



Public Prosecution
Service of Canada

Service des poursuites
pénales du Canada

Annual Report on the *Access to Information Act*

2009-2010



Canada

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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 2009-2010.

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.

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

Roles and Responsibilities of the Public Prosecution Service of Canada

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

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

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

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

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

Access to Information and Privacy (ATIP) Office

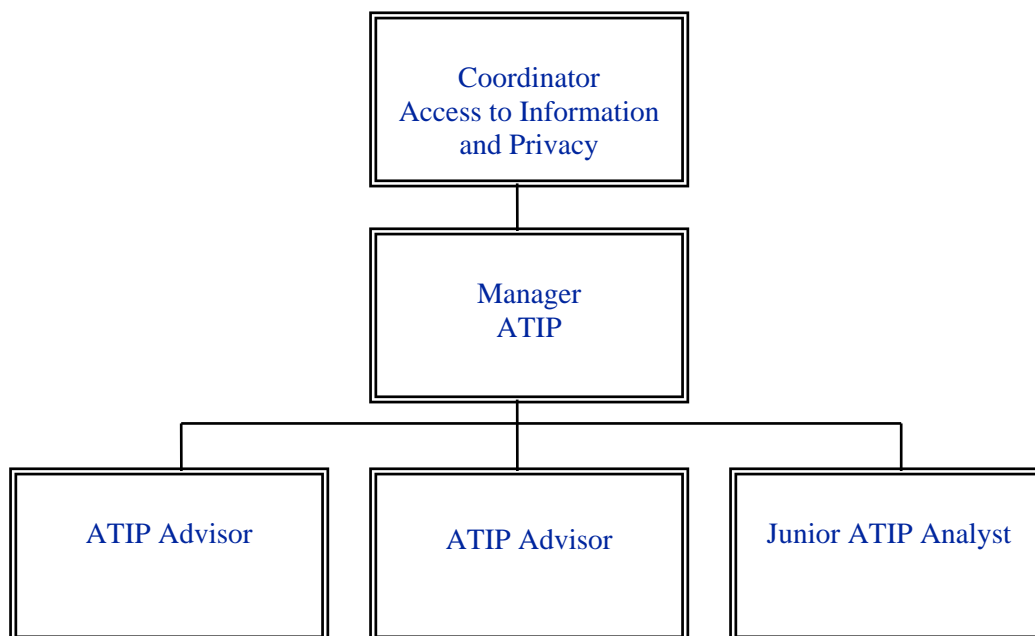
The ATIP Office is the focal point for the application of access to information and privacy legislation at the PPSC. The mandate of the ATIP Office is to implement and administer the *Access to Information Act* and the *Privacy Act*. The ATIP Office deals directly with the public in relation to access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

The ATIP Office undertakes the responsibility of the administration of the *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 ATIP forums, such as the Treasury Board Secretariat's ATIP Community meetings and working groups.

During the reporting period of April 1, 2009 to March 31, 2010, the ATIP Office faced challenges in recruiting and retaining experienced and qualified personnel. The Office's Processing Assistant position was reclassified to that of Junior ATIP Analyst to attract more qualified individuals who can perform analytical duties and allow for career progression.

Organizational Structure



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

A counsel in the Ministerial and External Relations Secretariat also provides legal advice to the ATIP Office on the application and interpretation of the *Access to Information Act*, its regulations, as well as relevant case law.

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 Executive Director and Senior Counsel, Ministerial and External Relations Secretariat, and also to the Manager of the Access to Information and Privacy Office. A copy of the Delegation Order can be found on the following page.

