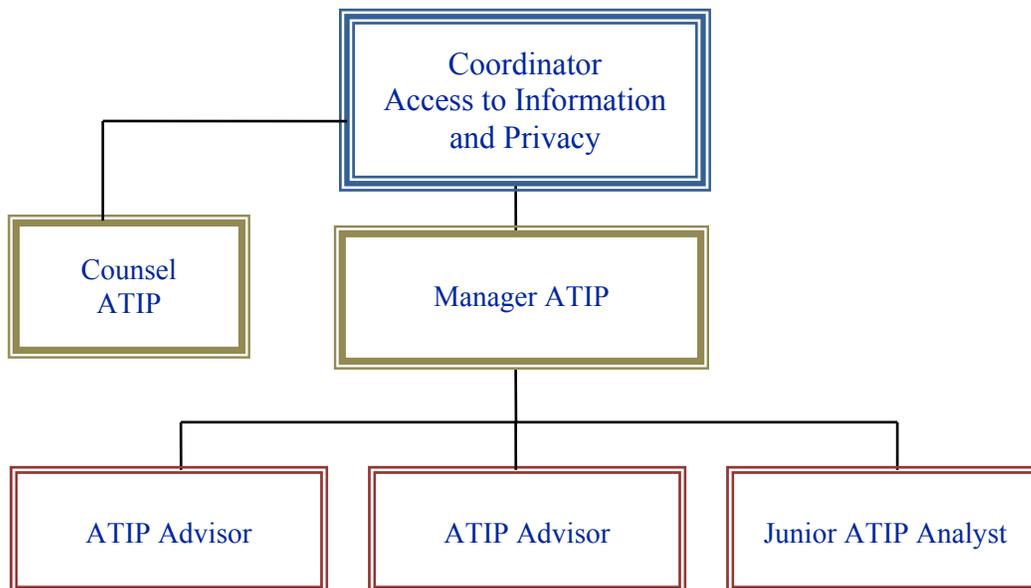
The ATIP Office is the focal point for the application of access to information and privacy legislation at the PPSC. The mandate of the ATIP Office is to implement and administer the *Access to Information Act* and the *Privacy Act*. The ATIP Office deals directly with the public in relation to access to information and privacy requests and, in collaboration with the Offices of Primary Interest (OPIs), serves as the centre of ATIP expertise in enabling the PPSC to meet its statutory obligations under these *Acts*.

The ATIP Office undertakes the responsibility of the administration of the *Privacy Act* by:

- processing requests for information submitted under the *Privacy Act* in accordance with legislation, regulations and Treasury Board of Canada Secretariat policies and guidelines;
- responding to consultations submitted by other federal institutions on PPSC records being considered for release;
- responding to requests received from other federal institutions for the review of solicitor-client privilege in records related to criminal proceedings in which the PPSC is involved;
- developing and providing guidance to PPSC managers and staff regarding the interpretation and application of the *Privacy Act* and other related Treasury Board Secretariat policies and guidelines;
- reviewing departmental policies, procedures and agreements to ensure that they are in compliance with the provisions of the *Act* and making recommendations for amendments;
- monitoring and advising on the organization's compliance with the *Act*, regulations, procedures and policies;
- acting as the spokesperson for the PPSC in dealings with the Treasury Board Secretariat, the Office of the Privacy Commissioner of Canada, and other government departments and agencies;
- reviewing the organizations documents prior to proactive disclosure on the PPSC's website, such as audits and evaluations, and contracts over \$25,000, in order to ensure that such disclosures do not compromise legal proceedings and/or personal information;
- coordinating the preparation of the PPSC chapter of the federal government's *Info Source* publication;
- preparing the annual report to the Treasury Board and Parliament on the *Privacy Act*; and
- participating in ATIP forums, such as the Treasury Board Secretariat's ATIP Community meetings and working groups.

During the reporting period of April 1, 2010 to March 31, 2011, the ATIP Office continued to face challenges in recruiting and retaining experienced and qualified personnel. The PPSC's ATIP office had a staff turnover rate of 75%.

## PPSC's ATIP Organizational Structure



The PPSC'S ATIP Office is comprised of a Manager, two Advisors and one Junior Analyst. The Executive Director and Senior Counsel, Ministerial and External Relations Secretariat, serves as the organization's ATIP Coordinator.

