



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Annual Performance Report 2010-2011

www.oipc.nl.ca
1.877.729.6309



November 29, 2011

Message from the Information and Privacy Commissioner

In fulfilling its commitment to being accountable to the citizens of Newfoundland and Labrador, Government introduced the *Transparency and Accountability Act*. This Act provides the legislative framework for strengthening accountability of government entities through multi-year performance-based plans and annual performance reports that are presented to the House of Assembly.

I am pleased to present the Office of the Information and Privacy Commissioner's Annual Performance Report for 2010-2011.

As Commissioner, I am accountable for the results reported herein and for any variances from the objectives outlined in the 2008-2011 Business Plan.

A handwritten signature in black ink, reading "E. P. Ring". The signature is written in a cursive style and is positioned above a long, thin horizontal line that extends to the right.

Edward P. Ring
Information and Privacy Commissioner

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OVERVIEW

In delivering its mandate, the Office of the Information and Privacy Commissioner (OIPC) provides the following lines of business:

- Investigations
- Public Education
- Oversight

Number of Employees

The Office has a staff complement of fourteen, including the Commissioner (57% female and 43% male). Of the fourteen positions, four are currently being filled on a temporary basis.

Physical Location

The OIPC is located at 34 Pippy Place, St. John's, Newfoundland. The Office relocated from the 5th Floor, East Block, Confederation Building in September 2008. The move of the OIPC to an office location outside the government building was long overdue and serves to underscore the independent nature of the Office. The OIPC, although having responsibility to protect the rights of all citizens of Newfoundland and Labrador under *ATIPPA*, is located in St. John's with no regional offices or representatives.

Budget

The 2010-11 budget for the Office of the Information and Privacy Commissioner was 1,168,000. The details are noted below and on page 13 of the report.

01. Salaries	846,300
02. Employee Benefits	18,800
03. Transportation & Communications	83,700
04. Supplies	13,300
05. Professional Services	95,000
06. Purchased Services	101,400
07. Property, Furnishings & Equipment	<u>9,500</u>
Total	<u>1,168,000</u>

MANDATE

The mandate of the OIPC is derived from the provisions of the *Access to Information and Protection of Privacy Act (ATIPPA)* and includes:

- giving the public a right of access to records;
- giving individuals a right of access to and a right to request correction of personal information about themselves;
- preventing the unauthorized collection, use or disclosure of personal information by public bodies;
- providing for an independent review of decisions made by public bodies under the *ATIPPA*;
- reviewing a decision, act or failure to act of a public body that relates to an access request or a request to correct personal information;
- investigating complaints about an extension of time for responding to a request or a fee required under the *Act*;
- making recommendations to ensure compliance with the *Act* and regulations;
- informing the public about the *Act*;
- receiving comments from the public about the administration of the *Act*;
- commenting on the information and privacy implications of proposed legislation and programs;
- commenting on the implications of record linkages and information technology on the protection of privacy;
- informing the head of a public body about a failure to adequately assist an applicant;
- making recommendations to public bodies or the minister responsible for this *Act* about the administration of the *Act*.

January 17, 2011 was the sixth anniversary of the proclamation of the *ATIPPA* (with the exception of the Privacy Provisions). The Privacy Provisions were proclaimed into force on January 16, 2008. The initial priority for the Office was to build an awareness of access to information principles and best practices both within government institutions and within the larger public body sector. Challenges associated with internal capacity building regarding knowledge of the legislation, relevant judicial and Commissioner rulings and precedents have been experienced along with the worldwide expansion in laws and practices covering access to information and privacy issues. Other challenges were experienced due to the requirement to balance staff resources and demands in maintaining

currency with advances in information management and technology as well as our requirement to educate and inform the public regarding the role and mandate of the OIPC as well as the legislation. Additionally, resources were utilized to commence the process of developing the OIPC Policy and Procedures manual.

This Office values its role as an independent support and arbitrator for the citizens of the Province. Every effort is taken to ensure our integrity such that we are trusted to represent citizens in their dealings with public bodies. The character of the Office is promoted and represented through the following five core values:

1. Independence

OIPC staff will conduct investigations independent of any influence.

2. Integrity

OIPC staff will provide accurate, unbiased advice and recommendations.

