

**OFFICE OF THE INFORMATION
COMMISSIONER OF CANADA**

2004-2005 ESTIMATES

A Report on Plans and Priorities

Approved: _____

Date: _____

Minister of Justice and
Attorney General of Canada

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**OFFICE OF THE INFORMATION COMMISSIONER'S
REPORT ON PLANS AND PRIORITIES**

I am pleased to submit my Report on Plans and Priorities for the fiscal period April 1, 2004 to March 31, 2005.

Approved: _____
The Honorable John M. Reid, P.C
Information Commissioner of Canada

Date: _____

Section I – Information Commissioner’s Message

In previous Estimates documents, I noted that there were a few barriers to full vibrancy of the right of access that remained to be resolved.

In 2002-2003, several of these barriers were struck down by the Supreme Court of Canada and by the Federal Court of Appeal. The Supreme Court of Canada ruled that decisions by government to refuse access, by asserting that records contain cabinet confidences, might be reviewed by other courts and by bodies such as the Information Commissioner. The Federal Court of Appeal also ordered the government to narrow the zone of secrecy heretofore afforded cabinet confidences and ordered the Clerk of the Privy Council to begin respecting the will of Parliament (as expressed in the *Access to Information Act*) by disclosing the records or portions thereof, which contain the background, problem analysis and policy options presented to Cabinet for decision-making purposes. As well, the Supreme Court of Canada ruled that the sphere of privacy accorded to public officials is significantly smaller than that previously asserted by government.



Hon. John M. Reid, P.C.
Information
Commissioner of Canada

In 2003-2004, the Federal Court affirmed the Commissioner’s strong investigative powers to review records held in the offices of Ministers and the Prime Minister and to review records claimed to be covered by solicitor-client privilege.

The thrust of all of these decisions is to emphasize that the purpose of the *Access to Information Act* is to enhance the accountability of government and to constrain its ability to invoke secrecy to interfere with public inquiry.

However, barriers to full vibrancy of the right of access remain. The current Prime Minister has commented on the need to eliminate the "democratic deficit" in the government of Canada. One of the ways in which this can be done is by enhancing the information rights of Canadians, particularly by reforming and modernizing the *Access to Information Act*.

One of the more formidable barriers to full access rights for Canadians is the crisis in information management in government. One of the best ways to enhance the information rights of Canadians is to push ahead vigorously with improving the information management in the government of Canada, including the passage of a "record keeping" law. My last few Annual Reports, as well as reports by the Auditor General, have confirmed that the government does not have adequate control over this fundamental resource of governance. Weak records and information management continues to jeopardize public programs and services, impedes government openness and accountability and thwarts the public’s quasi-constitutional right to access to government-held records which often cannot be found and just as often have not been created in the first place.

My plea and challenge to the government is to make information management reform a priority infrastructure project. What a superb contribution that would be to

facilitating good, accountable government in Canada for the 21st century.

MANAGEMENT REPRESENTATION STATEMENT

I submit, for tabling in Parliament, the 2004-2005 Report on Plans and Priorities (RPP) for the Office of the Information Commissioner of Canada.

This document has been prepared based on the reporting principles and disclosure requirements contained in the *Guide to the preparation* of the 2004-2005 Report on Plans and Priorities:

- ◆ It accurately portrays the organization's plans and priorities.
- ◆ The planned spending information in this document is consistent with the directions provided in the Minister of Finance's Budget and by TBS.
- ◆ Is comprehensive and accurate.
- ◆ Is based on sound underlying departmental information and management systems.

The reporting structure on which this document is based has been approved by Treasury Board Ministers and is the basis for accountability for the results achieved with the resources and authorities provided.

Name: _____

Title: _____

Date: _____

Section II - Raison d'être

To ensure that Canadians' rights and obligations, under the Access to Information Act, are respected.

The Information Commissioner is an ombudsman, appointed by Parliament, to investigate complaints that the government has denied rights under the *Access to Information Act* – Canada's freedom of information legislation.

The *Access to Information Act* came into force in 1983 and gave Canadians the broad legal right to information recorded in any form and controlled by most federal government institutions.

The *Access to Information Act* provides government institutions with 30 days to respond to access requests.

Extended time may be claimed if there are many records to examine, other government agencies to be consulted or third parties to be notified. The requester must be notified of these extensions within the initial time frame.

Access rights are not absolute. They are subject to specific and limited exemptions, balancing freedom of information against individual privacy, commercial confidentiality, national security and the frank communications needed for effective policy-making. These exemptions permit government agencies to withhold material, often prompting disputes between applicants and departments.

Dissatisfied applicants may turn to the Office of the Information Commissioner. The Office investigates complaints from applicants:

- who have been denied requested information;
- who have been asked to pay too much for copied information;
- where the department's extension of more than 30 days to provide information is unreasonable;
- where the material was not in the official language of choice or the time for translation was unreasonable;
- who have a problem with the InfoSource guide or periodic bulletins, which are issued to help the public use the *Access to Information Act*; or,
- who have encountered other problems when using the *Access to Information Act*.

The Commissioner has strong investigative powers, which are strong incentives for government institutions to adhere to the *Access to Information Act* and to respect applicant's rights.

Since he is an ombudsman, the Commissioner may not order a complaint to be resolved in a particular way. He relies upon persuasion to resolve disputes and asks for a Federal Court review only if he believes that an individual has been denied access improperly and that a negotiated solution is not possible. This dispute resolution process has been successful in all complaints but two of this type.

Complaints received by the Commissioner are handled as follows:

1. When a complaint is received, it is assigned to an investigator for investigation and resolution. The investigator first familiarizes him or herself with the complaint and contacts the complainant to obtain the relevant background. The investigator then contacts the department involved to obtain copies of the records in question if exemption from providing the requested information is being claimed, or to assess the adequacy of the search if the information cannot be found.
2. If an exemption from the *Access to Information Act* is claimed, the investigator:
 - reads all of the records;
 - considers the exemption claimed;
 - obtains explanations from the official(s) who invoked the exemption;
 - hears the complainant's views;
 - reviews the statutory provisions involved; and,
 - assesses the validity of the exemption claimed.
3. After the fact gathering process is complete, irrespective of the type of complaint, if the investigator, acting as an advocate for the *Access to Information Act*, believes that the complaint is justified he will ask departmental officials to reconsider their position.
4. If an investigator is prepared to recommend release of the records and the department disagrees, the Director General, Investigations and Reviews, may meet with senior departmental officials to seek a satisfactory solution. If this approach is not successful, the deputy information commissioner may become involved to attempt to resolve the complaint informally. If that proves impossible, the investigator prepares the evidentiary record for the Commissioner's and if necessary the Court's consideration.
5. Prior to court proceedings, the head of the institution against which the complaint is made, is provided with an opportunity to make written or oral representations. This is the final, formal opportunity for the Office to bring preliminary views to the attention of the head of the institution and to give the head a final opportunity to address the Commissioner's concerns.

The Commissioner is not involved with the fact-gathering process of investigations thus ensuring that he comes to the deliberation phase with an open mind. During the deliberation phase, he reviews the evidence and representations, and, if he considers the complaint to be well founded, recommends remedial action. His findings and

recommendations are communicated to the complainant and the head of the institution. He also informs the complainant that, if access to the requested records has not, or will not be given, the complainant has the right to apply to the Federal Court for a review of the institution's decision to refuse access.

The Commissioner has the authority, with the consent of the complainant, to ask the Federal Court to order disclosure of government-held records. This authority is only exercised in the less than one percent of cases where the Commissioner is unable to resolve the matter during the investigative process.

Section III - Planning Overview

The key performance objective of the OIC is to obtain open access to government information held by federal institutions as provided for by the *Access to Information Act*.

The Commissioner, who reports to Parliament, is dependent upon the Government for allocation of sufficient resources to meet its obligations. Each year, the government prepares Estimates in support of its request to Parliament for authority to spend public monies. This request is formalized through the tabling of appropriation bills in Parliament.

The Office meets its obligations by:

- acting as an ombudsman when investigating complaints from citizens who feel that their rights under the *Access to Information Act* are being denied;
- encouraging public officials to respond to valid requests for information in a timely fashion; and,
- managing the investigation and complaint resolution process efficiently and effectively.

Thus, the ongoing business of the Office is to provide information to public officials on their obligations, advise Canadians of their rights to access information and manage the process through which complaints concerning access to information can be resolved within the provisions of the *Access to Information Act*.

