



Information  
Commissioner  
of Canada

Commissaire  
à l'information  
du Canada



# Annual Report on the Administration of the ACCESS TO INFORMATION ACT

## 2009-2010

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# 1 Introduction

This report to Parliament describes the activities of the Office of the Information Commissioner of Canada (OIC) that support compliance with the *Access to Information Act*, Canada's freedom of information legislation. It is submitted pursuant to section 72 of the Act.<sup>1</sup>

The purpose of the Act is to provide Canadians with access to records under the control of federal institutions, except for records subject to limited and specific exemptions and exclusions. The Act also specifies that any decisions on disclosure of information should be reviewed independently of government; therefore, the OIC has been created as an Officer of Parliament.

The mandate of the Information Commissioner is to investigate complaints from individuals who feel that their rights to access have not been respected by federal institutions. The Commissioner is also authorized to initiate a complaint relating to requesting or obtaining access to records under the Act if there are reasonable grounds to do so.<sup>2</sup>

Since the OIC was itself made subject to the Act in 2007, we are now required to report annually on the administration of our own Access to Information (ATI) program. The report details the activities and accomplishments of the ATI program. Some highlights include:

- strategic convergence of Information Technology and Information Management (IM/IT) products, policies and services to facilitate speedier access to information for requesters, as well as greater transparency for Canadians;
- continued focus on the full implementation of the duty to assist provision in the legislation to ensure compliance with the Act;
- development and implementation of innovative new approaches that cross organizational divisions in order to balance the unpredictable volume of requests with the need for high-quality ATI analysis and organizational capacity requirements to conduct special projects; and
- recognition by the Information Commissioner ad hoc of the progress made by the ATIP Secretariat and his view that the OIC sets an example for other government institutions in effectively processing requests under the Act.<sup>3</sup>

Finally, in order to continue safeguarding the integrity of the complaints process, an independent, arms-length ombudsman contract was extended. For most of the reporting period, the Honourable W. Andrew MacKay continued to operate under the same legislated functions and powers as the Information Commissioner in receiving and investigating complaints against the OIC. The delegation remained in effect until Mr.

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<sup>1</sup> *Access to information Act*, R.S., 1985, c. P-21

<sup>2</sup> *Ibid.* s.30 (3)

<sup>3</sup> OIC Annual Report to Parliament, 2009–2010

MacKay's resignation at the end of December 2009. A copy of the relevant delegation order is attached as Appendix A.

## 2 Organization

The Information Commissioner is an Officer of Parliament and ombudsman appointed by Parliament under the *Access to Information Act*. The Commissioner is supported by the OIC, an independent public body established in 1983 under the Act to respond to complaints from the public about access to information.

The Office has four branches.

- **The Complaints Resolution and Compliance Branch** carries out investigations and dispute resolution activities to resolve complaints.
- **The Policy, Communications and Operations Branch** assesses federal institutions' performance under the Act, conducts systemic investigations and analyses, provides strategic policy direction for the Office, leads the Office's external relations with the public, the government and Parliament, and provides strategic and corporate leadership in the areas of financial management, internal audit and information management. The Policy, Communications and Operations Branch also comprises the ATIP Secretariat
- **The Legal Services Branch** represents the Commissioner in court cases and provides legal advice on investigations, as well as legislative and administrative matters.
- **The Human Resources Branch** oversees all aspects of human resources management and provides advice to managers and employees on human resources issues.

The ATIP Secretariat, which was established within the Policy, Communications and Operations Branch, administers and processes requests for OIC information under the Act. The staff of the Secretariat in 2009–2010 comprised five persons:

- the Director, Information Management Division, who, as institutional ATIP Coordinator, also holds full delegated authority under the Act;
- the Deputy Director, who is responsible for the management of the Secretariat, including oversight of request administration, policy development and training;
- the Senior ATIP Analyst, who is responsible for the processing of complex and/or voluminous files and the second review of completed requests;
- the Junior ATIP Analyst, who administers less complex and smaller volume applications under the Act; and

- the ATIP Assistant, who enters all applications into the electronic system, acknowledges requests, performs imaging services, produces reports and is responsible for other administrative tasks.

### **3 Delegation Order**

Under the Act, the Information Commissioner is the designated head of the institution, for the purpose of administering the legislation.

The delegation order signed on November 10<sup>th</sup>, 2008, was still in force at the start of the reporting period in question. The order delegated full authority under section 73 to the Assistant Commissioner, Policy, Communications and Operations, the Director, Information Services and Knowledge Management, and the Director, Strategic Case Management, who was previously the ATIP coordinator

During the reporting period, three consecutive delegation orders were put in place that reflected changes in staffing within the organization. The first order, signed on May 21, 2009, stipulated that full authority to administer the Act was delegated to the Assistant Commissioner, the Acting Director of the Information Management Division and the ATIP Manager. The second order, signed July 27, 2009, specified that the delegation was held by the Interim Assistant Commissioner, Policy Communications and Operations, the Director, Information Management and the ATIP Manager. The final delegation order, signed January 18, 2010, repeated the previous delegation to reflect staffing changes that had occurred to that point.

Copies of the delegation orders are attached as Appendices B, C, D and E.

### **4 Statistical Report**

The statistical report is attached as Appendix F.

### **5 Interpretation of the Statistical Report**

The statistical report details all aspects of the requests the ATIP Secretariat received and processed April 1, 2009, to March 31, 2010. During this period, we received 28 requests under the Act. With the addition of five requests outstanding from the previous period, we processed a total of 33 requests during 2009–2010. Of these, 31 were completed and 2 were carried forward to the 2010–2011 reporting period. The latter were received too late in the period to allow for a response before the end of March 2010.

The trend in the types of request received this year remained the same as that observed in the previous reporting period. That is, requesters were mostly interested in obtaining records related to (in descending order of importance):

- open or closed investigative files;
- requests relating to OIC contracting activities; and
- applications for records relating to human resources matters.

