



Public Prosecution  
Service of Canada

Service des poursuites  
pénales du Canada



**Public Prosecution  
Service of Canada**

**Annual Report  
on the  
*Access to  
Information  
Act***

**2008-2009**

## Table of Contents

Introduction .....	2
Mandate of the Public Prosecution Service of Canada .....	2
Roles and Responsibilities of the Public Prosecution Service of Canada .....	3
Access to Information and Privacy (ATIP) Office .....	3
Delegated Authorities .....	5
Statistical Report on <i>Access to Information Act</i> 2008-2009 .....	7
Supplemental Reporting Requirements - <i>Access to Information Act</i> .....	8
Statistical Report – Interpretation and Explanation .....	9
Requests under the <i>Access to Information Act</i> .....	9
Sources of Requests Received .....	9
Disposition of Requests Completed .....	10
Exemptions Invoked .....	10
Exclusions Cited .....	11
Completion Time .....	11
Extensions .....	12
Translations.....	12
Method of Access.....	12
Fees .....	12
Costs .....	13
Consultations by Other Institutions .....	13
Trends .....	14
Informal Processes .....	14
Access to Information-Related Education and Training .....	14
Reading Room.....	14
Complaints and Investigations .....	15

## Introduction

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

Section 72 of the *Access to Information Act* requires the head of each government institution to table an annual report on the administration of the *Act* within the institution.

This Annual Report provides a summary of the management and administration of the *Access to Information Act* within the Public Prosecution Service of Canada for the fiscal year 2008-2009.

## Mandate of the Public Prosecution Service of Canada

The Public Prosecution Service of Canada (PPSC) was created on December 12, 2006 with the coming into force of the *Director of Public Prosecutions Act*, Part 3 of the *Federal Accountability Act*. The PPSC replaced the former Federal Prosecution Service of the Department of Justice Canada.

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

- initiate and conduct federal prosecutions;
- intervene in proceedings that raise a question of public interest that may affect the conduct of prosecutions or related investigations;
- issue guidelines to federal prosecutors;
- advise law enforcement agencies or investigative bodies on general matters relating to prosecutions and on particular investigations that may lead to prosecutions;
- communicate with the media and the public on all matters respecting the initiation and conduct of prosecutions;
- exercise the authority of the Attorney General of Canada in respect of private prosecutions;
- exercise any other power or carry out any other duty or function assigned by the Attorney General of Canada that is compatible with the Office of the Director;
- initiate and conduct prosecutions under the *Canada Elections Act*; and
- act, when requested by the Attorney General of Canada, in matters under the *Extradition Act* and the *Mutual Legal Assistance in Criminal Matters Act*.

The *Director of Public Prosecutions Act* empowers the Director to act independently in respect of federal prosecutions. With the exception of *Canada Elections Act* matters, the Attorney General of Canada can issue a directive to the Director in respect of a prosecution or assume conduct of a prosecution, but must do so in writing and a notice must be published in the *Canada Gazette*. To assist the Attorney General in deciding whether to give direction or assume conduct, the Director must inform the Attorney General of any prosecution or planned intervention that may raise important questions of general interest.

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

The Public Prosecution Service of Canada (PPSC) provides prosecution-related advice to law enforcement agencies across Canada and prosecutes offences within federal jurisdiction. Approximately 50 federal statutes contain offences in respect of which the PPSC undertakes these roles.

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

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

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

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

## Access to Information and Privacy (ATIP) Office

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

The ATIP Office undertakes the responsibility of the administration of the *Access to Information Act* by:

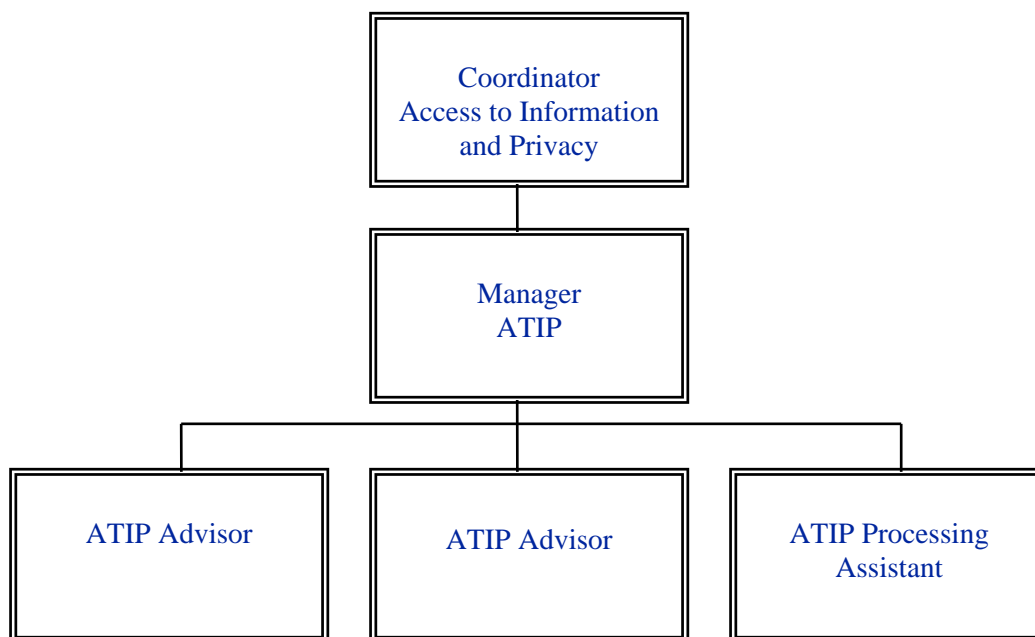
- processing requests for information submitted under the *Access to Information Act* in accordance with legislation, regulations and Treasury Board of Canada Secretariat policies and guidelines;
- responding to consultations submitted by other federal institutions on PPSC records being considered for release;

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

During the reporting period of April 1, 2008 to March 31, 2009, the ATIP Office became fully operational with the implementation of software for the tracking and processing of requests.

In the last half of the reporting period, two ATIP Advisor positions were staffed. During the previous two reporting years, the PPSC faced challenges in recruiting and retaining experienced and qualified personnel, and, as a result, the ATIP Office experienced staff turnover.

## Organizational Structure



Access to Information and Privacy (ATIP) Office is comprised of a Manager, two Advisors and one Processing Assistant. The A/Senior Counsel and Director, Ministerial and External Relations, served as the organization's ATIP Coordinator during the reporting year.

## Delegated Authorities

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



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

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

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

<b>Position/Poste</b>	<b><i>Privacy Act and Regulations / Loi sur la protection des renseignements personnels et règlements</i></b>	<b><i>Access to Information Act and Regulations / Loi sur l'accès à l'information et règlements</i></b>
The Director and A/Senior Counsel, Ministerial and Strategic Services Division /  Le Directeur et Conseiller juridique par intérim, Division des services ministériels et stratégiques	Full authority/Autorité absolue	Full authority/Autorité absolue
Senior ATIP Advisor/Team Leader, Access to Information and Privacy Office /  Conseillère principale en AIPRP/Chef d'équipe, Bureau de l'accès à l'information et de la protection des renseignements personnels	Full authority/Autorité absolue	Full authority/Autorité absolue

Dated, at the City of Ottawa, this 10 day of April, 2008	Daté, en la ville d'Ottawa, ce 10 jour de avril 2008
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Brian J. Saunders  
Acting Director of Public Prosecutions  
Directeur des poursuites pénales par intérim

# Statistical Report on the Access to Information Act 2008-2009

Institution Public Prosecution Service of Canada				Reporting period / Période visée par le rapport 2008-04-01 to / à 2009-03-31	
Source	Média / Médias 1	Academia / Secteur universitaire 0	Business / Secteur commercial 3	Organization / Organisme 4	Public 7

## 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	15
Outstanding from previous period / En suspens depuis la période antérieure	4
<b>TOTAL</b>	<b>19</b>
Completed during reporting period / Traitées pendant la période visée par le rapport	17
Carried forward / Reportées	2

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

1. All disclosed / Communication totale	6	6. Unable to process / Traitement impossible	3
2. Disclosed in part / Communication partielle	7	7. Abandoned by applicant / Abandon de la demande	1
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>17</b>
5. Transferred / Transmission	0		

## II Exemptions invoked / Exemptions invoquées

S. Art. 13(1)(a)	0	S. Art. 16(1)(a)	1	S. Art. 18(b)	0	S. Art. 21(1)(a)	4
(b)	0	(b)	1	(c)	0	(b)	4
(c)	1	(c)	1	(d)	0	(c)	0
(d)	1	(d)	0	S. Art. 19(1)	6	(d)	1
S. Art. 14	1	S. Art. 16(2)	0	S. Art. 20(1)(a)	0	S. Art. 22	0
S. Art. 15(1) International rel. / Relations intern.	0	S. Art. 16(3)	0	(b)	1	S. Art. 23	4
Defence / Défense	0	S. Art. 17	0	(c)	1	S. Art. 24	0
Subversive activities / Activités subversives	0	S. Art. 18(a)	0	(d)	0	S. Art. 25	0