A counsel reporting to the Coordinator provides legal advice to the ATIP Office on the application and interpretation of the *Privacy Act*, its regulations, as well as relevant case law.

### Delegated Authorities

Under section 73 of the *Privacy Act*, the head of a government institution may by order designate one or more officers or employees of that institution to exercise or perform any of the powers, duties or functions of the head of the institution under this *Act*. Full delegated authority is provided to the Executive Director and Senior Counsel, Ministerial and External Relations Secretariat, and also to the Manager of the Access to Information and Privacy Office. A copy of the Delegation Order can be found on the following page.

**Access to Information Act and Privacy Act Delegation Order**

**Arrêté sur la délégation en vertu de la Loi sur l'accès à l'information et la Loi sur la protection des renseignements personnels**

<p>The Director of Public Prosecutions, pursuant to section 73 of the <i>Access to Information Act</i> and the <i>Privacy Act</i>, hereby designates the persons holding the positions set out in the schedule hereto, or the persons occupying on an acting basis those positions, to exercise the powers and functions of the Director as the head of a government institution.</p>	<p>En vertu de l'article 73 de la <i>Loi sur l'accès à l'information</i> et la <i>Loi sur la protection des renseignements personnels</i>, le Directeur des poursuites pénales délègue aux titulaires des postes mentionnés à l'annexe ci-après, ainsi qu'aux personnes occupant à titre intérimaire lesdits postes, les attributions dont le Directeur est investi en qualité de responsable d'une institution fédérale.</p>
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**Schedule/Annexe**

<b>Position/Poste</b>	<b><i>Privacy Act and Regulations / Loi sur la protection des renseignements personnels et règlements</i></b>	<b><i>Access to Information Act and Regulations / Loi sur l'accès à l'information et règlements</i></b>
Executive Director and Senior Counsel, Ministerial and External Relations Secretariat / Directeur exécutif et Conseiller principal, Secrétariat des relations ministérielles et externes	Full authority/Autorité absolue	Full authority/Autorité absolue
Manager, ATIP, Access to Information and Privacy Office / Gestionnaire, AIPRP, Bureau de l'accès à l'information et de la protection des renseignements personnels	Full authority/Autorité absolue	Full authority/Autorité absolue

Dated, at the City of Ottawa, this <u>11</u> day of <u>January</u> , 2010	Daté, en la ville d'Ottawa, ce <u>11</u> jour de <u>janvier</u> 2010
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 Brian Saunders  
 Director of Public Prosecutions  
 Directeur des poursuites pénales

## Statistical Report – Interpretation and Explanation

The following provides explanations and interpretations of the summarized statistical information contained in Appendix A of this annual report.

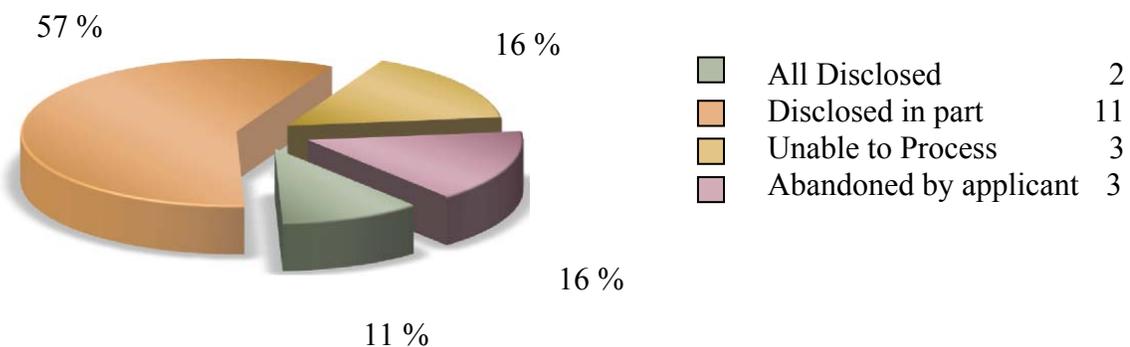
### I. Requests under the *Privacy Act*

The PPSC received eight (8) formal privacy requests during the 2010-2011 reporting period. Eleven (11) requests were carried over from the previous reporting period. While this demonstrates a significant drop in the number of requests received in 2010-2011, the amount of requesters remained steady as over half of the privacy requests received during 2009-2010 came from one single individual.