## 5.1 Sources of requests

<b>Table I—Source of ATI requests received between April 1, 2009 and March 31, 2010</b>		
<b>Source</b>	<b>Number of Requests</b>	<b>Percentage</b>
General public	17	60.71
Media	7	25.0
Business	3	10.71
Legal	1	3.57
<b>Total</b>	<b>28</b>	<b>100</b>

As Table I shows, we predominantly received access requests from the general public—17 (60.71%), followed by requests from media—7 (25%) and business sources—3 (10.71%).

## 5.2 Received during reporting period

<b>Table II—ATI requests received between April 1, 2009, and March 31, 2010</b>		
<b>Requests</b>	<b>Number of Requests</b>	<b>Percentage</b>
Received during reporting period	28	84.85
Carried forward from previous year	5	15.15
<b>Total</b>	<b>33</b>	<b>100</b>

Compared to the previous year, we experienced a decrease in the number of requests. In 2009–2010, 33 requests were received and processed, whereas in the preceding period 113 requests were administered. This represents a numeric decline of 85 requests, or a percentage reduction of 75.22%.

However, the Secretariat actually experienced an increase in workload. One of the first requests received resulted in over 50,000 pages requiring review to produce a release package of 43,000 pages. This number, together with the count from all other applications under the Act, totalled approximately 56,000 pages. This represents an increased workload of 40% during the first two quarters of the year.

Despite the impact of this request on the ATIP Secretariat workload, we were determined to maintain compliance with the legislated timelines and were successful in doing so.

### 5.3 Disposition of completed requests

**Table III—Disposition of requests completed between April 1, 2009, and March 31, 2010**

<b>Disposition</b>	<b>Number of Requests</b>	<b>Percentage</b>
Disclosed in part	23	74.19
All disclosed	4	12.90
Abandoned by applicant	2	6.45
Unable to process	1	3.23
Transferred	1	3.23
<b>Total</b>	<b>31</b>	<b>100</b>

The most frequent outcome of the requests we processed during the reporting period was partial disclosure, which occurred with 23 files (74.19%). The largest proportion of requests related to investigations, and responsive records were subject to the mandatory exemption in paragraph 16.1(1)(c).

The second most frequent outcome was full disclosure, which occurred in four (12.90%) of the requests, followed by two cases (6.45%) of requests being abandoned by the applicant. In one instance where a request was abandoned, the information was available on our website. In the other instance, the requester opted for informal disclosure from the program area.

### 5.4 Exemptions invoked

**Table IV—Exemptions invoked between April 1, 2009, and March 31, 2010**

<b>Section of the Act</b>	<b>Number of Requests</b>	<b>Percentage</b>	<b>Total Number</b>	<b>Total Percentage</b>
Paragraph 15(1)(a) (Defence)	1	2.33	<b>3</b>	<b>6.98</b>
Paragraph 15(1)(c) (Defensive Capabilities)	2	4.65		
Paragraph 16(1)(b) (Investigative Techniques/Plans for Lawful Investigations)	1	2.33	<b>2</b>	<b>4.65</b>
Paragraph 16(2)(c) (Security of Buildings or Systems)	1	2.33		
Paragraph 16.1(1)(c) (Ongoing OIC Investigations)	13	30.24	<b>13</b>	<b>30.24</b>
Subsection 19(1) (Personal Information)	15	34.88	<b>15</b>	<b>34.88</b>
Paragraph 20(1)(b) (Financial, Technical or Scientific)	1	2.33	<b>4</b>	<b>9.29</b>

Information of a Third Party)				
Paragraph 20(1)(c) (Financial Loss or Affected Competitive Position of Third Party)	2	4.65		
Paragraph 20(1)(d) (Interference with Contractual Negotiations)	1	2.33		
Paragraph 21(1)(a) (Policy Advice)	1	2.33	<b>3</b>	<b>6.98</b>
Paragraph 21(1)(b) (Consultations or Deliberations)	1	2.33		
Paragraph 21(1)(d) (Management of Personnel)	1	2.33		
Section 23 (Solicitor Client Privilege)	3	6.98	<b>3</b>	<b>6.98</b>
<b>Total</b>	<b>43</b>	<b>100</b>	<b>43</b>	<b>100</b>

This reporting period followed the pattern of the previous years. The most frequent exemption invoked during the period was the severing of personal information under subsection 19(1), which was cited in 15 (32.61%) release packages. The incidence of this exemption is due to the number of requests related to human resources records combined with the quantity of personal information contained in investigative records.

The next most common exemption applied was pursuant to paragraph 16.1(1)(c), which was applied in 13 (28.26%) request responses. The application of the exemption was related to either ongoing OIC investigations or records that institutions provided for investigational purposes.

The third most frequently applied exemption was paragraph 20, which protects financial, scientific or technical information of third parties. Paragraph 20 was applied in five responses (10.87%) to requests for records related to our contracting activities.

## ***5.5 Exclusions cited***

**Table VI—Exclusions cited between April 1, 2009, and March 31, 2010**

<b>Section of the Act</b>	<b>Number</b>	<b>Percentage</b>
Paragraph 69(1)(a)	1	100
<b>Total</b>	<b>1</b>	<b>100</b>

There was one request received during the reporting period in which records were partially excluded pursuant to paragraph 69(1) (a).



## 5.6 Completion times

**Table VI—Completion times for requests received between April 1, 2009, and March 31, 2010**

Period	Number	Percentage
30 days or less	18	58.06
31–60 days	12	38.71
121–180 days	1	3.23
<b>Total</b>	<b>31</b>	<b>100</b>

The ATIP Secretariat was successful in responding to the majority of access requests received within the legislated timeframe of 30 days. Although Table VI above shows that 18 requests were completed within 30 days, there were a further 12 requests showing as being completed 31–60 days after receipt. Of these 12 requests, 10 should be counted as having met the original timelines, since their statutory due dates fell on a weekend or a statutory holiday, in which case the due date is rolled over by a day or two, and is counted as such by the case management system. The remaining two refer to requests that required extensions to the original timelines.