The most compelling work facing the Office at this time is to continue to assist:

- Parliament in its review of the *Access to Information Act*;
- The government in the effective and efficient administration of the *Access to Information Act*;
- The government in finding information outside the *Access to Information Act* to facilitate disclosure; and
- The government in educating and training public officials on the *Access to Information Act*.

An important ongoing concern of the Office is to ensure that it is managed ethically, prudently and efficiently.

In this context, the recent Modern Comptrollership Capacity self-assessment and other internal reviews confirmed that, for the most part, Modern Comptrollership is already in place and functioning satisfactorily in the Office. However some improvements are being made all of which are included in the Office's Modern Comptrollership Improvement Action Plan. The plan identifies a number of current and new initiatives designed to improve the Office's management capacity and practices and facilitate effective integrated decision-making.

The strategic focus of the Office will, to the extent possible with allocated resources, be to: conduct fair, thorough and timely investigations; advocate effectively and professionally in access cases before the courts; assist government officials in understanding their access to information obligations, advise Parliament on the implications for government openness of new legislative initiatives and ensure that the office is managed in accordance with the principles of modern comptrollership.

IV Plans and Priorities (By Strategic Outcome)

STRATEGIC OUTCOME – Canadian's rights under the Access to Information Act are safeguarded.

Assess, monitor, mediate and investigate complaints about denial of rights under the *Access to Information Act*

The priorities that the OIC will address over the current planning period are shown in *Table 1: Priorities by Strategic Outcome*. Details of each initiative and the Office's planned approach are provided under the appropriate sub-section that follows.

Table 1: Priorities by Strategic Outcome

Strategic Outcome: Canadian's rights under the <i>Access to Information Act</i> are safeguarded		
Activities	Associated Resources (\$000's)	Type
1. Assess, monitor, mediate and investigate complaints about denial of rights under the Access to Information Act.	4,192	Ongoing
2. Corporate Services	977	Ongoing
Total	5,169	

Managing the investigation and complaint resolution process efficiently and effectively

A fundamental objective of the Office of the Information Commissioner is to improve access to government information held by federal institutions.

The bulk of the effort of the Office is directed towards providing the operational processes and support needed to handle complaints from Canadians who are being denied access to government information. The processes, procedures and protocols needed to discharge this responsibility are in place and published. (A synopsis is provided in the section entitled *raison d'être* of this document). However, the Office continues to be both attentive in its continuing operations and open to improvements resulting from its experience and the efficient application of technology.

Advocating effectively and professionally before the Courts

In addition to see cases initiated by the Commissioner against government institutions while refuse, without lawful justification, to disclose information, the Commissioner must respond an increasing number of cases taken against him by government. By so going, the government seeks to delay investigations, weaken the Commissioner's power, shield information from independent review, and so forth. The Courts play an indispensable role in keeping vibrant the rights contained in the *Access to Information Act*.

To develop a training program for ministerial exempt staff, senior officials, line managers and access professionals on their role, responsibilities and participation in the Access to Information process

The OIC has developed a comprehensive training and orientation program that each new investigator undergoes as their first task with the Office. The Commissioner feels that this training program can be adapted for public servants since it incorporates not just the legislation and the decisions of the Federal Court of Canada, as well as other courts, but previous investigations of the Office, the Treasury Board Manual on the *Access to Information Act* and current case files.

Development of this training and orientation program based upon a tried and tested format and content would be fully supported by the OIC, and by the Access to Information Review Task Force which concluded, in Section 11-2 of its report that:

- awareness of access to information and information management be part of orientation programs for new public servants;
- generic training modules on access to information be developed for the training of program staff, in a form that can readily be customized to meet the needs of individual government institutions; and
- all managers receive access to information training, including the efficient management of access requests from a program perspective and best practices in managing information and in creating a culture of access.

Therefore, the OIC is seeking sufficient funds through the Estimates process to tailor its current training programs for the intended public sector audience.

To raise public awareness by:

- *Continuing to undertake speaking engagements;*
- *Contributing articles and other information; and,*
- *Providing support and expertise to conferences, public meetings and other special events*

The Commissioner continues to give speeches on such topics as information management, the state of open government in Canada and the government's duty to disclose, in certain instances and, in others, the duty to protect information.

The Commissioner also published a position paper entitled “ Oversight Models under the Federal Access and Privacy Acts: Single Commissioner vs. Dual-Commissioners” in October 2004 which traced the history of the administration of both Acts and concluded that,

“The single-agency model of oversight of access and privacy rights is a proven approach. On the other hand, the dual-agency, federal model, has given rise to real problems, among them: conflicting advice to Parliament, government, the courts and the public; emphasis on single values rather than a balanced consideration of multiple values; an adversarial relationship between single-issue commissioners and public officials who must balance many factors in making decisions on secrecy and disclosure; unnecessarily inflated administrative costs and public confusion over how to seek redress for infringements of their information rights.”

The Commissioner and the Office will continue to provide this contribution to public awareness during the program period.

To continue to strive to improve service standards within resource constraints

The OIC cannot control the number of investigations and complaints that are filed. Therefore, the OIC's goal is to deal with these inquiries and complaints efficiently within the scope of the *Access to Information Act*. Over the past few years the OIC has improved the processes for handling complaints and developed a comprehensive training program for its investigation officers.

Initiatives to improve the OIC's service standards will continue during the program period.

To provide advice to Parliament on the effects of new legislation on the public's “right to know”

This capacity has been severely undermined by resource constraints. However, it is vitally important and requests for such advice from Parliamentarians and Committees are increasing. Within resource constraints, efforts will be made to strengthen this capacity.

Corporate Services

The corporate services function provides administrative services (financial, human resources, information technology, general administrative and library services) to the Information Commissioner's office. Its objective is to support those who administer the program.

Since fiscal year 2002-2003 the Office of the Information Commissioner of Canada has had to provide its corporate services independently, after the former Privacy

Commissioner's unilateral decision to terminate the shared service model based on service usage.

Therefore, during 2003-2004 the Corporate Services function had to acquire additional resources to compensate for the increased workload and reduced economies of scale resulting from the former Privacy Commissioner's decision.

In spite of the many challenges faced by the Corporate Services branch, it was able to address and improve several important aspects of its services.

Financial Services

Improvements in Financial Services initiated by the Senior Financial Officer (SFO) included preparing comprehensive policies and procedures governing the application and monitoring of financial delegation of funds to managers. These policies and procedures supported a new delegation document that updated limits on the authority of OIC managers to expend funds on such items as hospitality, office supplies and contracts. A formal briefing package based upon these policies and procedures and the new delegation document was also developed and provided to responsibility centre managers.

The SFO also initiated a review of the progress made towards implementing Modern Comptrollership across the organization, using the management framework as set out by Treasury Board Secretariat in its Managing for Results publication. The results of the review demonstrated that except for a few aspects, Modern Comptrollership is fully implemented in the OIC. An Action Plan has been approved and, subject to available resources, will be undertaken in 2004-2005 to fully implement those aspects needing improvement.

Human Resources

In a letter dated July 11, 2003, the Public Service Commission indicated its satisfaction with the manner in which the OIC respects staffing values in the use of its delegated staffing authorities. The PSC recognized the good practices already in place and, in response to its recommendations, the Corporate Services Branch provided all OIC employees with a course on Staffing Values and training on Public Service Values and Ethics.

As well, during 2003-2004 the Corporate Services Branch developed, published, and implemented a process and guidelines for dealing with wrongdoing in the workplace and disseminated information advising all new employees of the code and their responsibilities toward it.

During the fiscal year, the Branch began work on a functional plan for human resources management, along with a communications strategy, which will ensure that both the plan and important values such as competency, fairness, equity and transparency are understood. The Branch also developed plans and allocated appropriate funds for training

for each human resources specialist to ensure that they were equipped to provide ongoing advice on process and values to managers and employees.

Information Technology

Efficient technology is needed to adequately track, store and report upon the status of enquiries, complaints and their related events on a case-by-case basis. The Corporate Services Branch developed and implemented an effective and efficient case tracking system for investigations (the Integrated Investigations Application) and for legal cases (the Legal Tracking System). As well, in the same period the Branch installed an automated telephone inquiries system.

These systems, together with repatriation from external vendors of the technology support services such as e-mail, intranet and internet web hosting, has further improved the levels and quality of these services, at an acceptable cost.

Administrative and Library Services

During 2003-2004, the OIC continued to provide a public reading room through its library services and updated all of its policies and procedures contained in a comprehensive and current Administrative Manual through its administrative services. As well, to comply with the government's disaster recovery initiative, work commenced on a business continuity plan.