Access to Information Act and Privacy Act Delegation Order

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

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

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

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

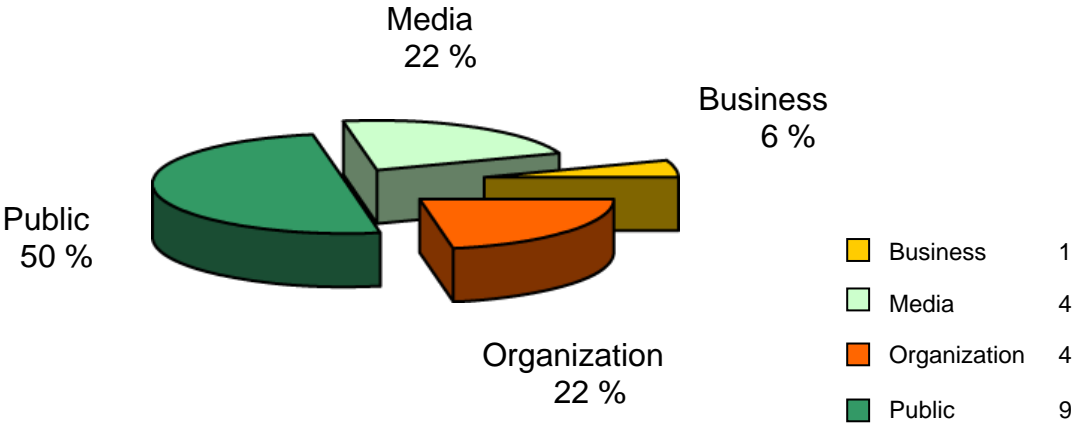
Statistical Report – Interpretation and Explanation

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

I. Requests under the *Access to Information Act*

The PPSC received eighteen (18) formal Access to Information requests during 2009-2010. Two (2) requests were carried over from the previous reporting period.

Sources of the Requests Received



The number of requests received from various sources changed somewhat from the 2008-2009 reporting year. The number of requests received from the public rose by 4%, business requests decreased by 14%, media requests rose by 15%, and requests received from organizations decreased by 5%.

II. Disposition of requests completed

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

	<i>Number of Requests</i>	<i>Percentage</i>
All disclosed	3	16%
Disclosed in part	8	42%
Nothing disclosed (excluded)	0	N/A
Nothing disclosed (exempt)	1	5%
Transferred	1	5%
Unable to process	3	16%
Abandoned by applicant	3	16%

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. Nothing disclosed (exempt)

In one (1) request, the information was exempted in its entirety pursuant to section 24 [Statutory prohibitions] of the *Act*.

b. Transferred

One (1) request was transferred to another government institution that had a greater interest in the subject matter of the request.

c. Unable to process

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

d. Abandoned

Three (3) requests were abandoned. The applicants did not provide the application fee and did not pursue the request.

III. Exemptions invoked

Section III of the Statistical Report illustrates the types of exemptions invoked by the PPSC in the processing of requests in accordance with the *Act*. For further details, please refer to Appendix A.