The average completion time was 32.97 days, since one lengthy extension of 180 days was required. This result reflects our commitment to ensuring that extensions are only applied in exceptional cases and that, even when consultations are required, every effort is made to complete the request in a timely manner.

## 5.7 Extensions

**Table VII—Extensions to the statutory timelines applied between April 1, 2009, and March 31, 2010**

Reason	30 Days or Less	31 Days or More	Total	Percentage
Volume/searching	1	1	2	66.67
Consultation	1	0	1	33.33
Third party	0	0	0	0
<b>Total</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>100</b>

We continued to resort to time extensions only when absolutely necessary. As a result, we experienced a slight decrease compared to the previous reporting period. The disparity in the number of requests processed this fiscal year renders a direct numerical comparison difficult. In percentage terms, however, extensions were taken in 10.7% of the files completed in the previous reporting period, while in this period extensions were applied in 9.6% of requests processed.

There were three extensions (66.67%) applied under section 9 to allow time to deal with volume and the search for large quantities of records, including one request which resulted in a release package of 43,000 pages. When the extension of 180 days was applied, we notified the Information Commissioner ad hoc. We documented our

calculation of the extension and, in keeping with the duty to assist, we delivered periodic release packages to the requester as soon as they were available.

The other two extensions were for 14 days and 15 days—one was also to allow us to search for a large volume of records, while the remaining extension was applied to allow time to consult with other federal institutions.

## 5.8 Translations

There were no translations requested during the reporting period.

## 5.9 Method of access

<b>Table VIII—Method of access for requests received between April 1, 2009, and March 31, 2010</b>		
<b>Method</b>	<b>Number of Occurrences</b>	<b>Percentage</b>
Copies given	27	100
<b>Total</b>	<b>27</b>	<b>100</b>

The method of access to records requested under the Act fell into only one category during the reporting period. We have continued to focus on avoiding reproduction fees by producing responses in CD-ROM format for all but one applicant. Under the duty to assist provision, we provided this applicant with hard copies and waived the reproduction fees since we could not be certain the requester had access to a computer. We did not receive any requests to provide the applicant an opportunity to view the records requested.

## 5.10 Fees

<b>Table VIII—Fees received between April 1, 2009, and March 31, 2010</b>		
<b>Type of Fee</b>	<b>Amount</b>	
Application	\$125.00	
Reproduction	0	
<b>Total</b>	<b>\$125.00</b>	
<b>Fees Waived</b>	<b>Frequency</b>	<b>Amount</b>
\$25.00 or under	3	\$15.00
Over \$25.00	0	0
<b>Total</b>	<b>0</b>	<b>\$15.00</b>

During this reporting period, the application fee was waived for three requests.

In the first instance, under the duty to assist provision, an applicant requested records related to expense claims that had not yet all been submitted for payment. We advised the requester that the records were incomplete; however, they could receive a complete set of records by re-submitting the request at a specified later date. When the requester followed up, we waived the application fee since we had processed the application fee for the first request, which was abandoned. By waiving the fee we were able to preserve the applicant's right to complain to the Information Commissioner ad hoc.

In another instance of a repeat request, we also waived the fee rather than provide the records informally. This preserved the applicant's right to complain to the Information Commissioner ad hoc.

The third fee waiver was granted at the request of the applicant, who explained that they were on a limited income and that payment of the fee would cause hardship.

### **5.11 Costs to administer the ATI program**

<b>Table IX—Costs to administer the OIC ATI program between April 1, 2009, and March 31, 2010</b>	
<b>Financial</b>	<b>Amount</b>
Salary	\$222,722
Administration (O&M)	\$25,328
<b>Total</b>	<b>\$248,080</b>
<b>Person Year (decimal format)</b>	<b>4.0</b>

Costs incurred during the reporting period are calculated based on the salaries of ATIP Secretariat members (4.5 FTEs) and the administrative expenses associated with the administration of the Act. The bulk of the administrative expenses were for the hiring of ATIP consultants to treat a request for a large number of records, and the maintenance and licensing fees of the electronic system used to process requests.

### **5.12 Duty to assist**

We continue to make every effort to fulfill our duty to assist requesters. Here are some examples of how we put this duty into action in the past year:

- In cases where severances under paragraph 16.1(1)(c) covered documents we obtained from institutions for the purpose of investigations, we advised applicants to make separate requests to the originating institution for those records.
- When extensions were necessary, we provided interim releases.
- When requests were sent to the OIC in error, we transferred them to the institution of greater interest rather than redirecting them, to minimize response times for requesters. In this way, the legislated time frame of 30 days began from the time we received the request, as opposed to having a slightly longer

timeframe for the requester, beginning when the new institution acknowledged the request.

- When the wording of applications under the Act could result in only limited information being provided to the requester, or we were aware of additional records of interest, we notified the requester and gave them the choice of modifying their applications.
- When consultations were required, we adhered to the shortest timeframes possible in responding. When we received consultations, we negotiated a quick turnaround time to ensure we did not rely on extensions and cause delays for requesters.

## **6 Changes to the Organization, Programs, Operations or Policies**

### ***6.1 OIC IM/IT strategy***

In December 2008, following a preliminary assessment of our IM/IT, we developed a five-year strategic plan that was subsequently approved by the Treasury Board Secretariat. The plan calls for a major overhaul of IM and IT services to address investment in an integrated infrastructure, business applications, and supporting policies and processes. The plan includes a roadmap of the path and steps required for us to develop IM/IT to full maturity as a process-driven organization with a multi-layered business solutions infrastructure.