3. Confidentiality

OIPC staff will adhere to a standard of absolute confidentiality.

4. Judgment

OIPC staff will use their professional knowledge and judgment in interpreting policies, practices and procedures to help ensure compliance with the *ATIPPA* and the *PHIA*.

5. Respect

OIPC staff will listen to and consider the ideas and opinions of others and work collaboratively to achieve results.

LINES OF BUSINESS

In delivering its mandate, the OIPC provides the following lines of business:

Investigations

The Office reviews decisions, acts or failures to act by heads of public bodies with respect to access to information requests, including decisions to extend the timeframe to respond to access requests. We will also investigate the appropriateness of fees charged for access to information. The Office will also review the failure or refusal by a head of a public body to correct personal information that is in its control. Additionally, the Office will conduct investigations based on complaints from citizens relating to the collection, use or disclosure of personal information by a public body.

Public Education

The Office ensures that members of the public are aware of their rights to access information and how they can exercise those rights. As appropriate, the Office informs the public about these rights through public commentary and education/awareness programs aimed at explaining the administration and operation of the *ATIPPA* and our Office. A series of province-wide education/awareness sessions were conducted in specific locations that began in the spring of 2009.

Oversight

The Office acts as an oversight body and is entitled to comment on the implications for access to information and protection of privacy of proposed legislative schemes or programs of public bodies.

OTHER KEY STATISTICS

Access Requests

The complexity of access requests seems to be increasing resulting in more investigative time required and longer periods needed to conclude the investigation and produce reports.

2007-2008 – 131 active files in total

2008-2009 – 164 active files in total

2009-2010 – 164 active files in total

2010-2011 - 175 active files in total

Privacy Requests

Privacy breach complaints have presented a significant challenge for the Office since Part IV of the *ATIPPA* (privacy provisions) was proclaimed into force in January 2008. Privacy breach investigations tend to be complex and time consuming, requiring significant periods of time to conclude.

2007-2008 – 6 active files in total

2008-2009 – 23 active files in total

2009-2010 – 26 active files in total

2010-2011 – 36 active files in total

HIGHLIGHTS AND ACCOMPLISHMENTS

During the reporting period, the OIPC was engaged in a number of activities and events that directly and indirectly contributed to the accomplishment of the various mandates of the Office. A selection of these activities is outlined as follows:

1. OIPC engagement with the *ATIPPA* Legislative Review process which included a series of meetings with, and a substantial submission to, Commissioner John Cummings.

2. Participated in a number of Canada Infoway Conference (Edmonton, Alberta).
3. Participated in sixteen *Personal Health Information Act (PHIA)* Steering Committee Meetings and various working group meetings associated with preparation for the proclamation of *PHIA*.
4. Participated jointly with Memorial University, Centre for Health Information (Newfoundland and Labrador) and the Department of Health and Community Services in the development of an online training program in support of *PHIA*.
5. Presentation to Western Newfoundland Chartered Accountants.
6. Presentation to the International Association of Business Communicators.
7. Presentation to the Canadian Bar Association.
8. Co-hosted the NL Access and Privacy Conference.
9. Organized and Participated in the “Right to Know” Week events at various locations.
10. Commissioner attended the Annual FPT Commissioner’s Conference in Whitehorse, Yukon Territory.
11. Commissioner attended the 31st International Conference for Heads of Data Protection Agencies (Jerusalem, Israel).
12. OIPC sponsored Personal Health Information training seminar with major stake holders in preparation for proclamation of *PHIA* (St. John’s)
 - Commissioner Gary Dickson – OIPC Saskatchewan
 - OIPC – NL Staff
 - Regional Health Authority Delegates
 - *PHIA* Steering Committee Members (various)
 - Department of Health and Community Services Representatives
 - Newfoundland and Labrador Centre for Health Information Representatives
 - Memorial University Delegation
 - Representatives from various Private Sector Interest Groups
13. Meeting with the Memorial University ATIPP coordinator and the Associate Dean of Research of the Faculty of Medicine, concerning *PHIA*.
14. OIPC participated in Data Protection Day Events (St. John’s and Stephenville) partnering with:
 - Canadian Association of Professional Access and Privacy Administrators
 - Memorial University

- College of the North Atlantic
- Office of the Privacy Commissioner of Canada
- Newfoundland and Labrador Centre for Health Information
- Newfoundland and Labrador Bar Association

15. Meeting with officials from the Federal Privacy Commissioner’s Office and various other provincial and territorial commissioners to discuss concerns and develop a strategy to deal with solicitor-client privilege challenges in a number of jurisdictions.