Since the Privacy Commissioner's unilateral decision to abandon the shared corporate service approach in 2001 –2002, the OIC has taken and continues to take the steps necessary to replace the Corporate Services support lost as a result of that decision.

For example, in a letter dated July 11, 2003, the Public Service Commission indicated their satisfaction with the manner in which the OIC respects staffing values in the use of its delegated staffing authorities. The PSC recognized the good practices already in place at the OIC; nevertheless, the Office provided all OIC employees with a course on staffing Values in Staffing on Public Service Values and Ethics.

The OIC plans to continue improve support by:

- Implementing the Modern Comptrollership Action Plan referred to above;
- Preparing a multi-year functional plan for Human Resource Management in the upcoming fiscal year;
- Preparing multi-year functional plans for Information Management, Information Technology and communications during the program period; and
- Extending the training program given to investigators to functional specialists to provide them with an understanding of the investigation process.

These improvements will serve to enhance the efficiency of the functional support staff and by so doing improve the efficiency of the investigations staff.

Section V – Organization

The Resource Challenge

In the last decade, resources have not kept pace with workload. With respect to the investigator group, the office has been unable to replace retiring or departing investigators and has a current investigator complement (23), which is well below the number of investigators required to complete the forecast annual workload of received complaints. On top of this deficit, there is a backlog of incomplete investigations, which is equivalent to a year's workload for the office.

With respect to the non-investigator group, the office has seriously depleted its capacity in the past 10 years in order to transfer resources to the investigator group. The office has moved from two Assistant Commissioners to one Deputy Commissioner; from an Executive Director of Operations and two Directors of Investigations to a Director General of Investigations and Reviews and a Director of Operations, and from a Director of Legal Services and Director of Litigation Services to a combined Director of Legal Services.

As well, the office had to give up its public affairs, research, education and training capacity entirely in order to put resources towards an increasing workload of investigations.

Despite repeated efforts to convince the Treasury Board to properly fund the full range of the Commissioner's mandate -- including several exhaustive reviews by independent consultants, jointly with the Treasury Board Secretariat --- emergency and partial funding only has been forthcoming.

This resource crisis was a matter of discussion by the Parliamentary Committee on Government Operations and Estimates during the Information Commissioner's appearance this year to defend the 2004-05 budget estimates. Some members asked whether the inadequacy of resources may be the government's way of weakening the Commissioner's ability to investigate and expose cases of improper government secrecy; is the government using its authority to grant and withhold resources to undermine the Commissioner's effectiveness and independence.

The Commissioner did not find it necessary to impute bad faith to make the point that there is a real problem of inadequate funding for the Commissioner and that the real result is a weakened ability to do the job Parliament has asked the Information Commissioner to do.

The Commissioner will make another try this year to convince the new government to do what the Chrétien government would not -- properly fund the Office of the Information Commissioner. The Commissioner will also work with Parliament and the other Officers of Parliament, to find a new funding mechanism which will be more independent of government. The approach taken by Parliament to the funding of the Ethics

Commissioner provides an interesting alternative. In that approach, the Ethics Commissioner will propose a budget to the Speaker of the House of Commons. Once the Speaker is satisfied (likely after review by the Board of Internal Economy) the budget will be forwarded to Treasury Board which will, without change or reduction, be included in the government's spending estimates and the funding made available to the Ethics Commissioner.

Strategic Outcome and Business Lines

The OIC has an Access to Government Information and a Corporate Service business line.

The allocation of resources from each business line to the OIC's Strategic Outcomes are depicted in ***Figure 2: Strategic Outcome and Business Line, for the Estimates Year (\$000s)***.

Access to Government Information

This is the main business line of the program and encompasses both the responsibility for maintaining and increasing public awareness and for responding to inquiries and complaints from Canadians concerning access to information.

Corporate Services

Corporate services provide administrative support services (finance, personnel, information technology and general administration) to the Information Commissioner's office. Its objective is to ensure that internal overhead functions are in place to support program management decisions and accountability.

Providing efficient, effective and expert service will remain the priority of this business line during the three years covered by this report.

Table 2: Strategic Outcome by Business Line, for the Estimates Year (\$000's)

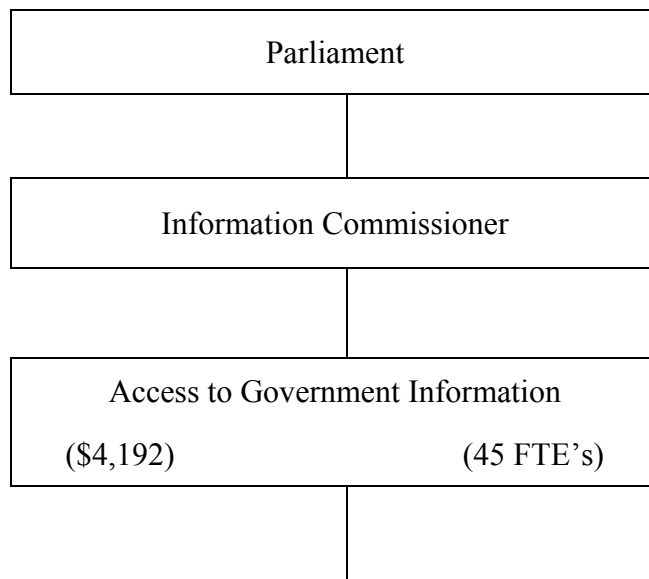
Activity / Business Line	Strategic Outcome	
	Canadian's rights under the <i>Access to Information Act</i> are safeguarded.	
		FTE's
Access to Government Information	4,192	45
Corporate Services	977	11
Total	5,169	56

Accountability

The Information Commissioner is responsible to Parliament for ensuring that Canadians' rights and obligations, under the *Access to Information Act*, are respected. He is accountable for two Business Lines, these being access to Government Information and Corporate Services.

Figure 3: *Accountability for Business Line Results and Resources Allocated* depicts this relationship and shows the allocation of resources to each business line.

Figure 1: Accountability for Business Line Results and Resources Allocated (\$000's)



Corporate Services	
(\$977)	(11 FTE's)

Table 3 - Total Planned Spending by Business Line

(\$ thousands)	Forecast Spending 2003-2004	Planned Spending 2004-2005	Planned Spending 2005-2006	Planned Spending 2006-2007
Access to Government Information	4,121	4,192	4,192	4,192
Corporate Services	943	977	970	970
Total Main Estimates	5,064	5,169	5,162	5,162
Full-Time Equivalents	56	56	56	56

Table 4 - Planned Spending by Business Line – Access to Government Information

(\$ thousands)	Forecast Spending 2003-2004	Planned Spending 2004-2005	Planned Spending 2005-2006	Planned Spending 2006-2007
Salaries and Wages	2,710	2,735	2,735	2,735
Employee Benefit Plans	542	588	588	588
Other Operating	869	869	869	869
Total	4,121	4,192	4,192	4,192

Full-Time Equivalents	45	45	45	45
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Table 5 - Planned Spending by Business Line - Corporate Services

(\$ thousands)	Forecast Spending 2003-2004	Planned Spending 2004-2005	Planned Spending 2005-2006	Planned Spending 2006-2007
Salaries and Wages	622	642	636	636
Employee Benefit Plans	124	138	137	137
Other Operating	197	197	197	197
Total	943	977	970	970
Full-Time Equivalents	11	11	11	11

Section VI – Annexes

Statutory Annual Reports and Other Publications

The Commissioner's annual reports and position papers on access to information issues are available on the Commissioner's Internet web site.

- **Information Commissioner's 2002-2003 Annual Report.** Ottawa: Minister of Public Works and Government Services Canada. Available from the Office of the Information Commissioner, Ottawa, Canada K1A 1H3; (613) 995-2410.
- **Performance Report to Parliament, for the period ending March 31, 2003.** Ottawa: Minister of Public Works and Government Services Canada. Available through local booksellers or by mail from Public Works and Government Services - Publishing, Ottawa, Canada K1A 0S9.
- **2003-04 Estimates: A Report on Plans and Priorities.** Ottawa: Minister of Public Works and Government Services Canada. Available through local booksellers or by mail from Public Works and Government Services - Publishing, Ottawa, Canada K1A 0S9.
- Office of the Information Commissioner of Canada Internet home page:
<http://www.infocom.gc.ca>

Legislation Administered by the Information Commissioner of Canada

The Information Commissioner has an oversight responsibility to Parliament for the following Act:

<i>Access to Information Act</i>	R.S.C., 1985, ch. A-1, amended 1999, c. 31, ss. 2 & 3
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Contact for Further Information

Ruth McEwan
Director General, Corporate Services
Office of the Information Commissioner of Canada
112 Kent Street, 22nd Floor
Ottawa, ON K1A 1H3

Telephone: (613) 995-2864
Facsimile: (613) 947-7294

OFFICE OF THE PRIVACY COMMISSIONER OF CANADA

2004-2005 ESTIMATES

A Report on Plans and Priorities

Approved: _____

The Honourable Irwin Cotler
Minister of Justice and
Attorney General of Canada

Date: _____

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Office of the Privacy Commissioner of Canada's **Report on Plans and Priorities**

I am pleased to submit my Office's *Report on Plans and Priorities* for the fiscal period April 1, 2004 to March 31, 2005.