#### **Maturing the IT and IM functions**

To meet the challenges of creating access and implementing Year 1 of the strategy, we

- organized IT into Operations and Application units, and staffed these units based on the plan and available resources; and
- prioritized activities to enable staff to divide their time as required to accommodate both normal operational and well as strategic project priorities.

Subsequently, the IT Operations unit's focus shifted to include stabilizing the current production environment and building the development capacity for the strategic initiatives.

We also put in place a Project Management Office, which has proven to be extremely useful in setting the stage to effectively manage all of our projects. Through a master work plan and schedule, we can manage and monitor the status of all IM/IT projects from a single project file. Individual projects are created as a team approach by the IT Special Advisor, the project managers and the professionals who are delivering the project services.

In the IM function, staffing efforts began early in the new fiscal year so that we could stabilize the IM function and also deliver on the key components of our institutional IM program. The maturing of the IM function included ongoing activities such as:

- ensuring the security of the records area by restricting access and creating appropriate storage wherever possible;
- implementing procedures for submitting closed files to the Records Centre for storage;
- providing advice and training to specific cohorts within the OIC on the classification of sensitive documents and the life cycle of records; and
- implementing the first annual disposition of investigative records and ongoing disposition of corporate transitory records as required.

### **Partnering and repurposing**

Coming into 2009–2010, our IM/IT unit recognized that we had a major challenge. As part of a small agency with limited resources, we faced a set of significant issues related to the IM/IT strategy implementation. To meet this challenge, we decided the best approach was to identify and repurpose existing solutions rather than creating unique solutions for the OIC.

We were particularly successful over the past year in identifying relevant candidate solutions and building relationships with other federal institutions to reuse their solutions and relevant experience. Our plan is to repurpose these solutions for the OIC and then continue in the partnering spirit by sharing our accomplishments.

### **IM/IT governance**

Early in the year, the terms of reference were defined for an IM/IT steering committee. This includes Director-level representation from all of the OIC. It meets bi-monthly to review functional issues, project progress, and any relevant changes to the IM/IT context. Discussions and decisions at the IM/IT steering committee have produced two significant positive outcomes:

- stronger ties to the business areas and enhanced communications between IM/IT staff and the rest of the OIC; and
- a decision-making forum for changes to the IM/IT infrastructure at the OIC.

## ***6.2 Access to Information and Privacy Secretariat***

During the reporting period, the ATIP Secretariat was also undergoing a transformation in the way that it works and is administered, to facilitate faster access to information for requesters and improved information management.

By working closely with IT staff and our software supplier, the ATIP Secretariat ensured that our electronic request management system was functioning optimally, and that all users were fully trained. This allowed us to maximize efficiencies in request processing to ensure that requesters received their information in the shortest time possible.

Greater understanding of our electronic request administration system also allowed us to electronically administer our responses to complaints from the Information Commissioner ad hoc and to expedite closing of those files. Full implementation of our electronic request processing system has also meant that we are now positioned to post the text of our requests on our website in both official languages and produce copies of release packages on demand. This is a key step in supporting our corporate transparency focus.

Finally, the ATIP Secretariat worked in innovative ways to manage the unpredictability of demand within the unit, leveraging its expertise in the legislation and easy access to the IT project management office to support special projects within the OIC. In this way we ensured flexibility to meet unpredictable demand, while building a strong collaborative relationship with the business areas. This, in turn, has fostered better understanding and increased capacity internally.

## 7 New Policies or Procedures

Early in the fiscal year we realized we required an IM strategy to set out clearly what we needed to do to modernize our practices and ensure compliance with the *Library and Archives of Canada Act*. We then drafted an IM policy suite that covers the high-level IM policy direction for the OIC. We produced a procedures manual outlining the business rules for the organization, as well as the specific business rules by function. We also developed a function-based universal file classification system and descriptions of records in consultation with the business areas. Specific procedures incorporated in the manual include guidelines for managers on what to do with employee-generated records when they leave the organization, how to classify sensitive documents, and details on metadata. These tools established the foundation for our migration to a corporate electronic records management tool in the coming year.

We also developed the draft *Access to Information and Privacy Policy and Procedures Manual* that will be posted on our website in the first quarter of 2010–2011. The manual describes the approach we have taken to the administration of requests under the *Access to Information* and *Privacy* acts. In summary, the six pillars of our Access to Information and Privacy program are:

- full implementation of the duty to assist provision;
- justified application of exemptions;
- minimal extension of deadlines only;
- timeliness of responses;
- maintaining the confidentiality of our investigative process; and
- commitment to the confidentiality and security of personal information at all times.

We drafted, in consultation with our Legal Services Division, four practice directions that set out the specific practices in place within the ATIP Secretariat for:

- the duty to assist provisions of the legislation;

- the in-depth interpretation of the mandatory exemption contained in paragraph 16.1(1)(c) of the Act regarding requests for information related to ongoing OIC investigations;
- the application of extensions under section 9 of the Act; and
- the treatment of consultations received from other institutions and our administration of requests requiring other institution's input

The practice directions will be posted on our website in the first quarter of 2010–2011.

The ATIP Secretariat also drafted a Public Disclosure Policy, which set out our commitment to public disclosure of all our corporate documents of interest in a fair, accessible and timely manner in order to make possible the transparency, accountability, and national ownership of our programs and operations.

## 8 Education and Training Activities

During the reporting period, we conducted three training sessions, in both official languages, on the *Access to Information* and *Privacy* acts and their accompanying processes.

ATIP Secretariat staff attended learning activities organized by TBS on specific provisions in the legislation, as well as attending professional development opportunities such as the conference held by the Canadian Access and Privacy Association and the Canadian Association of Professional Access and Privacy Administrators.

We also developed and trained specific cohorts in the OIC on the classification and handling of sensitive records.