VISION

Our vision is one where public bodies operate in a fashion that is accountable to the people and transparent, always in consideration of the privacy rights of the citizens of Newfoundland and Labrador.

REPORT ON PERFORMANCE

The mission statement of the Office of the Information and Privacy Commissioner outlines the priority focus over the next planning cycle. It represents our plan for the future and identifies various measures and indicators which will assist in the monitoring and evaluation process.

Mission: By 2011, the Office of the Information and Privacy Commissioner will have improved the capacity and effectiveness of the Office such that the citizens of the Province enjoy the full measure of the access to information as well as the privacy rights which are guaranteed by the *Access to Information and Protection of Privacy Act* and the *Personal Health Information Act*.

Measure: Improved capacity to provide service and support decisions.

Indicator	Actual Results
Reduced timeframes to conduct access reviews	Over the planning period (2008-2011), the OIPC has expended considerable time and effort to achieve shorter access review times. The results overall have been mixed. On a number of occasions improvements have been achieved in file turnaround time, however,

	<p>others have taken longer, and in some cases, much longer than desired.</p> <p>Although improvements have been made in the processes and procedures employed to process access reviews, each request is different and the factors involved have to be handled on a case-by-case basis. This situation is compounded by circumstances where there is resistance on behalf of some public bodies to accept OIPC jurisdiction. These cases essentially result in situations where the requests in question are stalled for many months while the matter finds its way through the courts to resolve the issue.</p> <p>Additionally, other exceptions in the <i>ATIPPA</i> are routinely claimed by public bodies with the result that the OIPC is not provided the records required for review to determine if the exception is appropriately claimed by the public body. These cases again are required to be referred to the courts resulting in very lengthy delays. This is a significant problem resulting in a number of files being held in abeyance awaiting judicial review and decision. Currently, there are eleven (11) files in this category.</p> <p>Some success has been achieved in reducing timeframes to conduct access reviews, however, the number of files held in abeyance, as outlined above, serves to detract from the overall progress being made.</p> <p>As the legislation matures and some pending court decisions are rendered, the OIPC expects that the types of jurisdictional challenges described above will be reduced allowing reviews to be conducted in a more timely manner.</p> <p>Additionally, the <i>ATIPPA</i> review conducted in 2010 may result in recommended legislation changes that will reduce and mitigate jurisdictional challenges.</p>
<p>Increased the number of informal resolutions</p>	<p>Priority was placed on achieving a higher number of files concluded by informal resolution. This method of concluding files is the preferred method as it provides a reasonable level of satisfaction for the applicant and the public body, normally concluded quickly and avoids the production of a complex and lengthy formal, published report.</p> <p>Applicants are always encouraged to engage in the informal resolution process. The reality is that the</p>

	<p>applicant may and often do choose to proceed to formal investigations. This occurs on some occasions even when there is no further benefit to the applicant to proceed in that manner, resulting in a much longer timeframe to conclude these files. We will continue to strongly encourage applicants to engage in the informal resolution process.</p> <p>Additionally, to address this situation, the Office has recently engaged in a process to streamline the reporting process to achieve more timely closure. This was achieved by introducing an intermediary step between the informal resolution process and formal report production that brought closure to files for which no further remedy exists.</p>
Published review reports and recommendations	All access requests that are concluded by formal investigation result in published reports and recommendations to the public body if warranted.
Increased awareness initiatives	<p>Throughout the planning cycle, the OIPC was able to identify and participate in initiatives that have seen much improvement in our awareness initiatives. In the first year of the cycle, we identified 16 locations across the Province to conduct town hall meetings. These locations were intended to be visited and town hall meetings conducted over the full three year cycle. All locations were visited in the first year, well ahead of our intended schedule. Some good lessons were learned, one of which showed that the town hall venue was not very effective due to low public participation in spite of a robust advertising effort.</p> <p>In the second year of the cycle, a new approach was adopted that specifically targeted groups/venues/events that gave maximum exposure to the public by OIPC staff and resulted in enhanced exposure and awareness opportunities. Print media, talk show and local TV appearances were also utilized. Overall, we are very pleased with how this component of our mandate has developed and we are pleased with the level of success achieved.</p>
Increased ability to deal with privacy complaints	The Privacy provisions were proclaimed into force in January 2007. Research and consultation with other jurisdictions in Canada has resulted in the development of in-house procedures to deal with privacy complaints. These procedures are constantly under review and are considered a work in progress.
Developed ability to deal with personal health information breach components	Although the <i>Personal Health Information Act (PHIA)</i> was not proclaimed into force, much work and preparation was done during the planning cycle. Staff of our Office