Approved: _____
Jennifer Stoddart
Privacy Commissioner of Canada

Date: _____

SECTION I: Privacy Commissioner's Message

This *Report on Plans and Priorities*—the work and planning which must go into such an important document—is a welcome and unique opportunity for the Office of the Privacy Commissioner of Canada (OPC). After having undergone a particularly difficult period in its history, it is an opportunity for me, as the new Commissioner, to work with the Office and its staff to identify new priorities. It is an opportunity for a more open and consultative approach to organizational planning. And, most importantly, it is an opportunity to identify new strategic directions and approaches to the way the OPC does business in order to carry out activities for the benefit of Canadians in the most efficient and effective manner possible.

Establishing priorities

I assumed the role of Privacy Commissioner of Canada on December 1, 2003 and I immediately identified a series of priorities for the Office. They include, among others:

- Helping organizations implement Canada's new private sector privacy law, which came fully into effect on January 1st of this year;
- Monitoring government initiatives to ensure that they take into account citizens' privacy rights;
- Developing the OPC's research capabilities to track technological trends and to help Canadians understand their potential privacy encroachments; and
- Monitoring compliance with both federal privacy laws, through complaint investigations, to ensure that citizens' rights are protected.

My most immediate priority, however, has been to lead the Office's institutional renewal by strengthening its management processes, particularly as they relate to human resources and financial management — planning, budgeting, reporting and control mechanisms. The plans for institutional renewal and the necessary corrective measures follow those established by Robert Marleau, the Interim Commissioner between June and December of 2003, and which are mentioned in the *2002-2003 Departmental Performance Report*.

I have said before that without these corrective measures in place, the rest cannot work. As became clear in our planning process, the OPC must become a well-managed and efficient Parliamentary agency in order to effectively defend and protect individuals' privacy rights. I believe that we are well on our way and I anticipate that by summer of 2004, most of these legacy issues will be behind us.

A new approach to organizational planning

As part of this period of renewal we have also established a new, open and more consultative approach to organizational and strategic planning for the OPC, the outcomes of which can be found in this Report.

To begin the strategic planning process, 32 members of the OPC staff met in mid-January for a strategic planning workshop. The purpose was to develop recommendations to serve as the framework for the organization's corporate priorities and key actions for 2004-2005.

The OPC's Planning Working Group was then established to refine the agreed-upon strategic outcomes and develop strategies to flesh out each of these outcomes, which are further described in this Report.

An interim report was presented to the OPC's new External Advisory Committee, which is made up of key external stakeholders and experts, for their input. It was also shared with OPC managers, who discussed it with their staff and provided feedback on employees' comments and suggestions.

The result: a *Report on Plans and Priorities* for the 2004-2005 fiscal year which truly reflects the direction, the responsibilities and the views of the OPC and its employees, and which clearly sets its sights on the benefits which the OPC can bring to Canadians. This Report describes the environment in which we operate. It identifies three relatively new strategic outcomes for the OPC, and it outlines key priorities and the rationale for each, as well as performance indicators and associated costs.

I look forward to the challenges ahead, and to working with the dedicated staff of the OPC and with Parliament as we endeavour to defend and protect the privacy rights of Canadians, in 2004-2005 and in the coming years.

Management Representation Statement

I submit, for tabling in Parliament, the *2004-2005 Report on Plans and Priorities (RPP)* for the Office of the Privacy Commissioner of Canada.

This document has been prepared based on the reporting principles and disclosure requirements contained in the *Guide to the preparation of the 2004-2005 Report on Plans and priorities*.

- It accurately portrays the organization's plans and priorities.
- The planned spending information in this document is consistent with the directions provided in the Minister of Finance's Budget and by TBS.
- Is comprehensive and accurate.
- Is based on sound underlying departmental information and management systems.

The reporting structure on which this document is based has been approved by Treasury Board Ministers and is the basis for accountability for the results achieved with the resources and authorities provided.

Name: _____

Title: _____

Date: _____

SECTION II: Raison d'Être

The mission of the Office of the Privacy Commissioner of Canada is to protect and promote the privacy rights of individuals.

The Office of the Privacy Commissioner of Canada is mandated to oversee the application of the *Personal Information Protection and Electronic Documents Act (PIPEDA)* and the *Privacy Act*, and within that context to protect and promote privacy.

The Privacy Commissioner of Canada, Jennifer Stoddart, is an Officer of Parliament who reports directly to the House of Commons and the Senate. In addition to the Privacy Commissioner, the Office has two Assistant Privacy Commissioners. Raymond D'Aoust is responsible for the *Privacy Act*, which covers the personal information-handling practices of federal government departments and agencies, and Heather Black is responsible for the *PIPEDA*, Canada's new private sector privacy law.

The Commissioner is an advocate for the privacy rights of Canadians whose powers include:

- investigating complaints and conducting audits under two federal laws;
- publishing information about personal information-handling practices in the public and private sector;
- conducting research into privacy issues; and
- promoting awareness and understanding of privacy issues by the Canadian public.

The Commissioner works independently from any other part of the government to investigate complaints from individuals with respect to the federal public sector and the private sector. Canadians may complain to the Commissioner about any matter specified in Section 29 of the *Privacy Act*. This Act applies to personal information held by the Government of Canada. For matters relating to personal information in the private sector, the Commissioner may investigate complaints under Section 11 of *PIPEDA*.

Mediation and conciliation, with a view to corrective action if necessary, are the preferred approaches to complaint solving. The Commissioner has the power to summon witnesses, administer oaths and compel the production of evidence if voluntary co-operation is not forthcoming. In certain circumstances, the Commissioner may take cases to the Federal Court.

SECTION III: Planning Overview

Public expectations and the demands on our Office reflect the environment in which we operate. To fulfil our mandate of promoting and protecting privacy we are expected to respond to government and private sector initiatives that raise privacy concerns. We also need to be able to respond to complaints and inquiries in a timely and professional manner. However, to be effective and to fulfil our mandate, we need to do more than simply react to external initiatives and demands. To serve effectively as Parliament's window on privacy issues we also have to identify issues as they emerge and bring these issues to the attention of Parliament and policy makers. As well, we have an important role to play in terms of informing and educating the public on privacy issues. As a result, our strategic focus must reflect the environment in which we operate.

National Security, Law Enforcement and Public Safety

Over the last two to three years we have witnessed a series of government initiatives related to national security, law enforcement and public safety. Some of these initiatives were responses to the events of September 11, 2001. Although they are very different on the surface, the passage of the *Anti-Terrorism Act*, the introduction of the *Public Safety Act*, Canada Customs and Revenue Agency's creation of a database containing information on airline passengers arriving in Canada, the proposed legislation to create a national sex offender registry, the growing interest in the use of video surveillance of public places, and former Citizenship and Immigration Minister Coderre's proposal to introduce a national identity card, share certain features:

- they involve the collection, use and sharing of personal information;
- they share a common assumption that if law enforcement and national security agencies have access to more personal information about more individuals we will have a safer society; and
- they raise significant concerns from a privacy perspective.

Defending privacy in the face of apparent growing public concerns about public safety has been, and will continue to be, a challenge for this Office. We expect that the government will go forward with the initiatives mentioned above that have not yet become law. As well, we expect that there will be continuing pressure to introduce new measures related to national security, law enforcement and public safety.

Identification and Authentication

Governments and the private sector share a common belief that they need to have faster, more reliable and more secure methods to identify and authenticate individuals. This belief was front and centre in the proposal to introduce a national identity card. The issue of authentication is also central to the federal government's Government On Line initiatives. Citizenship and Immigration has introduced a new, more secure, Permanent Resident Card and we can anticipate growing interest in improving the security of our passports.

The federal, provincial and territorial governments are working together to create a coherent identity policy and uniform standards across programs and jurisdictions to improve the security of foundation documents such as birth certificates that are used for the issuance of travel and other identity documents.