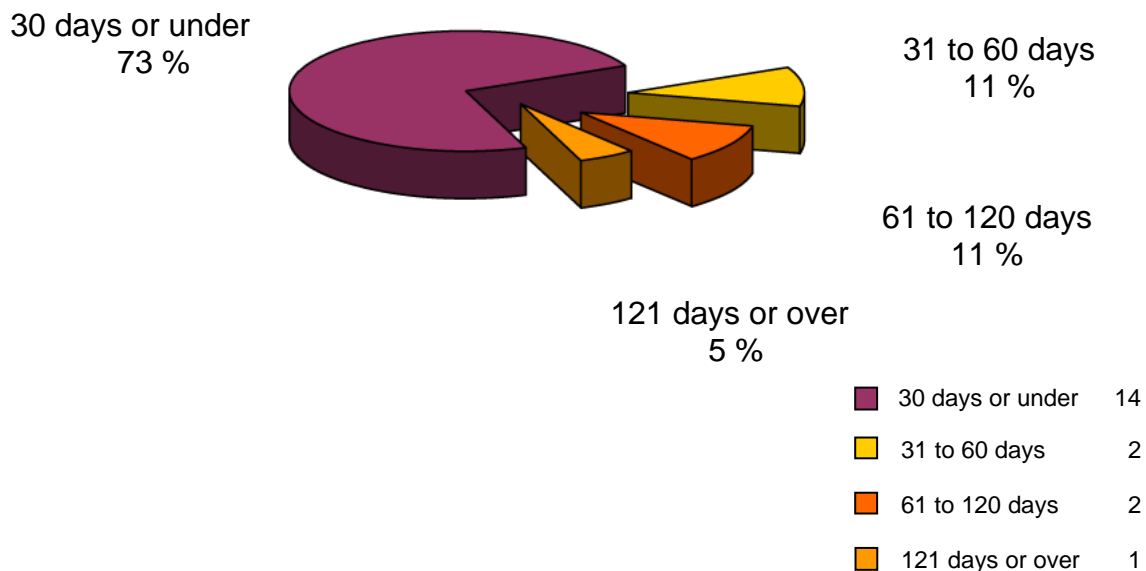
IV. Exclusions cited

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.

During the 2009-2010 reporting period, no exclusions pursuant to sections 68 and 69 of the *Act* were applied by the PPSC.

V. Completion time

The time required to process the nineteen (19) 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.

Six (6) extensions were taken during the 2009-2010 reporting period. The statutory deadlines for two (2) requests were extended as these requests were for a large number of records, or necessitated a search through a large number of records, and meeting the original time limit would have unreasonably interfered with the operations of the PPSC. In four (4) 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 of the Statistical Report 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 eleven (11) requests. Copies of material were provided in those 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 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 on a case-by-case basis.

The PPSC collected \$65.00 in application fees during 2009-2010. In addition, \$30.00 in fees was waived during this reporting period.

X. Costs

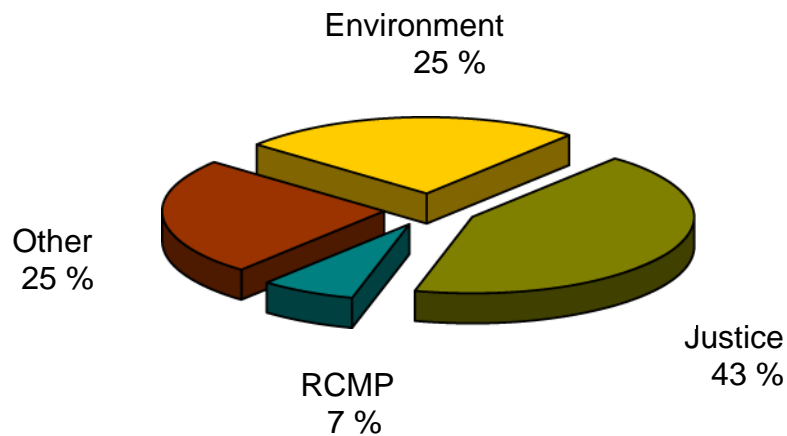
The PPSC spent a total of \$184,310.53 administering the *Access to Information Act*, of which salaries accounted for \$158,023.83 and operational costs accounted for \$26,286.70.

Consultations by Other Institutions

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

The PPSC received significantly more consultation requests than ATI requests during 2009-2010. In total, the PPSC responded to forty (40) Access to Information consultations from other organizations during the reporting period. Although this represents a decrease of twelve (12) consultations from the previous reporting period, the number of pages forwarded for review increased substantially. In effect, 10,160 pages were reviewed by the ATIP Office in response to consultation requests, representing an increase of 176% in volume over the previous reporting period.

The majority of consultation requests received were from the following organizations: Department of Justice (17); Environment Canada (10); and Royal Canadian Mounted Police (3). The records largely related to the prosecution of individuals or entities under Canadian federal statutes.



In the chart above, the category titled “Other” represents seven (7) organizations from which the PPSC received fewer than three (3) 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 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) 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 Activities

During this reporting period, a training and awareness session regarding the PPSC's ATIP processes and employee obligations under the *Access to Information Act* was conducted by the ATIP Office in the Yukon Regional Office. The session focused on the gathering of records relevant to a request and the life cycle of responding to a request. Although the number of attendees was not recorded, the session was very well attended by managers, Crown counsels, paralegals and administrative staff.