	<p>visited other jurisdictions that have been dealing with personal health legislation for a number of years. Additionally, conferences and seminars focusing on personal health information were attended. The OIPC of Newfoundland and Labrador also hosted several training sessions here in the Province with prominent recognized experts in the country leading the training.</p>
<p>Improved investigative methodology and the production of a comprehensive policy and procedures manual to guide the work of the Office</p>	<p>Throughout the reporting cycle work continued to develop, implement and improve our investigative methodology. Periodic discussions and staff feedback sessions have led to improvements that have directly and positively impacted efficiency and thoroughness. Additionally, work continued with the development of our policy and procedures manual. Numerous staff sessions were conducted to identify and develop required policies. A lead person was appointed to undertake this initiative, jurisdictional survey was conducted and best practices identified.</p> <p>After appropriate research was conducted, there was a series of discussion/decision sessions completed. Our policy and procedures manual has been produced and is available on the OIPC website.</p>

Discussion of Results
<p>As noted above, some difficulty was encountered in reducing timeframes to conduct access reviews. Due to unforeseen challenges by public bodies to the jurisdiction of the OIPC, as well as the failure of some public bodies, in some cases, to produce records for OIPC review.</p> <p>These actions have caused some backlog due to matters being held in abeyance while court action was pursued. In other cases, processes have been implemented that have contributed to reduced timeframes in processing access requests and bringing speedy closure to some matters.</p> <p>The desired result of achieving more informal resolutions has been difficult to achieve. Based on the nature of access requests, it may appear on the surface that a particular request may be easily and quickly resolved by informal resolution, however, this is not always the case. A number of factors impact this process. The most significant factor is the level of cooperation or animosity that may exist between the applicant and the public body, resulting in either a quick, mutually agreeable conclusion or a long, drawn out process. This is particularly frustrating to the OIPC staff in cases where no further benefit would result by moving from the informal resolution process to formal investigation.</p> <p>It is very difficult for the OIPC to achieve more informal resolution file closures, as long as the applicant can simply state “I want this file to go formal,” or there is an uncooperative public body. The OIPC will continue to strive to achieve more informal resolution file closures. In spite of the difficulties noted above, the OIPC has made good progress in improving the capacity of the Office to provide services to the citizens of the Province and to support our decisions.</p>

Considerable work and preparation for the *Personal Health Information Act* has been conducted during this planning cycle and as a result, the OIPC has developed very good in-house procedures to deal with personal health information breaches. I would be remiss if I did not state that due to the proclamation of this piece of legislation, our procedures will be a work in progress.

Issue 1: Improvements to services and support decisions

The OIPC opened in April 2005 with a staff complement of three persons including a part-time Commissioner. During the first two years of operation, the Office was inundated with a very heavy workload. There was no time or resources to develop internal processes, policies and procedures needed to guide the work of the Office. This work began in earnest coincidental with the 2008-2011 reporting cycle. During this period, much progress has occurred, including the development of a comprehensive set of internal procedures for dealing with access requests and privacy breaches. Additionally, a policy and procedures manual has been produced and published. A new records management system has been put into use.

Goal: By 31 March 2011, the Office of the Information and Privacy Commissioner will have improved capacity to provide services and support decisions.

Measure: Improved capacity to provide service and support decisions.