## I Exclusions cited / Exclusions citées

S. Art. 68(a)	0	S. Art. 69(1)(c)	0
(b)	0	(d)	1
(c)	0	(e)	0
S. Art. 69(1)(a)	0	(f)	0
(b)	0	(g)	1

## V Completion time / Délai de traitement

30 days or under / 30 jours ou moins	13
31 to 60 days / De 31 à 60 jours	0
61 to 120 days / De 61 à 120 jours	1
121 days or over / 121 jours ou plus	3

## V Extensions / Prorogations des délais

	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Searching / Recherche	0	2
Consultation	2	3
Third party / Tiers	0	3
<b>TOTAL</b>	<b>2</b>	<b>8</b>

## VI 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 de l'original	13
Examination / Examen de l'original	0
Copies and examination / Copies et examen	0

## I Fees / Frais

Net fees collected / Frais net perçus			
Application fees / Frais de la demande	70.00	Preparation / Préparation	0.00
Reproduction	0.00	Computer processing / Traitement informatique	0.00
Searching / Recherche	0.00	<b>TOTAL</b>	<b>70.00</b>
Fees waived / Dispense de frais		No. of times / Nombre de fois	\$
\$25.00 or under / 25 \$ ou moins		0	\$ 0.00
Over \$25.00 / De plus de 25 \$		0	\$ 0.00

TB/S/CT 350-62 (Rev. 1999/03)

## X Costs / Coûts

Financial (all reasons) / Financiers (raisons)	
Salary / Traitement	\$ 149,917.80
Administration (O and M) / Administration (fonctionnement et maintien)	\$ 16,291.33
<b>TOTAL</b>	<b>\$ 166,209.13</b>
Person year utilization (all reasons) / Années-personnes utilisées (raisons)	
Person year (decimal format) / Années-personnes (nombre décimal)	3.5



## **Supplemental 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 for this reporting period:

### **Part III – Exemptions invoked**

Section 13

Subsection 13(e) 0

Section 14

Subsections 14(a) 1

14(b) 0

### **Part IV – Exclusions cited**

Subsection 69.1 (1) 0

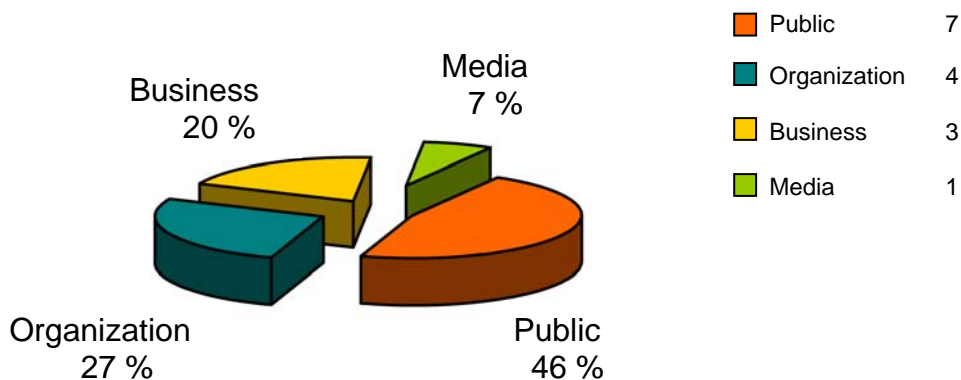
## Statistical Report – Interpretation and Explanation

The Public Prosecution Service of Canada's Statistical Report on the *Access to Information Act* for fiscal year 2008-2009 provides a summary on the *Act* during the period from April 1, 2008 to March 31, 2009. The following provides explanations and interpretations for information contained in this report.

### I. Requests under the *Access to Information Act*

The PPSC received fifteen (15) formal Access to Information requests during 2008-2009. Four (4) requests were carried over from the previous reporting period.

#### Sources of the Requests Received



The number of requests received from various sources changed from the 2007-2008 reporting year. The number of requests received from the public rose by 9%, business requests decreased by 7%, requests received from organizations rose by 9%, and media requests decreased by 11%.