In both the private sector and the public sector we are seeing growing interest in biometrics, smart cards, “e-identities” and other means of identifying and authenticating individuals. Organizations need to be able to verify that you are who you say you are, that you are entitled to the benefit being claimed and that you have not already received it. Identity theft is a real and growing problem.

These pressures to develop more reliable and new methods of identification and authentication raise a number of privacy concerns. These include the collection and use of the personal information needed to issue identification documents—information that could be used for unrelated purposes—the risk that we will be required to identify ourselves in situations where we have every right to remain anonymous; and the possibility that our day-to-day activities will be linked together to form patterns and profiles of our lives.

Over the next planning period we anticipate increasing pressure and new initiatives or proposals to improve identification and authentication of citizens in both the public sector and in the private sector. We also expect that privacy advocates and civil libertarians will increasingly resist this pressure, for example, by promoting the use of “anonymizing” and other privacy enhancing technologies. The tension between privacy and identification will increase and security considerations will get pitted against privacy considerations. This Office will need to develop a set of cogent criteria, based on fair information principles, to assess the privacy risks and opportunities of technology.

The Personal Information Protection and Electronic Documents Act

As of January 1, 2004, the application of the *Personal Information Protection and Electronic Documents Act (PIPEDA)* expanded. The Act now applies to the collection, use or disclosure of personal information in the course of any commercial activity within a province, except in those provinces that have adopted substantially similar privacy legislation. To date, Quebec is the only province that has legislation dealing with personal information that has been deemed to be substantially similar.

The Act will continue to apply to personal information collected, used or disclosed by federal works, undertakings and businesses throughout Canada and it also applies to all personal information in interprovincial and international transactions by all organizations subject to the Act in the course of their commercial activities.

As a result of the expansion of the application of the Act, the Office workload with respect to oversight of *PIPEDA* is increasing significantly. We have already seen a substantial increase in the number of inquiries to our Office. Initial indications also suggest a significant increase in the number of complaints under the Act.

A major priority for the Office will be to develop the expertise to respond to complaints and inquires related to sectors of the economy that are now subject to the Act. Until January 1, 2004, the Act applied to a relatively narrow part of the economy, primarily banks, telecommunications and broadcasting companies, airlines and interprovincial transportation companies. Now the Act applies to the retail sector, manufacturing, the resource industry, the service sector and the entire financial services industry.

In addition to an increase in the number of inquires and complaints we will also need to devote resources to making individuals and organizations aware of their rights and obligations under the Act.

The combination of the increasing pressure on the protection of personal information together with the broader application of *PIPEDA* will have a significant impact on the obligations and workload of the Office. Responding to these challenges while fulfilling the expectations of Canadians will be the major priority of the Office during the planning period.

SECTION IV: Plans and Priorities by Strategic Outcome

As part of our commitment to be a well-managed, effective and efficient Parliamentary agency, the OPC launched a strategic planning process in January 2004. The strategic outcomes and the priorities identified below were developed and confirmed as part of this process.

<u>Strategic Outcomes</u>	<u>Priorities</u>	<u>Type of Priority</u>
To be an effective privacy guardian by assessing and promoting government and private sector compliance with privacy obligations	<ol style="list-style-type: none"> 1. Ensure fair, effective and efficient handling of privacy inquiries and complaints 2. Maximize the effectiveness of the audit and review process, as applied to both the public sector and the private sector 3. Effectively assess the privacy impact of government initiatives 	<p>High – ongoing</p> <p>Lower – ongoing</p> <p>Lower – ongoing</p>
To be Parliament’s window on privacy issues	<ol style="list-style-type: none"> 1. Develop and implement a strategy for communicating with Parliament and create a core Parliamentary liaison function 2. Liaise with provincial Commissioners to develop consistent approaches/policies on specific issues 3. Develop and apply content expertise 4. Liaise with federal departments to track departmental proposals 	<p>High – new</p> <p>High – new</p> <p>High – ongoing</p> <p>Lower – ongoing</p>
To foster understanding of privacy rights and obligations	<ol style="list-style-type: none"> 1. Develop research and policy expertise related to key identified or emerging privacy issues and communicate the results of our research broadly 2. Develop and implement communications and public education programs 	<p>High – ongoing</p> <p>High – ongoing</p>

Strategic Outcome 1 (\$ 5,344 K)

To be an effective privacy guardian by assessing and promoting government and private sector compliance with privacy obligations

Final phase of *PIPEDA*

The implementation of the final phase of *PIPEDA*, as of January 1, 2004, will have a significant impact on this strategic outcome. *PIPEDA* now applies to all organizations throughout Canada which collect, use or disclose personal information in the course of commercial activities, except in those provinces that have passed substantially similar legislation.

This expansion in the scope of the Act has already started to affect our workload. The OPC received 50 per cent more complaints during the first two months of 2004 than in the comparable period of 2003. Similarly, we have experienced a dramatic increase in the number of inquiries. We expect that these trends will continue into 2004-2005.

The complaint process is central to the oversight regime for both *PIPEDA* and the *Privacy Act*. A fair, timely and resolution-oriented complaint process benefits complainants and organizations subject to the Act. For complainants, the complaint process is an important means of redress. In the case of *PIPEDA*, the case summaries of our findings help organizations subject to the Act understand their obligations. In addition, the complaints we receive act as an early warning system to help us identify gaps in compliance, which we can follow up with the organizations involved in order to lower the risk of future problems.

For all these reasons, ensuring the fair, effective and efficient handling of privacy inquiries and complaints will continue to be a high priority during fiscal year 2004-2005.

New approaches to dealing with investigations and inquiries

In response to the increasing *PIPEDA*-related workload we are introducing innovative and creative means to make our processes for handling inquiries and for carrying out investigations more effective, timelier and less administratively onerous. To help us cope with the increased volume of inquiries, we will implement an automated telephone answering application to assist in handling routine information requests. This will help free up the time of Inquiries Officers to deal with more complex requests. We are also enhancing our Web site to make a wider variety of privacy-related material available and we will direct people to it where possible.

For our investigation process, we will place increased emphasis on dealing with complaints through alternative dispute resolution as a means of resolving complaints more quickly and efficiently. We are also exploring new ways to report on the complaints we receive to make this information more useful to Canadians in terms of helping them understand their rights and obligations under *PIPEDA*. For instance, we are developing a set of “best practices” on selected topics, based on our findings issued to date, to assist organizations in interpreting the Act.

We are also taking a series of steps to streamline administrative aspects of our investigation process. For example, we have reduced the level of sign-offs and legal review required in certain types of complaint investigations. In addition, in 2004-2005, we will also complete the roll-out of a new caseload management system called IIA that will facilitate caseload tracking and reporting, as well as give us better tools for managing *PIPEDA*-related investigations.

Harmonizing our approach with the provinces

A good number of privacy investigations involve federal-provincial cross-jurisdictional issues. In order to minimize duplication of effort and maximize benefits for all Canadians, the OPC has held discussions with our provincial counterparts in British Columbia and Alberta about a harmonized approach to the handling of complaints where the complaint is against an organization in either of these provinces. (Both British Columbia and Alberta passed *Personal Information Protection Acts* that came into effect as of January 1, 2004.) Initiatives to harmonize the OPC’s *PIPEDA* complaint-handling activities with those of provincial commissioners’ offices will continue throughout 2004-2005.

All these process-related initiatives, taken together, will allow us to better serve the Canadian public, while managing the significant increase in workload.

Performance indicators

We will monitor our performance on an ongoing basis in conducting our investigations and issuing findings within established time frames. Equally important, we will measure the percentage of complaints that we are able to resolve satisfactorily to both parties without issuing a formal finding.

Audits, reviews and Privacy Impact Assessments

Two of the other ways that we monitor compliance with *PIPEDA* and the *Privacy Act* are through audits and reviews and by assessing the privacy impact of government initiatives.

Reflecting the increased emphasis on national security and the international fight against terrorism, our audits and reviews under the *Privacy Act* will focus on information sharing among federal departments and agencies and information sharing agreements with foreign governments. Predicting audit activities under *PIPEDA* is more difficult because the Act stipulates that the Privacy Commissioner must have reasonable grounds to believe that an organization is contravening the law before initiating an audit.

In 2002, Canada became the first country in the world to make privacy impact assessments (PIAs) mandatory for all federal departments and agencies. The Treasury Board's PIA policy is intended to protect the privacy of Canadians in all transactions with the government by ensuring that privacy considerations are built into government projects at the outset. Assessing the privacy impact up-front helps assist managers and decision-makers avoid or mitigate privacy risks and promote fully informed policy, program and system design choices.