Indicators	Actual Results
Increased capacity of the Office	This Office's capacity has increased with the increase in staff complement from four to fourteen since December 2005. Additionally, the production of significant internal procedures, policy and procedures manual and improvements in document tracking and retrieval.
Processes for monitoring activity with respect to requests for review are enhanced	Our ability in this area has been greatly improved with the implementation of TRIM and the development of internal storing, tracking and information and document retrieval processes.
Increased number of requests for review conducted within 90 days compared to the total number of review requests	Much effort has been expended toward this area, however, due to a number of unforeseen developments, including a significant number of public body challenges to the OIPC jurisdiction, the desired level of improvement in this area has not been achieved to date. We continue to undertake every effort to conduct and conclude requests for review within 90 days by introducing performance goals for analysts and follow-up audits to monitor performance and increase activity.
Increased number of requests for review which are resolved by informal processes compared to the total number review requests	This remains a significant priority for the OIPC. During the fiscal years of the reporting period of this Business Plan, 78%, 85% and 77% respectively, of all access requests were resolved in this way. At this time, applicants can request/insist that a request for review proceed

	<p>from the informal resolution process to the formal investigative stage. This accounts for a number of access requests not being closed informally. This circumstance was addressed in the <i>ATIPPA</i> legislative review that occurred in 2010 and we await the results from that. Also, the Office is pursuing new options to deal with this circumstance in our internal procedures. Notwithstanding the above, ultimately the applicant, in spite of our best efforts to achieve informal resolution, may still demand a formal review be conducted and a report issued.</p>
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<p>2010/2011 Objective: By March 31, 2011, the Office of the Information and Privacy Commissioner will have completed and published its policy and procedures manual.</p>	
<p>Measure: Will have completed and published its policy and procedures manual.</p>	
<p>Feedback information gathered from previous year's jurisdictional scan and in-house meetings and discussions to refine existing policies and procedures.</p>	<p>Refined existing policies and procedures based on the feedback information gathered from previous year's jurisdictional scan and in-house meetings and discussions. The hiring of the Mediation, Communications and Policy Analyst in 2010 and appointment as the lead person to progress this objective produced very positive results.</p>
<p>Policy and Procedures manual completed and published.</p>	<p>As a result of a series of discussions held during this reporting period, our policies and procedures were amended, updated and finalized resulting in the completed manual being published on the OIPC website in September 2010.</p>

<p>Discussion of Results</p>	
<p>As noted above, although substantial success has been achieved, difficulty has been experienced in increasing the number of access requests being closed by informal resolution. Also, difficulty was experienced in improving on our ability to close more files within the 90 day legislated timeframe. This situation has largely resulted from a number of unforeseen jurisdictional challenges. Both these circumstances have been addressed in the 2010 <i>ATIPPA</i> legislative review and we are optimistic that decisions will be made that will address these situations. While this variance has been noted, the OIPC has been successful in meeting the goal of improved capacity to provide services and support decisions. The Office will continue to address the areas of variance by modifying our internal processes while awaiting the results of the <i>ATIPPA</i> legislative review's decisions report.</p>	

Issue 2: Improved processes to increase awareness of the role of public bodies with respect to *ATIPPA*

Throughout the reporting cycle, the OIPC undertook a very proactive and positive approach towards opening lines of communications with the ATIPP Coordinating Office of the Department of Justice and with public bodies. The purpose of these efforts was to increase awareness of public bodies to their statutory role under the *ATIPPA* and distinguish between the role of the OIPC and the ATIPP Coordinating Office. Finally, and most importantly, a significant effort was made to show public bodies that the OIPC is there to work in conjunction with them to make the process involved as clear and simple as possible in order to better serve the citizens of the Province.

Goal: By 2011, the Office of the Information and Privacy Commissioner will have improved processes in place to increase awareness on the part of government departments and agencies, health and education bodies, and municipalities (public bodies) with respect to statutory requirements.

Measure: Improved Processes.