## 9 Investigations by the Information Commissioner ad hoc

During the reporting period, there was only one complaint filed with the Office of the Information Commissioner ad hoc (in August 2009) and it was closed the same month. All other outstanding complaints from previous periods were also closed this year.

**Table X—Complaints filed with the Information Commissioner ad hoc between April 1, 2009, and March 31, 2010**

Type of Complaint	Number	Percentage
Withholding of information	1	100
Length of extensions	0	0
Assessment of fees	0	0
<b>Total</b>	<b>1</b>	<b>100</b>

The complaint filed this year concerned the application of the mandatory exemption to protect the confidentiality of our investigations under paragraph 16.1(1)(c) of the Act.

In providing the requester with the response package, we had explained the mandatory nature of the exemption. Under the duty to assist provision we had also advised the requester to make a separate request to the institution for the documents that it had provided for the purpose of the investigation. The complainant alleged that we improperly severed the documents that had been provided by the institution for the purpose of the investigation. We reiterated the option of requesting the documents from the institution. The Information Commissioner ad hoc found that the complaint was not substantiated and closed the file on September 30, 2009.

**Table XI—Outcome of complaints investigated by the Information Commissioner ad hoc between April 1, 2009, and March 31, 2010**

<b>Outcome</b>	<b>Number of Occurrences</b>	<b>Percentage</b>
Not well founded/unsubstantiated	4	40
Resolved	4	40
Withdrawn	2	20
<b>Total</b>	<b>10</b>	<b>100</b>

Ten investigations were completed during the reporting period. Of the 10, 9 were carried over from previous years and 1 was initiated and closed this year.

The Information Commissioner ad hoc found that four complaints (40%) were not well founded or unsubstantiated. One of these referred to the application of paragraph 16.1(1)(c) in order to protect the confidentiality of investigations, and in particular, records obtained from institutions for the purpose of our investigation. The Commissioner ad hoc found that we had correctly applied the mandatory exemption and indicated that the applicant had probably mistaken paragraph 16.1(1)(c) with section 16(1) which deals with law enforcement.

The other two unsubstantiated complaints concerned the application of time extensions. In both cases the Information Commissioner ad hoc upheld our application of section 9(1).

The final unsubstantiated finding was related to whether we had provided all documents under our control. The Commissioner ad hoc found that we had fulfilled our obligation to provide all records under our control.

The nature of the complaints that resulted in a finding of “resolved” varied. In one instance, the applicant had complained that we did not provide all records under our control. Specifically, the applicant requested more detailed records than what was provided on our Internet site under proactive disclosure. In providing the records to the ATIP Secretariat, the office of primary interest had provided only records related to travel. Both the office of primary interest and the ATIP Secretariat corrected the situation immediately once notified of the complaint and took the appropriate measure to ensure



records would be cross-referenced in the future. The applicant was then provided with a new release package.

The second finding of resolved relates to an older complaint that was carried over from the previous year. The applicant complained about our application of paragraph 16.1(1)(c) to a list of investigative files. In reviewing the release package we realized that we had inadvertently severed portions of a record on a closed file which could have been released. We promptly did a second review of the records and, conscious of our duty to assist, we took into account any investigations that had since been closed in order to disclose more information to the requester.

The third finding of resolved is in relation to another historical complaint that both paragraph 16.1(1)(c) and subsection 19(1) of the Act were improperly applied. In this case the Commissioner ad hoc upheld our application of 16.1(1)(c), but however did not agree with the application of subsection 19(1). The commissioner ad hoc stated that the portions of records withheld under subsection 19(1) should have been withheld under paragraph 16.1(1)(c). In addition, the Commissioner ad hoc did not agree with applying paragraph 16.1(1)(c) to withhold information relevant to an ongoing proceeding in an institution other than the OIC. However, the Commissioner ad hoc did acknowledge that we had provided a revised release package along with additional information that was then releasable under paragraph 16.1(2).

The final finding of resolved relates to yet another historical complaint where the Commissioner ad hoc found that 16.1(1)(c) had been applied too broadly, and we subsequently released further information to the requester.

It should be noted that, over the course of time, as the ATIP Secretariat has matured in its functions, the application of paragraph 16.1(1)(c) has become more consistent, and the complaints related to our withholding information in more recent years have all been upheld by the Commissioner ad hoc.

The requesters who withdrew two complaints did not provide a reason for the withdrawals.

## Appendix A



Information  
Commissioner  
of Canada

112 Kent Street,  
Ottawa, Ontario  
K1A 1H3  
(613) 995-2410  
1-800-267-0441

Commissaire  
à l'information  
du Canada

112, rue Kent,  
Ottawa (Ontario)  
K1A 1H3  
(613) 995-2410  
1-800-267-0441

**Information Commissioner's Delegation of authority to the Commissioner *ad hoc*  
pursuant to section 59 of the *Access to Information Act*  
Délégation du Commissaire à l'information des pouvoirs et fonctions au Commissaire *ad hoc* en  
vertu des dispositions de l'article 59 de la *Loi sur l'accès à l'information***

Pursuant to subsection 59(1) of the *Access to Information Act* (the "*Act*"), the Information Commissioner of Canada duly appointed pursuant to section 54 of the *Access to Information Act*, does hereby authorize the Hon. W. Andrew MacKay, as Commissioner *ad hoc*, to exercise or perform all of the powers, duties and functions of the Information Commissioner set out in the *Access to Information Act*, including sections 30 to 37 and section 42 inclusive of the *Access to Information Act*, for the purpose of receiving and independently investigate any complaint described in section 30 of the *Access to Information Act* arising in response to access requests made in accordance with the *Act* to the Office of the Information Commissioner of Canada.

This delegation is effective May 1, 2008 for a one year period until such time as it is revoked, amended or renewed.