While the OPC supports the goals and objectives of the PIA policy, there are significant resource implications which need to be addressed. The Office was never funded by the Treasury Board to provide expert advice to government departments as they seek to comply with the policy. Resource constraints and competing priorities are forcing the OPC to re-examine its role in relation to PIAs. Discussions with the Treasury Board to clarify service expectations and resource requirements will be undertaken.

Strategic Outcome 2

(\$ 2,442 K)

To be Parliament's window on privacy issues

Bringing privacy issues to the attention of Parliament

As an independent Officer of Parliament, the Privacy Commissioner of Canada has a special relationship with Parliament.

Acting as Parliament's window on privacy issues primarily involves bringing issues to the attention of Parliament that have an impact on the privacy rights of Canadians, more accurately on the protection of their personal information. We do this in a number of ways: by tabling our Annual Report with Parliament; by appearing before House and Senate committees to comment on the privacy implications of proposed legislation and government initiatives; and by identifying issues that we believe should be brought to Parliament's attention.

Acting as Parliament's window also involves serving as the medium through which Parliament can become better informed about privacy issues. In this role, the OPC acts as a resource or centre of expertise on privacy issues. This includes responding to a significant number of inquiries and letters from Senators and MPs.

Establishing a Parliamentary liaison function and enhancing policy expertise

Achieving this strategic outcome requires that we will have to enhance our processes and skills needed to monitor and interact with Parliament, including MPs and Senators, their assistants, and Parliamentary Committees. Creating a liaison unit to improve our relationship with Parliament will be a priority during 2004-2005. In addition to providing us with parliamentary affairs expertise, this unit will also liaise with other external stakeholders such as Provincial/Territorial Privacy Commissioners and Privacy Commissioners from other countries.

We also need to enhance our policy expertise to provide sound advice to Parliament and to be recognized by Parliament for our expertise. We plan to identify potential partners and sources of external expertise to augment our internal policy and research capabilities. In addition, we will strengthen our own internal research capacity, with particular focus on the impacts of technology on privacy, through the addition of resources with this expertise.

We recognize that to act as an effective Officer of Parliament we need to have good working relationships with federal departments and agencies. Identifying and raising privacy concerns when government initiatives are being developed rather than waiting until they reach Parliament increases the possibility that these concerns will be taken into account.

Performance indicators

We will assess our performance for this strategic outcome by tracking the number of times the Commissioner and Assistant Commissioners are asked to appear before Parliamentary Committees, meetings with MPs and Senators, inquiries from Parliamentarians and expressions of support for OPC positions from MPs and Senators.

Strategic Outcome 3 (\$ 3,577 K)

To foster an understanding of privacy rights and obligations

Reaching out to individuals and organizations

In broad terms, this strategic outcome will have two main thrusts: to help citizens and organizations understand their rights and obligations under the two laws that we oversee; and to make Canadians aware of emerging technologies and initiatives that have or could have an impact on their privacy. This second thrust has been particularly important since September 11, 2001.

In the post-September 11th environment in which we find ourselves, communicating with Canadians and making them aware of the privacy implications of the government's attempts to respond to this new face of terrorism is critically important. Ensuring that our privacy rights are not needlessly sacrificed in the interests of national security is more important and more challenging than ever before. The OPC has a critical role to play in informing Canadians of these critical issues, and in reminding the government of the fundamental importance of privacy.

In order to ensure a smooth roll-out of the last phase of the implementation of *PIPEDA*, communications activities will also be critical to ensuring that the business community in Canada is fully aware of its obligations under Canada's new private sector privacy law. Continued efforts will also be required to ensure that individuals are made aware of their privacy rights.

A more strategic approach to public education and communications

Moving forward, we propose to take a more strategic and focussed approach to our communications and public education activities. This will require identifying who our audiences are, assessing their needs, and developing programs and materials to meet these needs.

We communicate with Canadians in a number of ways. For example, we make information available on our Web site; we participate in media interviews; and we have produced two publications—a guide for businesses and organizations, and another for individuals—to help Canadians and organizations understand *PIPEDA*. The Commissioner and senior staff speak frequently at conferences, workshops and other venues to diverse audiences. We respond to thousands of inquiries annually.

Establishing a contributions program

We recognize that we need partners in our goal of fostering an understanding of privacy rights and obligations. We propose to establish a contribution program to assist the OPC in its efforts to protect personal information and foster public awareness and understanding of privacy rights. More specifically, the program will capitalize on existing research expertise and capability; build links with researchers, voluntary organizations, academics and our provincial counterparts; and encourage the development of privacy expertise. We also anticipate that the organizations and individuals who receive contributions will have their own methods of disseminating the results of their research.

Performance indicators

We measure our performance for this strategic outcome in a number of ways. We track traffic to our Web site and we monitor the number of inquires we receive and their subject matter. We carefully assess requests for public appearances by the Commissioner and other staff members in order to ensure that we are reaching a variety of audiences in all regions of the country. In addition, we conduct media analyses to provide a qualitative assessment of the impact of OPC initiatives. During 2004-2005 we will review our performance indicators for each of our strategic outcomes, and using the Treasury Board's suggested methodology, a results chain performance measurement approach, consider how to best assess our progress and our level of achievement.

SECTION V: Organization

The Office of the Privacy Commissioner of Canada was created under the *Privacy Act*, which came into force on July 1, 1983.

In order to meet its objectives and provide Canadians with the established strategic outcomes, the Office organized its activities around the following business lines:

- ⇒ Protection of personal information – federal public sector
- ⇒ Protection of personal information – private sector
- ⇒ Corporate services

The **protection of personal information – federal public sector** business line focuses on all activities related to the administration of the *Privacy Act*.

The **protection of personal information – private sector** business line focuses on all activities related to the administration of *PIPEDA*.

The **corporate services** business line focuses on all activities related to the administrative support of the Office.

Although we have presented the federal public sector and private sector as two separate business lines, the reality is that several of the activities underlying these two business lines are often common to both, to varying degrees. Also, Corporate Services does not exist as an end to itself, but rather as a set of support services for the OPC's main program activities. To better reflect our focuses and how the OPC operates in practice, in next year's Report on Plans and Priorities, we plan to revisit our Program Activity Architecture and how we account for resource utilization.

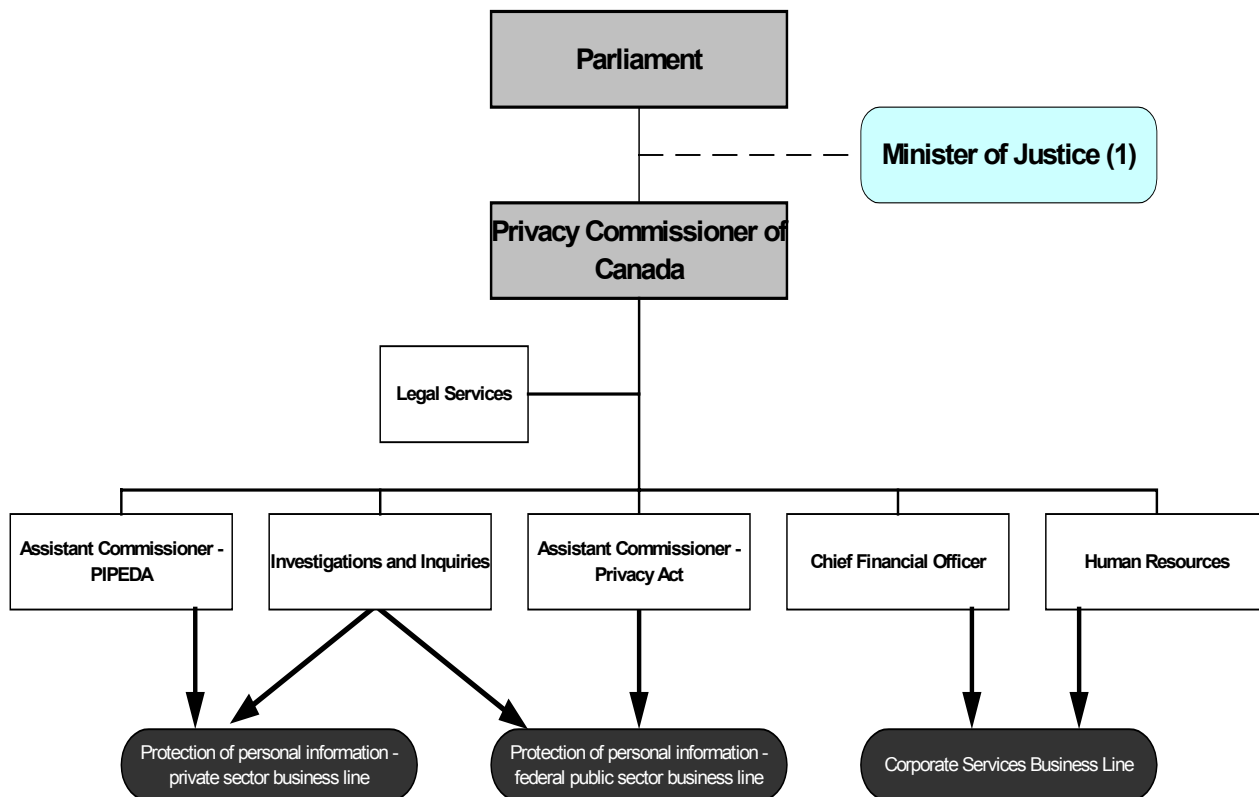
(\$ Thousands)