## II. Disposition of Requests Completed

Seventeen (17) requests were completed during the fiscal year. The completed requests are categorized as follows:

	<i>Number of Requests</i>	<i>Percentage</i>
All disclosed	6	35%
Disclosed in part	7	41%
Transferred	0	N/A
Unable to process	3	18%
Abandoned by applicant	1	6%

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

### a. Transferred

No request fell under this category.

### b. Unable to process

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

### c. Abandoned

One (1) request was abandoned. The applicant did not provide the application fee and did not pursue the request.

## III. Exemptions invoked

Section III of the Statistical Report categorizes exemptions according to the section(s) of the *Access to Information Act* invoked. This information illustrates the types of exemptions invoked by the PPSC in the processing of requests in accordance with the *Act*.

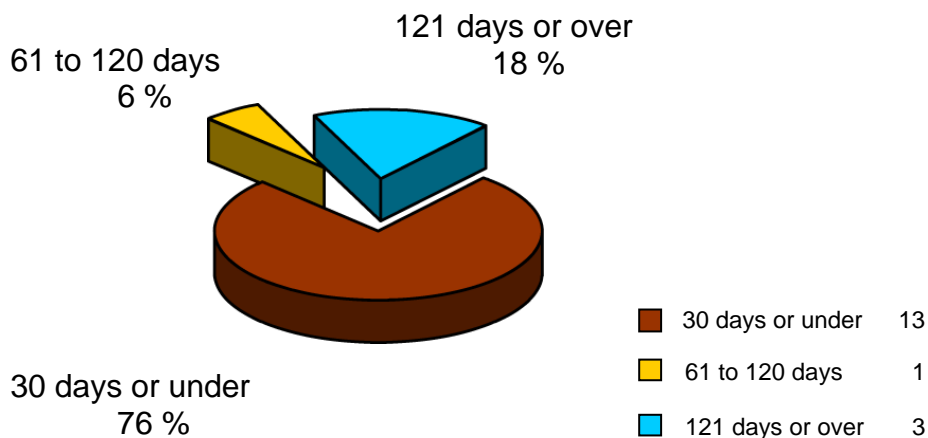
#### IV. Exclusions cited

The *Access to Information Act* does not apply to published material or material available for purchase by the public, library or museum material preserved solely for public record, material placed in the Library and Archives Canada, as well as records considered to be confidences of the Queen's Privy Council, pursuant to sections 68 and 69 of the *Act* respectively. Section IV of the Statistical Report illustrates the types of exclusions that could be invoked.

The PPSC applied exclusions under section 69(1) [Confidences of Cabinet] of the *Act* for two (2) requests. With respect to section 68 of the *Act*, no exclusions were applied.

#### V. Completion Time

The time required to process the seventeen (17) completed requests is summarized below:



## VI. Extensions

Section 9 of the *Access to Information Act* allows institutions to extend the legal deadline for processing a request if a search for responsive records cannot be completed within 30 days of receipt of the request, or if the institution must consult with other institutions or third parties.

Ten (10) extensions were taken during the reporting period for the following reasons:

Volume	2
Consultations with PCO regarding Cabinet Confidences	2
Other federal institutions	2
Third party consultations	4

The statutory deadlines for two (2) requests were extended as these requests were for a large number of records (over 20,000 pages). In the eight (8) other cases, the time limits were extended, as consultations with other government institutions or third parties were necessary.

## VII. Translations

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

## VIII. Method of Access

Statistics compiled for this section are based solely on those requests for which information was disclosed in its entirety or disclosed only in part. Access to the relevant documents was given, in whole or in part, for thirteen (13) requests. Copies of material were provided in all cases.

## IX. Fees

The *Access to Information Act* authorizes fees for certain activities related to the processing of formal requests under the *Act*. In addition to the \$5 application fee, other charges may also apply for search, preparation and reproduction of the various records, as specified in the *Access to Information Regulations*.

The position of the PPSC is to waive reproduction fees whenever less than 200 pages are disclosed. However, when more than 200 pages are disclosed, fees are calculated as specified in the Regulations.

The PPSC collected \$70.00 in application fees during 2008-2009. All other fees were waived during this reporting period.

## X. Costs

The PPSC spent a total of \$166,209 administering the *Access to Information Act*, of which salaries accounted for \$149,917 and operational costs accounted for \$16,291.

The increase in salary costs from the previous reporting period is due to the staffing of the ATIP Office to its full complement. The assistance of two PPSC counsel was also required during the 2008-2009 reporting period.