Indicators	Actual Results
Co-hosted a major conference in Newfoundland and Labrador focused on <i>ATIPPA</i> .	In May 2010, the OIPC, in conjunction with Memorial University and the Department of Justice Access to Information and Protection of Privacy Coordinating Office co-hosted the 4 th Annual Newfoundland and Labrador Access and Privacy Conference.
Maintained a close contact with the Department of Justice with respect to interpretation of the provisions of the <i>ATIPPA</i> .	Coordinated liaison and routine communication continued throughout the reporting cycle to address a number of administrative and interpretation issues.
Addressed any misinterpretation of the <i>ATIPPA</i> with the related public bodies and the general public.	Open dialogue between the OIPC and public bodies continued throughout the reporting cycle. The OIPC encourages this communication and at every opportunity encourages public bodies to participate.
<p>2010/2011 Objective: By 31 March 2011 the Office of the Information and Privacy Commissioner will have completed a survey with all 467 public body <i>ATIPPA</i> Coordinators to determine the coordinator continuity and/or turn-over rate and make appropriate recommendations to the head of the public body.</p> <p>Measure: Will have completed survey.</p>	
Conduct survey	Work began in August/September 2010 to develop appropriate survey questions and to develop the best roll-out strategy to achieve maximum feedback. Our initial research indicated that there were actually less than 450 public bodies subject to the <i>Act</i> . An initial survey mail out occurred in November 2010 to an identified 439 public bodies. A robust follow-up effort with public bodies who did not respond to the mail out

	was conducted by telephone, e-mail and facsimile between December 2010 – February 2011.
Received and analyzed results from survey	Our research concluded that there were actually 429 public bodies and we, in fact, received feedback and returns from all 429 public bodies. Analysis was conducted on all the information received and by the end of the reporting period the OIPC was in a position to take measures to address some shortfalls identified from the survey results.
Determined findings and made recommendations	The survey results revealed a need for more awareness and training in relation to the <i>ATIPPA</i> , with the greatest need among municipal public bodies. The OIPC worked on initiatives to improve on education and communication between ATIPP coordinators and the Office. As a result, the Office will be publishing our first quarterly newsletter and it will focus on education and awareness for ATIPP Coordinators located in the municipalities.

Discussion of Results
Improvements have been made during the reporting cycle regarding the OIPC processes to increase awareness with government departments, agencies, health and education bodies and municipalities concerning their statutory requirements under the <i>Access to Information and Protection of Privacy Act</i> .

Issue 3: Implement process to educate the public on <i>ATIPPA</i> and the role and function of the OIPC.
One of the mandates of the OIPC is to raise awareness and educate the public on the <i>Act</i> . This has been accomplished through a number of initiatives throughout the reporting cycle including but not limited to the following: a series of town hall meetings; co-host a major conference, public speaking/presentation engagements; participate as part of a panel; conferences; host presentations/working groups featuring subject matter experts and involving major stakeholder groups; presentation to Deputy Minister group; and various news releases/press conferences and TV appearances.
Goal: By 31 March 2011, the Office of the Information and Privacy Commissioner will have implemented processes to educate the public on the <i>Act</i> and the role and function of the OIPC.
<i>Measure:</i> Implemented processes.

Indicators	Actual Results
Number and type of presentations/meetings conducted.	The OIPC has participated in 66 events (outlined above) this year. This represents a large improvement from the two years prior to the 2008-2011 reporting cycle.
Number of participants attending sessions.	The specific numbers for each event/presentation have not been captured because it was difficult to track attendance for sessions organized by other entities; however, the audience for events in which this Office participated in has ranged from a low of approximately 30 to a high of 600 persons.
Amount of feedback received from the general public and public bodies.	Feedback from all outreach events has occurred in a number of ways: letters, phone calls, e-mails, etc. Feedback has always been positive and on occasion includes a request to participate in future events.
Number of requests for further/additional sessions.	The number of requests for presentations continues to grow from 38 in 2008-2009 to 66 in 2010-2011 and we anticipate that there will be growth in this area in the coming years due to the proclamation of the <i>Personal Health Information Act</i> .

<p>2010/2011 Objective By March 2011, the Office of the Information and Privacy Commissioner will have concluded its initial public education programs and will have identified further areas/locations requiring briefings.</p>	
<p>Measure: Will have completed initial public education program and will have identified further areas/locations to concentrate its education efforts.</p>	
Number of areas identified and targeted.	The 16 targeted locations were visited and presentations delivered within the first six months of the business plan period. As a result of our initial campaign we learned that public town hall meetings were not the best method to educate the public on <i>ATIPPA</i> . The sessions were poorly attended.
Number of sessions conducted	In this reporting period our Office participated in seventy-four (74) events, including presentations, conferences, panels and media events.
Feedback information gathered.	Based on the feedback gathered, we changed focus and targeted specific groups, locations and events that resulted in greater exposure for the Office and a much larger audience.