Dated at Ottawa, this <sup>17</sup> day of May 2008.

En vertu des dispositions de l'article 59 de la *Loi sur l'accès à l'information*, le Commissaire à l'information du Canada, nommé selon l'article 54 de la *Loi sur l'accès à l'information*, délègue à l'hon. W. Andrew MacKay à titre de Commissaire *ad hoc*, les pouvoirs et fonctions qui lui sont conférés par la *Loi sur l'accès à l'information*, incluant les articles 30 à 37 et l'article 42 de la *Loi* afin de recevoir et de faire enquête de façon indépendante au sujet de toute plainte énumérée à l'article 30 de la *Loi* provenant des réponses aux demandes de communication faites au Commissariat à l'information du Canada en vertu de la *Loi*.

Cette délégation prendra effet le 1 mai 2008 pour une période de 1 an, ou jusqu'à ce qu'elle soit révoquée, modifiée ou renouvelée.

Signée à Ottawa, le <sup>17</sup> mai 2008.

Robert Marleau  
Information Commissioner of Canada  
Commissaire à l'information du Canada



**Delegation orders for the purpose of the *Access to Information Act* and the *Privacy Act*  
 Arrêté sur la délégation en vertu de la *Loi sur l'accès à l'information* et de la *Loi sur la protection des renseignements personnels***

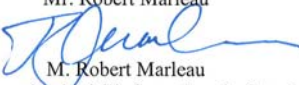
The Information Commissioner of Canada, pursuant to Section 73 of the *Access to Information Act* and *Privacy Act*, hereby designates the persons holding the positions set out in the schedule hereto, or the persons occupying on an acting basis those positions, to exercise the powers and functions of the Information Commissioner of Canada as the head of a government institutions that is, the Office of the Information Commissioner of Canada.

En vertu de l'article 73 de la *Loi sur l'accès à l'information* et de la *Loi sur la protection des renseignements personnels*, le Commissaire à l'information du Canada délègue aux titulaires des postes mentionnés à l'annexe ci-après, ainsi qu'aux personnes occupant à titre intérimaire lesdits postes, les attributions dont il est investi en qualité de responsable d'une institution fédérale, c'est-à-dire le bureau du Commissaire à l'information du Canada.

Position/ Poste	Schedule / Annexe	
	<i>Privacy Act</i> and Regulations/ <i>Loi sur la protection des renseignements personnels</i> et règlements.	<i>Access to Information Act</i> and Regulations/ <i>Loi sur l'accès à l'information</i> et règlements.
Suzanne Legault Assistant Commissioner, Policy, Communications and Operations / Commissaire adjointe, Politiques, communications et opérations	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue
Monica Fuijksht Director, Information Services and Knowledge Management/ Directrice, Services d'information et gestion du savoir	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue
Christian Picard Director, Strategic Case Management Team / Directeur, Groupe de gestion stratégique des dossiers	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue

Dated, at the City of Ottawa, this 10<sup>th</sup> day of November 2008

Daté à Ottawa ce 10<sup>e</sup> jour de novembre 2008

The Information Commissioner of Canada  
 Mr. Robert Marleau  
  
 M. Robert Marleau  
 Le Commissaire à l'information du Canada



Information  
Commissioner  
of Canada

Commissaire  
à l'information  
du Canada

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**Delegation orders for the purpose of the *Access to Information Act* and the *Privacy Act*  
Arrête sur la délégation en vertu de la *Loi sur l'accès à l'information*  
et de la *Loi sur la protection des renseignements personnels***

The Information Commissioner of Canada, pursuant to Section 73 of the *Access to Information Act* and *Privacy Act*, hereby designates the persons holding the positions set out in the schedule hereto, or the persons occupying on an acting basis those positions, to exercise the powers and functions of the Information Commissioner of Canada as the head of a government institution that is, the Office of the Information Commissioner of Canada.

En vertu de l'article 73 de la *Loi sur l'accès à l'information* et de la *Loi sur la protection des renseignements personnels*, le Commissaire à l'information du Canada délègue aux titulaires des postes mentionnés à l'annexe ci-après, ainsi qu'aux personnes occupant à titre intérimaire les dits postes, les attributions dont il est investi en qualité de responsable d'une institution fédérale, c'est-à-dire le Commissariat à l'information du Canada.

**Schedule / Annexe**

<b>Position/ Poste</b>	<b><i>Privacy Act and Regulations/ Loi sur la protection des renseignements personnels et règlements.</i></b>	<b><i>Access to Information Act and Regulations/ Loi sur l'accès à l'information et règlements.</i></b>
Suzanne Legault Assistant Information Commissioner/ Commissaire à l'information adjointe	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue
Monica Fuijkschot A/Director, Information Management/ Directrice intérimaire, Gestion de l'information	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue
José-Nicolas Blondin-Doucet ATIP Manager, Access to Information and Privacy /Gestionnaire AIPRP, Accès à l'information et protection des renseignements personnels	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue

Dated, at the City of Ottawa,  
this 21<sup>st</sup> day of May 2009

Date, à la ville d'Ottawa  
ce 21<sup>e</sup> jour de mai 2009

Robert Marleau



**Delegation orders for the purpose of the Access to Information Act and the Privacy Act  
 Arrêté de déléation en vertu de la Loi sur l'accès à l'information  
 et de la Loi sur la protection des renseignements personnels**

The Information Commissioner of Canada, pursuant to Section 73 of the *Access to Information Act* and *Privacy Act*, hereby designates the persons holding the positions set out in the schedule hereto, or the persons occupying on an acting basis those positions, to exercise the powers and functions of the Information Commissioner of Canada as the head of a government institution that is, the Office of the Information Commissioner of Canada.