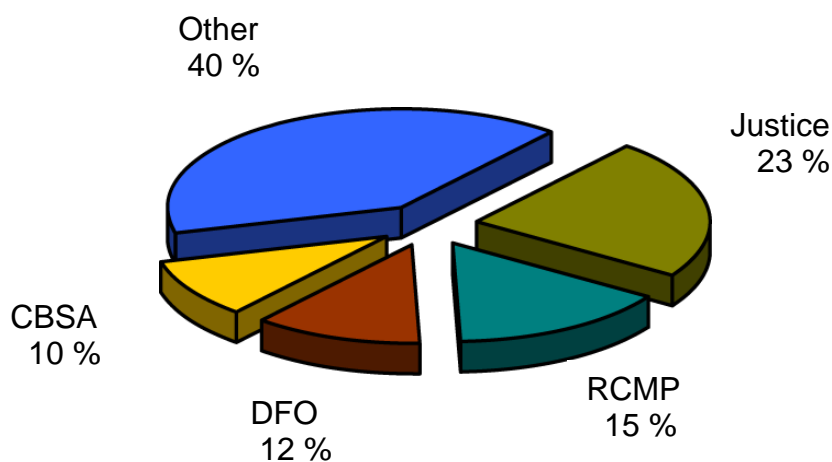
## Consultations by Other Institutions

Where documents originate from other institutions, or are of interest to another institution, the Access to Information and Privacy Office normally consults the concerned institution on those records. The PPSC responded to fifty two (52) Access to Information consultations from other federal institutions during the reporting period.

In light of the roles and responsibilities reported in the first part of this Annual Report, the consultation process at the PPSC frequently tends to be complex.

In comparison to the number of ATI requests received during the 2008-2009 report period, the PPSC received significantly more consultation requests from other federal institutions. The records forwarded for review largely relate to the prosecution of individuals or entities, under Canadian federal statutes.

The majority of consultation requests received were from the following organizations: Department of Justice (12), Royal Canadian Mounted Police (8), Department of Fisheries and Oceans (6) and the Canada Border Services Agency (5).



In the chart above, the category titled “Other” represents twelve (12) organizations from which the PPSC received fewer than five (5) consultation requests.



## Trends

Due to the nature of the organization's work, responding to Access to Information requests at the PPSC can be complicated. The mandate of the PPSC is to prosecute offences under federal jurisdiction and to provide advice on prosecution-related matters to investigative agencies. As a result, requested records often contain information related to criminal or regulatory investigations or prosecutions and to the PPSC's dealings with other organizations and departments at the federal, provincial, or territorial level. The PPSC must consult with these other organizations and carefully consider the legal impact of any disclosure of the information.

## Informal Processes

Whenever possible, information is provided informally to the public via the PPSC's Communications Branch. In addition, the PPSC's website ([www.ppsc-sppc.gc.ca](http://www.ppsc-sppc.gc.ca)) contains information such as: *The Federal Prosecution Service (FPS) Deskbook*; *Terms and Conditions of Appointment of Legal Agents*; PPSC's *Report on Plans and Priorities*; as well as the portals for the Agent Affairs Unit, Proactive Disclosure listings and other items of interest.

Given that many of the PPSC's records are classified, there are few opportunities to disclose other types of information informally.

## Access to Information-Related Education and Training

During this reporting period, the ATIP Manager led awareness sessions regarding the PPSC's ATIP processes and employee obligations under the *Access to Information Act*. The awareness sessions focused on the gathering of records relevant to a request and the life cycle of responding to a request. The Manager held sessions in the following regions during the reporting period: Whitehorse, Winnipeg, Saskatoon, and Toronto. On-site sessions were also held in the National Capital Region. All sessions were attended by management, crown counsel, paralegals, and administrative staff.

## Reading Room

Section 8 of the *Access to Information Regulations* requires that institutions maintain a reading room where the public can review records. The PPSC's reading room is located on the 2<sup>nd</sup> floor of the East Memorial Building at 284 Wellington Street, Ottawa, Ontario. Individuals who wish to review records must schedule an appointment with the ATIP Office.

## Complaints and Investigations

To ensure that federal institutions comply with their access to information obligations and that all requesters are treated fairly and consistently, sections 41 to 53 of the *Access to Information Act* provide for a review of decisions made under the *Act*. The first level of review is a formal complaint to the Information Commissioner of Canada; the second is an appeal to the Federal Court.

During the reporting period, one (1) complaint was filed with the Office of the Information Commissioner of Canada against the PPSC. The Information Commissioner's finding was that the complaint was not substantiated.