Strategic Outcome	Business Lines			Total by Strategic Outcome
	Federal Public Sector	Private Sector	Corporate Services	
To be an effective privacy guardian by assessing and promoting government and private sector compliance with privacy obligations.	1,890	2,814	640	5,344
To be Parliament's window on privacy issues.	1,104	966	372	2,442
To foster understanding of privacy rights and obligations	1,026	2,200	351	3,577
Total by Business Line	4,020	5,980	1,363	11,363

The amounts shown above include contributions to the Employee Benefits Plan (EBP), which are non-discretionary expenditures for the Office.

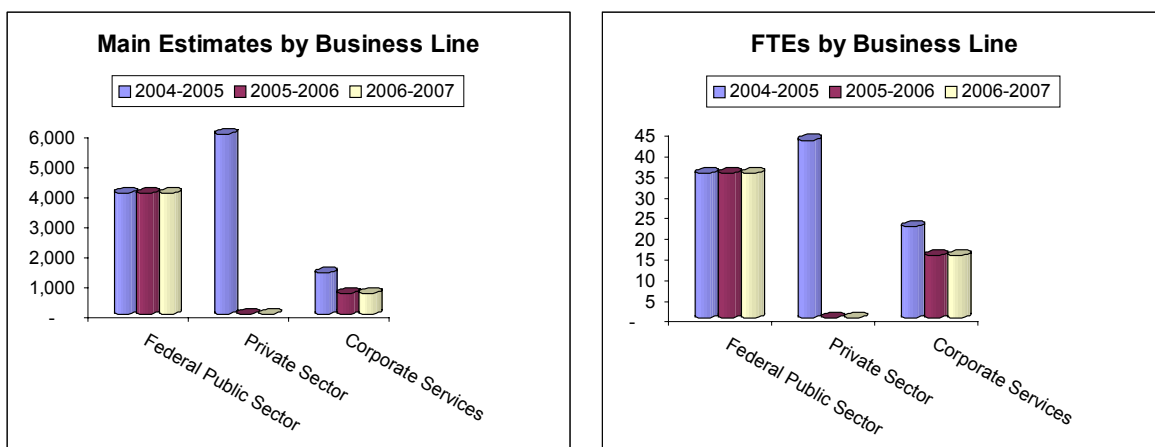
Accountability

Following is the organizational structure of the OPC, as of March 2004.



(1) The Privacy Commissioner is an Officer of Parliament appointed by the Governor-in-Council following approval of her nomination by resolution of the Senate and the House of Commons. The OPC is designated by Order-in-Council as a department for purposes of the *Financial Administration Act*. As such, it is established under the authority of schedule 1.1 of the *Financial Administration Act* and reports to Parliament for financial administration purposes through the Minister of Justice. The Privacy Commissioner is accountable and reports directly to Parliament on all results achieved.

Resources, financial and Full-Time Equivalents (FTEs), required by the Office to attain its results represent the following; additional details are included in annexes.



The decrease in funding and FTEs beginning in 2005-2006 reflects the government's plan to review the protection of personal information – private sector business line. Funding for this business line was originally provided in 2000-2001 with the introduction of *PIPEDA*. At that time, the ongoing resource requirements could not be satisfactorily determined considering the uncertainty of the impact of *PIPEDA* on the Office's activities. This review of funding requirements was originally intended to be completed in 2003-2004, but was postponed due to the organizational renewal which was required following problems highlighted in the Auditor General's September 2003 report regarding the OPC. In the meantime, funding for *PIPEDA* has been approved, at its original amount, for 2004-2005 only.

The Office will work with TBS in 2004-2005 to re-establish an appropriate ongoing financial framework as of April 2005.

The Privacy Commissioner of Canada reports directly to the House of Commons and to the Senate. The Commissioner is supported by two Assistant Privacy Commissioners. One Assistant Privacy Commissioner is responsible for *PIPEDA*, while the other Assistant Privacy Commissioner is responsible for the *Privacy Act*.

Investigations and Inquiries

The Investigations and Inquiries Branch reports directly to the Privacy Commissioner. The Branch is responsible for investigating, on behalf of the Commissioner, complaints received from individuals under Section 29 of the *Privacy Act* and Section 11 of *PIPEDA*.

Essentially, the Office's investigations serve to establish whether individuals have had their privacy rights violated and/or whether they have been accorded their right of access to their personal information. Where privacy rights have been violated, the investigation process seeks to provide redress for individuals and to keep violations from recurring.

Mediation and conciliation, with a view to corrective action if necessary, are the preferred approaches to complaint solving. The Commissioner has the power to summon witnesses, administer oaths and compel the production of evidence if voluntary co-operation is not forthcoming. In certain circumstances, the Commissioner may take cases to the Federal Court.

To date, all complaints brought before the Commissioner have been resolved without having to use these formal investigative powers, because voluntary co-operation with investigations has been forthcoming.

The Branch's Inquiries Division responds to thousands of inquiries annually from the general public and organizations who contact the Office for advice and assistance on a wide range of privacy-related matters.

Legal Services

Legal Services, headed by the General Counsel and reporting directly to the Privacy Commissioner, provides specialized legal and strategic advice and litigation support to the Privacy Commissioner with respect to the *Privacy Act* and *PIPEDA*.

Corporate Services

The Corporate Services Branch, headed by the Office's Chief Financial Officer and reporting to the Privacy Commissioner, provides advice and integrated administrative services (finance, information technology and general administration) to managers and staff.

The Corporate Services Branch will play a lead role in a number of important initiatives linked to the OPC's goal of becoming a well-managed, effective and efficient Parliamentary agency. The most significant of these will be in spearheading the implementation of Office's Modern Comptrollership plan. This is a fundamental part of the overall Office's organizational renewal strategy. In addition, in the 2004-05 fiscal year, the Corporate Services Branch will lead, take part in or support business process redesign initiatives focused on streamlining the Office's core business processes and making them more effective.

In the Information Technology area specifically, we plan to update the Office's network infrastructure, and to acquire and implement applications in support of emerging business requirements, as resources permit. Specific proposals will be assessed on a business case basis and will be directly linked to business priorities. Moreover, some additional investment in desktop/laptop computers and standard applications for them will be required. In previous years, investment in such IT tools and applications has been limited due to other OPC priorities. This means that the Office will be in "catch up" mode to some extent over the next several years and that basic infrastructure investments will be necessary, e.g. to ensure that all the Office's staff have access to core applications.

Human Resources

Human Resources, which also reports directly to the Privacy Commissioner, is responsible for the management and delivery of comprehensive Human Resource Management programs in areas such as staffing, classification, staff relations, human resource planning, learning and development, employment equity, official languages and compensation. This includes maintaining relationships and remaining abreast of HR trends and directions with HR counterparts at the Public Service Commission, the Treasury Board Secretariat (Public Service Human Resources Management Agency of Canada), PWGSC, Privy Council Office, Commissioner of Official Languages, Bargaining Agents etc. A few key priorities for the HR Branch in the 2004-2005 fiscal year include developing an overall Strategic HR Plan, a detailed Staffing Strategy, a Learning Strategy with CCMD for all staff, enhanced HR policies and employee programs, as well as new Health Workplace initiatives.

There are also three Branches within the OPC that report to the Assistant Privacy Commissioner responsible for the *Privacy Act*. These include the Privacy Practices and Reviews Branch, the Research and Policy Branch, and the Public Education and Communications Branch.