Discussion of Results
<p>Prior to the start of the 2008-2011 reporting cycle, the lack of resources and the resulting high level of workload prevented the Office from conducting outreach. With the hiring of several staff in January 2008 and the appointment of a full-time Commissioner in December 2007, the decision was</p>

made to place our outreach activities at a higher priority. The sixteen (16) locations targeted for town hall meetings over the reporting cycle were all accomplished in the first year of the cycle. During the two subsequent years, the outreach activity has significantly increased with more focused and selective venues to maximize participation and exposure. Seventy-four events were attended, participated in or hosted by the OIPC including conferences, presentations, panels, training sessions and seminars. We are very pleased with the progress made with our education program.

OPPORTUNITIES AND CHALLENGES

2010-2011 has once again been a very busy, productive and challenging year. The trend regarding increasing file carry-over from one fiscal year to the next continued. We strive to resolve requests for access and privacy complaints by informal resolution and have made progress in that regard. 2010-2011 has seen an increase in the number of privacy complaints as compared to the previous year. This trend has been consistent since the proclamation of Part IV (Privacy Provisions) of the *ATIPPA* in January 2008.

During this reporting period considerable energy, time and effort has been spent in preparation for the proclamation of the *Personal Health Information Act (PHIA)*. Staff training continued as we were able to engage and cooperate with many of the *PHIA* major stakeholders. There was much speculation that the proclamation of the *PHIA* would occur in late 2010/2011. Of concern to our Office is the very large number of custodians responsive to this legislation, literally thousands, and our ability to deal with complaints and conduct investigations based on our current staff complement.

Considerable effort was expended by our Office to make a comprehensive and meaningful submission to the *ATIPPA* Review Commissioner, Mr. John Cummings, Q.C.. Commissioner Cummings' report was submitted to the Minister of Justice in late January 2011 and we wait with anticipation for the outcome of the review initiative.

Once again, during this reporting period, the OIPC has experienced an increasing number of challenges to the Commissioner's jurisdiction to conduct both access reviews and privacy investigations. Additionally, challenges relating to s.21 of the *ATIPPA*'s solicitor and client privilege, has proven to be particularly problematic. As a result of the s.21 challenge in court, and subsequent

decision by Madam Justice Valerie Marshall, there are a large number of files that have been stalled and are being held in abeyance pending the outcome of the Court of Appeal Decision relating to that issue. These numerous challenges continue to be of serious concern, diverting a large amount of resources away from the mandate of our Office. If this trend continues, I see no alternative but to continue to resort to the courts in order to have these issues resolved.

Another area of focus for the Office during the past year was our commitment to engage with all public body *ATIPP* coordinators. Work was completed towards the accomplishment of that goal during the past reporting period and we are committed to continuing our work in that regard into the future. We feel that the key ingredient to success in dealing with access and privacy issues is open lines of communication with frank and frequent contact with coordinators. We will continue to build on the success we have achieved to date in that area.

FINANCIAL STATEMENT

*Expenditure and revenue figures included in this document are based on public information provided in the Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund for fiscal year ending March 31, 2011.
(un-audited).*

	<u>Actual</u> \$	<u>Estimates Amended</u> \$	<u>Original</u> \$
OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER			
Current			
6.1.01. Office of the Information and Privacy Commissioner			
01 Salaries	819,916	833,300	846,300
02. Employee Benefits	17,302	18,800	18,800
03. Transportation & Communications	47,098	73,500	83,700
04. Supplies	17,197	18,300	13,300
05. Professional Services	48,629	95,000	95,000
06. Purchased Services	105,339	106,600	101,400
07. Property, Furnishings & Equipment.	<u>6,655</u>	<u>9,500</u>	<u>9,500</u>
	<u>1,062,136</u>	<u>1,155,000</u>	<u>1,168,000</u>
02. Revenue – Provincial	<u>(217)</u>		
Total: Office of the Information and Privacy Commissioner	<u>1,061,919</u>	<u>1,155,000</u>	<u>1,168,000</u>

Note: Audited financial information will be included in the Annual Report to be tabled by the Speaker during the next sitting of the House. The Office of the Information and Privacy Commissioner does not have a requirement for a separate individual audited statement.