### II. Disposition of requests completed

Nineteen (19) requests were completed during this reporting period. The completed requests are categorized as follows:

#### Percentage of the Disposition of Requests



The cases in which no information could be provided were mostly attributable to situations beyond the control of the PPSC. These requests are categorized as follows:

#### a. Unable to process

Three (3) requests could not be processed as no relevant records existed under the control of the PPSC.

#### b. Abandoned

Three (3) requests were abandoned. In two (2) of those cases, the applicants abandoned their requests in order to submit significantly different requests. In the third case, the applicant abandoned his request because the information was no longer of use to him.

### III. Exemptions invoked

Section III of the Statistical Report illustrates the types of exemptions invoked by the PPSC in the processing of requests in accordance with the *Act*. The PPSC invoked only two exemptions in 2010-2011, which were sections 26 [Information about another individual] and 27 [Solicitor-client privilege]. The use of section 27 relates to the work of the PPSC which is to initiate and conduct federal prosecutions and to provide legal advice to law enforcement agencies and investigative bodies in relation to federal prosecutions. Furthermore, the PPSC's files contain a great deal of personal information including information about accused, witnesses, victims, therefore section 26 was also applied.

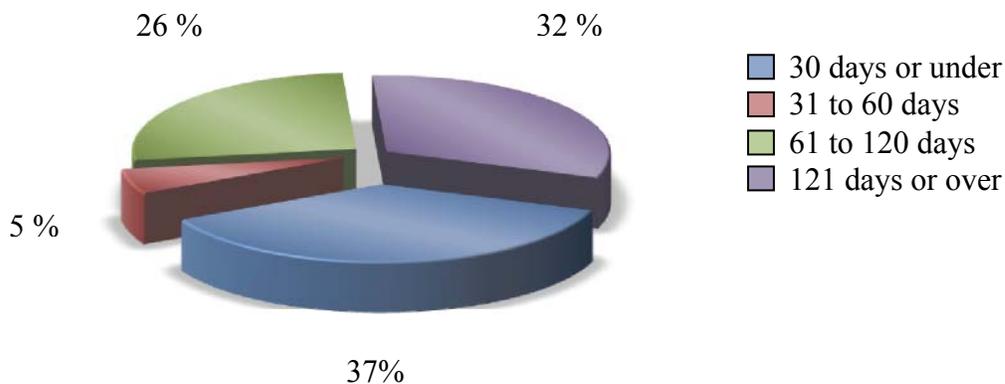
### IV. Exclusions cited

The *Privacy Act* does not apply to library or museum material preserved solely for public record, material placed in Library and Archives Canada, as well as records considered to be confidences of the Queen's Privy Council, pursuant to sections 69 and 70 of the *Act* respectively.

During this reporting period, no exclusions pursuant to sections 69 and 70 of the *Act* were invoked by the PPSC.

### V. Completion time

The time required to process the nineteen (19) completed privacy requests is summarized below:



### VI. Extensions

Section 15 of the *Privacy Act* allows institutions to extend the 30 day deadline for processing a request if meeting the original time limit would unreasonably interfere with the operations of the government institution, or if the institution must consult with other institutions.

Nine (9) extensions were taken during this reporting period. The statutory deadline was extended in those cases because meeting the original time limit would have unreasonably interfered with the operations of the PPSC.

## **VII. Translations**

There were no requests for the translation of information from one official language to the other.

## **VIII. Method of access**

Statistics compiled for this section of the Statistical Report are based solely on those requests for which information was disclosed. Access to the relevant documents was given in part for thirteen (13) requests and copies of material were provided in those cases.

## **IX. Corrections and notations**

The PPSC received no request for corrections to personal information during the reporting period, nor were notations required.

## **X. Costs**

The PPSC spent a total of \$219,898.28 administering the *Privacy Act* of which salaries accounted for \$ 97,590.28 and operational costs accounted for \$122,308.00.