Privacy Practices and Reviews

The Privacy Practices and Reviews Branch reports to the Assistant Privacy Commissioner responsible for the Privacy Act. The Privacy Practices and Reviews Branch assesses how well organizations are complying with requirements set out in two federal laws.

Following accepted standard audit objectives and criteria, the Branch conducts compliance reviews under Section 37 of the *Privacy Act* and audits under Section 18 of *PIPEDA*.

The *Privacy Act* permits the Commissioner to initiate a compliance review of federal institutions. *PIPEDA* allows the Commissioner to audit the compliance of private organisations if the Commissioner has “reasonable grounds to believe” that the organisations are contravening a provision of the *Act*.

Through the Privacy Commissioner, the Branch has the authority to administer oaths, receive evidence and, at any reasonable time, enter the premises where appropriate.

It also provides assistance to public and private sector organisations regarding fair information handling practices with respect to any initiative with privacy implications.

In addition to the Branch’s compliance audit functions, it receives, analyses, and provides comments and recommendations on Privacy Impact Assessment (PIA) Reports prepared by federal government departments pursuant to the Secretariat of Treasury Board of Canada’s *Privacy Impact Assessment Policy*.

The PIA policy, which came into effect in May 2002, requires federal government departments and agencies to conduct PIAs for all new programs or services that may potentially impact on individual privacy. The PIA policy further requires federal government departments and agencies conducting PIAs to consult with the OPC.

In performing its role as a source of expert advice, the Privacy Practices and Reviews Branch helps ensure that privacy risks associated with specific programs and services are properly identified and that appropriate measures are taken to mitigate those risks. As stated earlier, this role needs to be re-examined in light of resource pressures and emerging priorities.

Research and Policy

The Research and Policy Branch reports to the Assistant Privacy Commissioner responsible for the *Privacy Act*.

The Research and Policy Branch serves as the centre of expertise on emerging privacy issues in Canada and abroad. The Branch is responsible for researching trends, monitoring legislative and regulatory initiatives, providing analysis on key issues, and developing policies and positions that advance the protection of the privacy rights.

The Branch supports the Commissioner, Assistant Commissioners and the other branches by identifying legislation, new programs and emerging technologies that raise privacy concerns; providing strategic advice and policy options; drafting discussion and/or position papers for public consumption on issues affecting privacy; and preparing briefing material for public appearances by the Commissioner and other staff members.

An important part of the work done by this Branch involves supporting the Commissioner and Assistant Commissioners in providing advice to Parliament on legislation or government program initiatives that may impact on privacy. In doing so, the Branch works closely with other units of the OPC, namely Legal Services.

Public Education and Communications

The Public Education and Communications Branch reports to the Assistant Privacy Commissioner responsible for the *Privacy Act*. One of the Office of the Privacy Commissioner's key priorities is to foster understanding of privacy rights and obligations, and this Branch helps the Office to fulfil that mandate. It is important for individuals to understand their rights, and organizations their responsibilities, under both federal privacy laws.

In addition to providing strategic communications advice to the Privacy Commissioner and Assistant Commissioners, the Public Education and Communications Branch plans and implements a number of public education and communications activities on behalf of the Office, including speaking engagements and special events, media relations, advertising, the production and dissemination of promotional and educational material, the development of content for the OPC's Web site, as well as internal communications activities.

OPC Planned Spending

(\$ Thousands)	Forecast Spending	Planned Spending	Planned Spending	Planned Spending
	2003-2004	2004-2005	2005-2006 ¹	2006-2007
Protection of Personal Information - Federal Public Sector	4,201	4,020	4,013	4,013
Protection of Personal Information - Private Sector	5,668	-	-	-
Corporate Services	1,363	679	679	679
Total Main Estimates	11,232	4,699	4,692	4,692
Adjustments³				
Corrective Measures 2003-04	673			
<i>PIPEDA funding renewal</i>				
Protection of Personal Information - Private Sector		5,980		
Corporate Services		684		
Total Adjustments	673	6,664	-	-
Net Planned Spending²	11,905	11,363	4,692	4,692
Plus: Services received without charge	1,251	1,218	-	-
Net cost of Program	13,156	12,581	4,692	4,692
Full Time Equivalents (FTEs)	100	100	50	50

¹ The decrease in funding and FTEs beginning in 2005-2006 reflects the government's plan to review the Protection of personal information – private sector business line. Funding for this business line was originally provided in 2000-2001 with the introduction of *PIPEDA*. At that time, the true resource requirements could not be satisfactorily determined considering the uncertainty of the impact of *PIPEDA* on the Office's activities. This review of funding requirements exercise was originally intended to be completed in 2003-2004 but was postponed due to the organizational renewal which was required following problems highlighted in the Auditor General's September 2003 report regarding the OPC. In the meantime, funding for *PIPEDA* has been approved, at its original amount, for 2004-2005 only. **The Office will work with TBS in 2004-2005 to re-establish an appropriate ongoing financial framework as of April 2005.**

² Reflects the best forecast of total net planned spending to the end of the fiscal year.

³ Adjustments are to accommodate approvals obtained since the Main Estimates and include Supplementary Estimates items and transfers from TBS votes for various initiatives.

Adjustments for 2003-2004, in the amount of \$673K include:

- \$621K for corrective measures;
- \$162K transfer from vote 5 – Paylist shortfalls for severance and maternity
- \$64K Transfer from Vote 15 – Collective Agreements
- \$60K transfer from Vote 10 – Modern Comptrollership
- (\$234K) 2002-2003 over-expenditure

Planned adjustments for 2004-05, in the amount of \$6,664K include:

- \$6,664K funding renewal for the Protection of Personal Information - Private Sector business line.

SECTION VI: Annexes

Annex 1: Summary of Transfer Payments

(\$ Thousands)	Forecast Spending	Planned Spending	Planned Spending	Planned Spending
	2003-2004	2004-2005	2005-2006	2006-2007
Contributions				
Protection of Personal Information - Private Sector	-	198	-	-
Total Transfer Payments	-	198	-	-

Annex 2: Net Cost of Program for 2003-04

(\$ Thousands)	2004-2005
Net Planned Spending	11,363
<i>Plus: Services Received Without Charge</i>	
Accommodations provided by Public Works and Government Services Canada	647
Contributions covering employer's share of employees' insurance premiums and expenditures paid by Treasury Board Secretariat	571
Net Cost of Program	12,581

SECTION VII: Supplementary Information

1. Legislation Administered by the Privacy Commissioner

The Privacy Commissioner has an oversight responsibility to Parliament for the:

<i>Privacy Act</i>	R.S.C. 1985, ch. P21, amended 1997, c.20, s. 55
<i>Personal Information Protection and Electronic Documents Act</i>	2000, c.5

2. Statutory Annual Reports and Other Publications

The Office of the Privacy Commissioner of Canada's annual reports on privacy issues are available on the Commissioner's Web site.

- **Privacy Commissioner's 2002-03 Annual Report.** Available on computer diskette and hardcopy from the Office of the Privacy Commissioner of Canada, Ottawa, Canada K1A 1H3; tel.: (613) 995-8210 and on the Office's Web site at www.privcom.gc.ca.
- **Performance Report to Parliament, for the period ending March 31, 2003.** Ottawa: Minister of Public Works and Government Services Canada, 2003. Available through local booksellers or by mail from Public Works and Government Services - Publishing, Ottawa, Canada K1A 0S9.
- **2003-04 Estimates: A Report on Plans and Priorities.** Ottawa: Minister of Public Works and Government Services Canada, 2003. Available through local booksellers or by mail from Public Works and Government Services - Publishing, Ottawa, Canada K1A 0S9.
- **Your Privacy Rights: A Guide for Individuals to the *Personal Information Protection and Electronic Documents Act*.** Available through the Office of the Privacy Commissioner of Canada, Ottawa, Canada K1A 1H3; tel.: (613) 995-8210 and on the Office's Web site at www.privcom.gc.ca.
- **Your Privacy Responsibilities: A Guide for Businesses and Organizations to the *Personal Information Protection and Electronic Documents Act*.** Available through the Office of the Privacy Commissioner of Canada, Ottawa, Canada K1A 1H3; tel.: (613) 995-8210 and on the Office's Web site at www.privcom.gc.ca.
- Office of the Privacy Commissioner of Canada Web site: www.privcom.gc.ca

3. Contact for Further Information

Bob Hertzog
Chief Financial Officer
Office of the Privacy Commissioner of Canada
Place de Ville, Tower B
112, Kent St., Suite 300
Ottawa, Ontario
K1A 1H3

Telephone: (613) 996-5336

Facsimile: (613) 947-6850