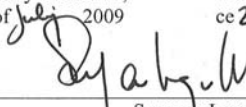
En vertu de l'article 73 de la *Loi sur l'accès à l'information* et de la *Loi sur la protection des renseignements personnels*, la Commissaire à l'information du Canada délègue aux titulaires des postes mentionnés à l'annexe ci-après, ainsi qu'aux personnes occupant à titre intérimaire les dits postes, les attributions dont elle est investi en qualité de responsable d'une institution fédérale, c'est-à-dire le Commissariat à l'information du Canada.

Schedule / Annexe

Position/ Poste	<i>Privacy Act and Regulations/ Loi sur la protection des renseignements personnels et règlements.</i>	<i>Access to Information Act and Regulations/ Loi sur l'accès à l'information et règlements.</i>
Lisa Campbell Interim Assistant Information Commissioner/ Commissaire adjointe à l'information par intérim	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue
Monica Fuijkschot A/Director, Information Management/ Directrice intérimaire, Gestion de l'information	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue
Mario Perrier ATIP Manager, Access to Information and Privacy /Gestionnaire AIPRP, Accès à l'information et protection des renseignements personnels	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue

Dated, at the City of Ottawa,  
 this 27 day of July 2009

Date, à la ville d'Ottawa  
 ce 27 jour de Juillet 2009

  
 \_\_\_\_\_  
 Suzanne Legault  
 Interim Information Commissioner of Canada  
 Commissaire par intérim à l'information du Canada



Office of the  
Information  
Commissioner  
of Canada

Commissariat  
à l'information  
du Canada

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**Delegation orders for the purpose of the *Access to Information Act* and the *Privacy Act*  
Arrêté de délégalion en vertu de la *Loi sur l'accès à l'information*  
et de la *Loi sur la protection des renseignements personnels***

The Interim Information Commissioner of Canada, pursuant to Section 73 of the *Access to Information Act* and *Privacy Act*, hereby designates the persons holding the positions set out in the schedule hereto, or the persons occupying on an acting basis those positions, to exercise the powers and functions of the Interim Information Commissioner of Canada as the head of a government institution that is, the Office of the Information Commissioner of Canada.

En vertu de l'article 73 de la *Loi sur l'accès à l'information* et de la *Loi sur la protection des renseignements personnels*, la Commissaire par intérim à l'information du Canada délègue aux titulaires des postes mentionnés à l'annexe ci-après, ainsi qu'aux personnes occupant à titre intérimaire les dits postes, les attributions dont elle est investie en qualité de responsable d'une institution fédérale, c'est-à-dire le Commissariat à l'information du Canada.

**Schedule / Annexe**

<b>Position/ Poste</b>	<b><i>Privacy Act and Regulations/ Loi sur la protection des renseignements personnels et règlements.</i></b>	<b><i>Access to Information Act and Regulations/ Loi sur l'accès à l'information et règlements.</i></b>
Layla Michaud Interim Assistant Information Commissioner/ Commissaire adjointe à l'information par intérim	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue
Monica Fuijkschot A/Director, Information Management/ Directrice intérimaire, Gestion de l'information	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue
Mario Perrier ATIP Manager, Access to Information and Privacy /Gestionnaire AIPRP, Accès à l'information et protection des renseignements personnels	Full Authority/ Autorité Absolue	Full Authority/ Autorité Absolue

Dated, at the City of Ottawa,  
this 18<sup>th</sup> day of January 2010

Daté, à la ville d'Ottawa  
ce 18<sup>ème</sup> jour de Janvier 2010

Suzanne Legault  
Interim Information Commissioner of Canada  
Commissaire par intérim à l'information du Canada



## Appendix F



### REPORT ON THE ACCESS TO INFORMATION ACT RAPPORT CONCERNANT LA LOI SUR L'ACCÈS À L'INFORMATION

Institution / Office of the Information Commissioner of Canada				Reporting period / Période visée par le rapport 04/01/2009 to/à 03/31/2010	
Source	Academia / Université 0	Business / entreprise 3	Media / média 7	Organization / organisation 0	Public 17
	Federal Government / gouvernement fédéral 0	Lawyer / avocat 1	Municipal Government / gouvernement municipal 0	Political Party / parti politique 0	Provincial Government / gouvernement provin 0

**I Requests under the Access to Information Act / Demandes en vertu de la Loi sur l'accès à l'information**

Received during reporting period / Reçues pendant la période visée par le rapport	28
Outstanding from previous period / En suspens depuis la période antérieure	5
<b>TOTAL</b>	<b>33</b>
Completed during reporting period / Traitées pendant la période visées par le rapport	31
Carried forward / Reportées	2

**II Disposition of requests completed / Disposition à l'égard des demandes traitées**

1. All disclosed / Communication totale	4	6. Unable to process / Traitement impossible	1
2. Disclosed in part / Communication partielle	23	7. Abandoned by applicant / Abandon de la demande	2
3. Nothing disclosed (excluded) / Aucune communication (exclusion)	0	8. Treated informally / Traitement non officiel	0
4. Nothing disclosed (exempt) / Aucune communication (exemption)	0	<b>TOTAL</b>	<b>31</b>
5. Transferred / Transmission	1		