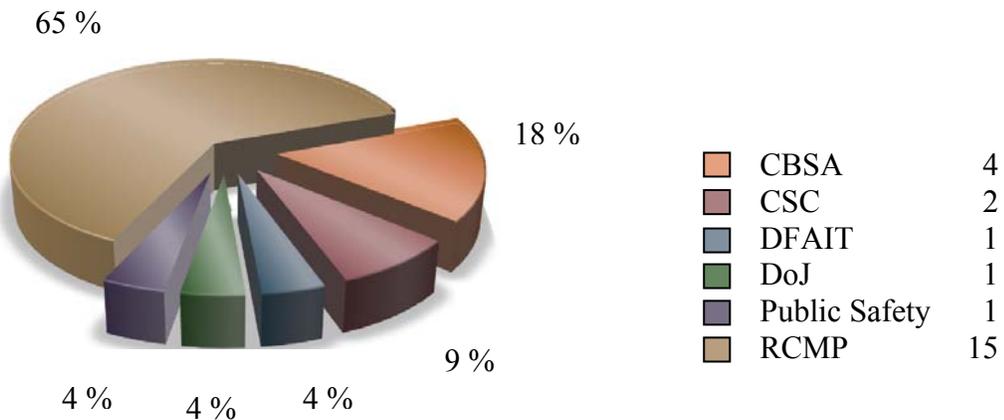
The increase in costs from the previous reporting period was due to the hiring of a consultant to examine the PPSC's existing privacy practices and procedures.

## Consultations by Other Institutions

Where documents originate from other institutions, or are of interest to another institution, the ATIP Office consults the concerned institution on those records.

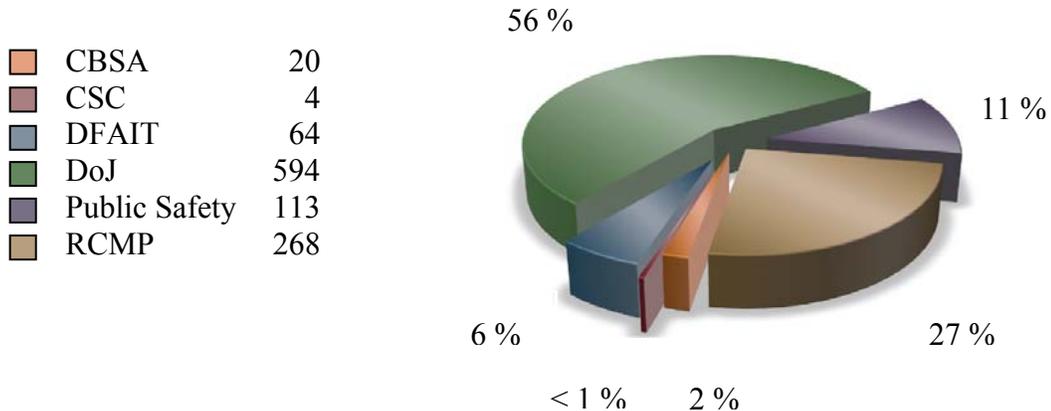
The PPSC responded to twenty-four (24) privacy consultations from the following five (5) federal institutions during this reporting period: Fifteen (15) from the Royal Canadian Mounted Police (RCMP); four (4) from Canada Border Services Agency (CBSA); two (2) from Corrections Services Canada (CSC); one (1) from the Department of Foreign Affairs and International Trade (DFAIT); one (1) from the Department of Justice (DoJ); and one (1) from Public Safety.

### Percentage of Consultations Received from other Institutions



While the majority of consultations originated with the RCMP, that institution did not forward the majority of documents. The largest amount of records forwarded to the PPSC for consultation came from the DoJ.