In addition to this training and awareness session, informal access to information-related training was provided to PPSC employees throughout the year on an ad hoc basis.

Access to Information-Related Policies, Guidelines and Procedures

The PPSC did not revise or implement any new access to information-related policies, guidelines or procedures during the 2009-2010 reporting period.

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 2nd 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 has not yet issued its finding, as the matter is still under investigation.

Appendix A - Statistical Report on the Access to Information Act 2009-2010



Government of Canada
Gouvernement du Canada

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

Institution Public Prosecution Service of Canada / Service des poursuites pénales du Canada				Reporting period / Période visée par le rapport 2009-04-01 to/à 2010-03-31	
Source	Media / Médias 4	Academia / Secteur universitaire 0	Business / Secteur commercial 1	Organization / Organisme 4	Public 9

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	18
Outstanding from previous period / En suspens depuis la période antérieure	2
TOTAL	20
Completed during reporting period / Traitées pendant la période visée par le rapport	19
Carried forward / Reportées	1

II Disposition of requests completed / Disposition à l'égard des demandes traitées					
1.	All disclosed / Communication totale	3	6.	Unable to process / Traitement impossible	3
2.	Disclosed in part / Communication partielle	8	7.	Abandoned by applicant / Abandon de la demande	3
3.	Nothing disclosed (excluded) / Aucune communication (exclusion)	0	8.	Treated informally / Traitement non officiel	0
4.	Nothing disclosed (exempt) / Aucune communication (exemption)	1	TOTAL		19
5.	Transferred / Transmission	1			

III Exemptions invoked / Exceptions invoquées							
S. Art. 13(1)(a)	0	S. Art. 16(1)(a)	1	S. Art. 18(b)	0	S. Art. 21(1)(a)	1
(b)	0	(b)	0	(c)	0	(b)	1
(c)	1	(c)	1	(d)	0	(c)	0
(d)	0	(d)	0	S. Art. 19(1)	8	(d)	0
S. Art. 14	1	S. Art. 16(2)	1	S. Art. 20(1)(a)	0	S. Art. 22	0
S. 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	1
Subversive activities / Activités subversives	0	S. Art. 18(a)	0	(d)	0	S. Art. 26	0

IV Exclusions cited / Exclusions citées			
S. Art. 68(a)	0	S. Art. 69(1)(c)	0
(b)	0	(d)	0
(c)	0	(e)	0
S. Art. 69(1)(a)	0	(f)	0
(b)	0	(g)	0

V Completion time / Délai de traitement	
30 days or under / 30 jours ou moins	14
31 to 60 days / De 31 à 60 jours	2
61 to 120 days / De 61 à 120 jours	2
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	0	3
Third party / Tiers	0	1
TOTAL	1	5

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

VIII Method of access / Méthode de consultation	
Copies given / Copies de l'original	11
Examination / Examen de l'original	0
Copies and examination / Copies et examen	0

IX Fees / Frais			
Net fees collected / Frais net perçus			
Application fees / Frais de la demande	65.00	Preparation / Préparation	0.00
Reproduction	0.00	Computer processing / Traitement informatique	0.00
Searching / Recherche	0.00	TOTAL	65.00
Fees waived / Dispense de frais		No. of times / Nombre de fois	\$
\$25.00 or under / 25 \$ ou moins		6	\$ 30.00
Over \$25.00 / De plus de 25 \$		0	\$ 0.00

X Costs Coûts	
Financial (all reasons) / Financiers (raisons)	
Salary / Traitement	\$ 158,023.83
Administration (O and M) / Administration (fonctionnement et maintien)	\$ 26,286.70
TOTAL	\$ 184,310.53
Person year utilization (all reasons) / Années-personnes utilisées (raison)	
Person year (decimal format) / Années-personnes (nombre décimal)	3.45

TBS/SCT 350-82 (Rev. 1999/03)



Appendix B - Supplemental Reporting Requirements

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