**III Exemptions invoked / Exceptions invoquées**

13 (1) (a)	0	15 (2) (b)	0	16.4 (1) (b)	0	20 (1) (d)	1
13 (1) (b)	0	15 (2) (c)	0	16.4 (2)	0	20 (2)	0
13 (1) (c)	0	15 (2) (d)	0	16.5	0	20 (3)	0
13 (1) (d)	0	15 (2) (e)	0	17	0	20 (4)	0
13 (1) (e)	0	15 (2) (f)	0	18 (a)	0	20 (5)	0
13 (2) (a)	0	16 (1) (a) (i)	0	18 (b)	0	20 (6) (a)	0
13 (2) (b)	0	16 (1) (a) (ii)	0	18 (c)	0	20 (6) (b)	0
13 (3) (a)	0	16 (1) (a) (iii)	0	18 (d) (i)	0	20.1	0
13 (3) (b)	0	16 (1) (b)	1	18 (d) (ii)	0	20.2	0
13 (3) (c)	0	16 (1) (c) (i)	0	18 (d) (iii)	0	20.4	0
13 (3) (d)	0	16 (1) (c) (ii)	0	18 (d) (iv)	0	21 (1) (a)	1
13 (3) (e)	0	16 (1) (c) (iii)	0	18 (d) (v)	0	21 (1) (b)	1
14 (a)	0	16 (1) (d)	0	18 (d) (vi)	0	21 (1) (c)	0
14 (b)	0	16 (2) (a)	0	18.1 (1) (a)	0	21 (1) (d)	1
15 (1) (a)	1	16 (2) (b)	0	18.1 (1) (b)	0	21 (2) (a)	0
15 (1) (b)	0	16 (2) (c)	1	18.1 (1) (c)	0	21 (2) (b)	0
15 (1) (c)	1	16 (3)	0	18.1 (1) (d)	0	22	0
15 (1) (d) (i)	0	16 (4) (a)	0	18.1 (2) (a)	0	22.1 (1)	0
15 (1) (d) (ii)	0	16 (4) (b)	0	18.1 (2) (b)	0	22.1 (2)	0
15 (1) (e)	0	16 (4) (c)	0	19 (1)	15	23	3
15 (1) (f)	0	16.1 (1) (a)	0	19 (2) (a)	0	24 (1)	0

15 (1) (g)	0	16.1 (1) (b)	0	19 (2) (b)	0	24 (2)	0
15 (1) (h)	0	16.1 (1) (c)	13	19 (2) (c)	0	25	0
15 (1) (i) (i)	0	16.1 (1) (d)	0	20 (1) (a)	0	26	0
15 (1) (i) (ii)	0	16.1 (2)	0	20 (1) (b)	1	12(1)	0
15 (1) (i) (iii)	0	16.3	0	20 (1) (b.1)	0	18(d)	0
15 (2) (a)	0	16.4 (1) (a)	0	20 (1) (c)	2		

**IV Exclusions cited / Exclusions citées**

68 (a)	0	69 (1) (e)	0
68 (b)	0	69 (1) (f)	0
68 (c)	0	69 (1) (g)	0
68.1	0	69 (2)	0
68.2 (a)	0	69 (3) (a)	0
68.2 (b)	0	69 (3) (b) (i)	0
69 (1) (a)	1	69 (3) (b) (ii)	0
69 (1) (b)	0	69.1 (1)	0
69 (1) (c)	0	69.1 (2) (a)	0
69 (1) (d)	0	69.1 (2) (b)	0

**V Completion time / Délai de traitement**

30 days or under / 30 jours ou moins	18
31 to 60 days / De 31 à 60 jours	12
61 to 120 days / De 61 à 120 jours	0
121 days or over / 121 jours ou plus	1

**VI Extensions / Prorogations des délais**

	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Searching / Recherche	1	1
Consultation	1	0
Third party / Tiers	0	0
<b>TOTAL</b>	<b>2</b>	<b>1</b>

**VII Translations / Traduction**

Translations requested / Traductions demandées	0
Translations prepared / Traductions préparées	0
English to French / De l'anglais au français	0
French to English / Du français à l'anglais	0

**VIII Method of access / Méthode de consultation**

Copies given / Copies given	27
Copies and examination / Copies and examination	0
Examination / Examination	0

**IX Fees / Frais**

Net fees collected / Frais net perçus			
Application Fee	\$125.00	Preparation / Préparation	\$0.00
Reproduction Fee / frais de la reproduction	\$0.00	Application Fee / Application Fee	\$0.00
Searching / Chercher	\$0.00	<b>TOTAL</b>	<b>\$125.00</b>
Fees waived / Dispense de frais		No. of times / Nombre de fois	\$
\$25.00 or under / 25 \$ ou moins		3	<b>\$15.00</b>
Over \$25.00 / De plus de 25 \$		0	<b>\$ 0.00</b>

**X Costs / Coûts**

Financial (all reasons) / Financiers (raisons)	
Salary / Traitement	<b>\$ 222722.00</b>
Administration (O and M) / Administration (fonctionnement et maintien)	<b>\$ 25328.00</b>
<b>TOTAL</b>	<b>\$ 248050.00</b>
Person year utilization (all reasons) / Années-personnes utilisées (raison)	
Person year (decimal format) / Années-personnes (nombre décimal)	<b>4.0</b>



**Additional Reporting Requirements**

***Access to Information Act***

In addition to the reporting requirements addressed in form TBS/SCT 350-62 "Report on the *Access to Information Act*", institutions are required to report on the following using this form:

**Part III – Exemptions invoked**

Section 13 Subsection 13(e) \_\_\_\_\_ 0 \_\_\_\_\_

Section 14 Subsections 14(a) \_\_\_\_\_ 0 \_\_\_\_\_  
14(b) \_\_\_\_\_ 0 \_\_\_\_\_

**Part IV – Exclusions cited:**

Subsection 69.1 (1) \_\_\_\_\_ 0 \_\_\_\_\_

**Additional Reporting Requirements**

***Privacy Act***

Treasury Board Secretariat is monitoring compliance with the Privacy Impact Assessment (PIA) Policy (which came into effect on May 2, 2002) through a variety of means. Institutions are therefore required to report the following information for this reporting period.

Indicate the number of:

Preliminary Privacy Impact Assessments initiated: 1

Preliminary Privacy Impact Assessments completed: 0

Privacy Impact Assessments initiated: 0

Privacy Impact Assessments completed: 0

Privacy Impact Assessments forwarded to the Office of the Privacy Commissioner (OPC): 0

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