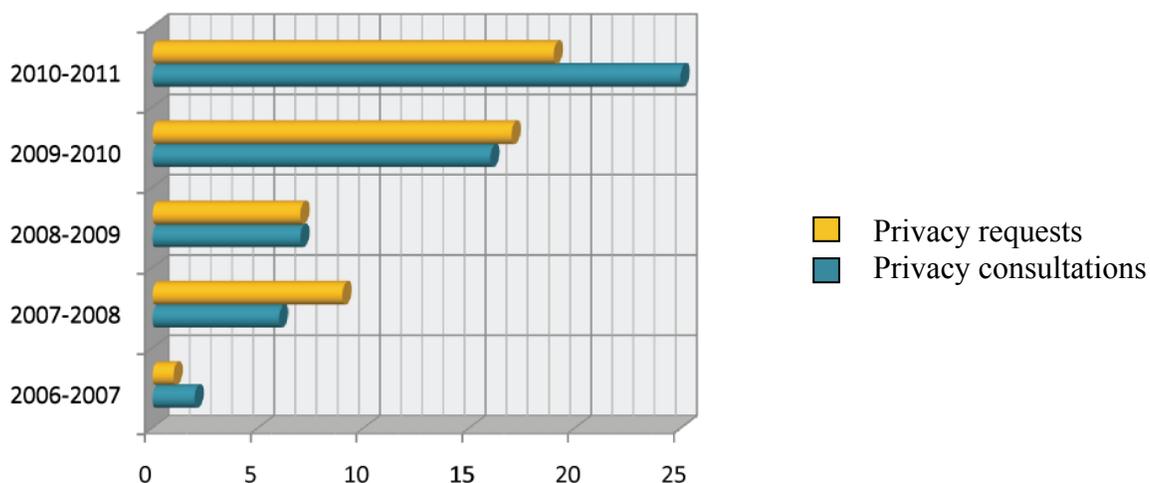
### Percentage of Pages Received from other Institutions



## Trends

As the PPSC has only been in existence since December 12, 2006, this is the first report in which the organization is able to examine its privacy workload over the last five fiscal years. Data from the 2006-2007 reporting period, however, represents only the last quarter of that year. Overall, the number of formal privacy requests has grown steadily. The number of privacy consultations from other government institutions has also seen a steady increase. The graph below illustrates the trend over the last five years.

**Number of Requests and Consultations per Fiscal Year**



## Privacy-Related Education and Training Activities

During this reporting period, a training and awareness session regarding the PPSC's ATIP processes and employee obligations under the *Access to Information Act* and *Privacy Act* was conducted by the ATIP Office for approximately 15 employees of the PPSC's Atlantic Regional Office in Halifax. Three more sessions were held in the National Capital Region (October 2010, December 2010 and February 2011) for another 47 employees. Among the staff that attended these sessions were management, Crown counsel, paralegals, and administrative personnel.

In addition, informal privacy-related training was provided to PPSC employees throughout the year on an *ad hoc* basis.

## **Privacy-Related Policies, Guidelines and Procedures**

In 2010-2011, the PPSC began reviewing and drafting privacy policies. It hired a consultant to examine the organization's personal information holdings and assess whether any privacy gaps exist between current practices for the management of personal information and the PPSC's obligations under the *Act* and related regulations. Following that assessment, a draft Privacy Management Framework was prepared to mitigate privacy risks to the PPSC's operations and to ensure that sound privacy practices are observed. A first draft of the framework was prepared by the consultant, and a revised version is expected to be considered by senior management during the 2011-2012 fiscal year.

In 2010-2011, the ATIP Office also developed a Privacy Breach Protocol for PPSC-wide implementation.

## **Review – Treasury Board Secretariat's Management Accountability Framework**

As part of the Management Accountability Framework (MAF) assessment, the Treasury Board Secretariat (TBS) gave the PPSC an acceptable rating for fiscal year 2010-2011 in privacy related categories (MAF subsections 12.5 and 12.6), determining that the organization had effectively met the requirements of the *Privacy Act*. For 2011-2012, the PPSC will continue to review and update its Personal Information Banks to ensure that they meet TBS requirements.

## **Complaints and Investigations**

To ensure that federal institutions comply with their privacy obligations, and that all requesters are treated fairly and consistently, section 29 and sections 41 to 52 of the *Privacy Act* provide for a review of decisions made under the *Act*. The first level of review is a formal complaint to the Privacy Commissioner of Canada; the second is an application for judicial review to the Federal Court.

During this reporting period, the Office of the Privacy Commissioner of Canada investigated one (1) delay complaint against the PPSC. The complaint was deemed well founded, but no further action was required.

## **Federal Court Review**

No applications to the Federal Court were filed under the *Privacy Act* during this reporting period.

## **Privacy Impact Assessments**

During this reporting period, the PPSC did not complete any Privacy Impact Assessments.

## **Permissible Disclosures made pursuant to paragraph 8(2)(m) of the *Privacy Act***

During this reporting period, the PPSC made no disclosures of personal information pursuant to paragraph 8(2)(m) [disclose in the public interest] of the *Act*.

# Appendix A - Statistical Report on the Privacy Act 2010-2011

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

Institution Public Prosecution Service of Canada / Service des poursuites pénales du Canada	Reporting period / Période visée par le rapport 2010-04-01 to/à 2011-03-31
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<b>I Requests under the Privacy Act / Demandes en vertu de la Loi sur la protection des renseignements personnels</b>	
Received during reporting period / Reçues pendant la période visée par le rapport	8
Outstanding from previous period / En suspens depuis la période antérieure	11
<b>TOTAL</b>	<b>19</b>
Completed during reporting period / Traitées pendant la période visée par le rapport	19
Carried forward / Reportées	0

<b>II Disposition of request completed / Disposition à l'égard des demandes traitées</b>	
1. All disclosed / Communication totale	2
2. Disclosed in part / Communication partielle	11
3. Nothing disclosed (excluded) / Aucune communication (exclusion)	0
4. Nothing disclosed (exempt) / Aucune communication (exemption)	0
5. Unable to process / Traitement impossible	3
6. Abandoned by applicant / Abandon de la demande	3
7. Transferred / Transmission	0
<b>TOTAL</b>	<b>19</b>

<b>III Exemptions invoked / Exceptions invoquées</b>	
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	11
S. Art. 27	8
S. Art. 28	0

TBS/SCT 350-63 (Rev. 1999/03)

<b>IV Exclusions cited / Exclusions citées</b>	
S. Art. 69(1)(a)	0
(b)	0
S. Art. 70(1)(a)	0
(b)	0
(c)	0
(d)	0
(e)	0
(f)	0

<b>V Completion time / Délai de traitement</b>	
30 days or under / 30 jours ou moins	7
31 to 60 days / De 31 à 60 jours	1
61 to 120 days / De 61 à 120 jours	5
121 days or over / 121 jours ou plus	6

<b>VI Extensions / Prorogations des délais</b>		
	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Interference with operations / Interruption des opérations	9	0
Consultation	0	0
Translation / Traduction	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>

<b>VII Translations / Traductions</b>		
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 Method of access / Méthode de consultation</b>	
Copies given / Copies de l'original	13
Examination / Examen de l'original	0
Copies and examination / Copies et examen	0

<b>IX Corrections and notation / Corrections et mention</b>	
Corrections requested / Corrections demandées	0
Corrections made / Corrections effectuées	0
Notation attached / Mention annexée	0

<b>X Costs / Coûts</b>	
Financial (all reasons) / Financiers (raisons)	
Salary / Traitement	\$ 97,590.28
Administration (O and M) / Administration (fonctionnement et maintien)	\$ 122,308.00
<b>TOTAL</b>	<b>\$ 219,898.28</b>
Person year utilization (all reasons) / Années-personnes utilisées (raisons)	
Person year (decimal format) / Années-personnes (nombre décimal)	1.77



## Appendix B - Additional Reporting Requirements - Privacy Act

Treasury Board Secretariat is monitoring compliance with the Privacy Impact Assessment (PIA) Policy (which came into effect on May 2, 2002) and the Directive on Privacy Impact Assessment (which takes effect April 1, 2010) through a variety of means. Institutions are therefore required to report the following information for this reporting period. Note that because some institutions are using the Core PIA as outlined in the Directive in advance of the implementation deadline, they will not have Preliminary PIAs to report.

Indicate the number of:

- Preliminary Privacy Impact Assessments initiated 0
- Preliminary Privacy Impact Assessments completed 0
- Privacy Impact Assessments initiated 0
- Privacy Impact Assessments completed 0
- Privacy Impact Assessments forwarded to the Office of the Privacy Commissioner (OPC) 0

*Note:* If your institution did not undertake any of the activities noted above during the reporting period, this must be stated explicitly.

In addition, institutions are required to report on the following:

### Part III – Exemptions invoked

Paragraph 19(1)(e)	0
Paragraph 19(1)(f)	0
Subsection 22.1	0
Subsection 22.2	0
Subsection 22.3	0

### Part IV – Exclusions cited

Subsection 69.1	0
Subsection 70.1	0

*Note:* If your institution did not invoke any exemptions or cite any exclusions noted above during the reporting period, this must be stated explicitly.