



Government of Canada
Privy Council Office

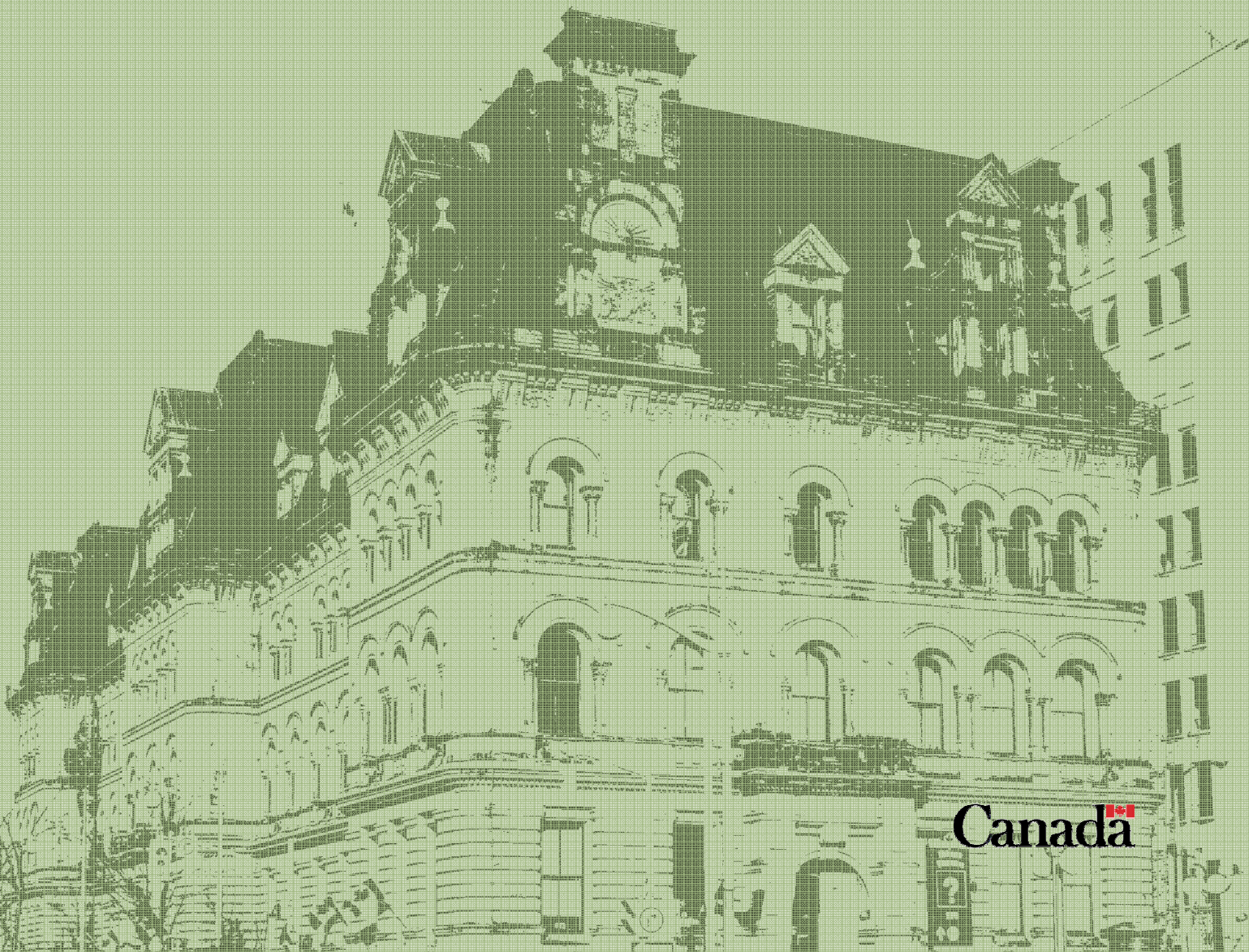
Gouvernement du Canada
Bureau du Conseil privé

ANNUAL REPORT TO PARLIAMENT
ON THE *ACCESS TO INFORMATION ACT*

2010-2011

PRIVY COUNCIL OFFICE

APRIL 1, 2010 TO MARCH 31, 2011



Canada

2010-2011 Annual Report to Parliament on the *Access to Information Act* Privy Council Office

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Introduction

The Privy Council Office (PCO) reports directly to the Prime Minister and is headed by the Clerk of the Privy Council and the Secretary to the Cabinet. The PCO is both the Cabinet secretariat and the Prime Minister's source of public service advice across the entire spectrum of policy questions and operational issues facing the Government.

The PCO also provides support to the Leader of the Government in the House of Commons, the Minister of State (Democratic Reform), the Minister of State and Chief Government Whip, the Leader of the Government in the Senate, and the Minister of Intergovernmental Affairs and President of the Queen's Privy Council for Canada.

The overall responsibilities of the Privy Council Office include:

- providing professional, non-partisan advice to the Prime Minister and Cabinet;
- managing the Cabinet's decision-making system, including coordinating Departmental policy proposals and conducting policy analysis;
- arranging and supporting meetings of Cabinet and Cabinet committees;
- advancing the development of the Government's agenda across federal departments and agencies and with external stakeholders;
- providing advice on the Government's structure and organization;
- managing the appointment process for senior positions in federal departments, Crown corporations and agencies;
- preparing Orders-in-Council and other statutory instruments to give effect to Government decisions;
- fostering a high-performing and accountable public service; and
- submitting an *Annual Report* to the Prime Minister on the state of the Public Service.

This is the 28th *Annual Report to Parliament* on the administration of the *Access to Information Act* by the PCO, submitted as required by section 72(1) of the *Act*. This report covers the reporting period of April 1, 2010 to March 31, 2011.

Additional copies of this report may be obtained from:

Access to Information and Privacy Division
Privy Council Office
55 Metcalfe Street, Room 1340
Ottawa, Ontario K1A 0A3

Access to Information and Privacy Division

The *Access to Information Act* provides a right of access to information in records under the control of government institutions. The *Act* is not a substitute for other access mechanisms, but is intended to complement other informal procedures that allow public access to government information. The *Act* stipulates that government information should be available to the public, necessary exceptions to the right of access should be limited and specific, and that decisions made by government institutions about the disclosure of information should be reviewed by a body independent of government.

The Access to Information and Privacy (ATIP) Division is the focal point for access to information and privacy within the Privy Council Office. The Division is responsible for managing requests for Departmental or personal information, ensuring corporate understanding and compliance with the *Access to Information Act* and the *Privacy Act*, and fostering corporate awareness of access and privacy rights and responsibilities. On matters of access and privacy, the ATIP Division also acts as a primary liaison with the Office of the Information Commissioner, the Office of the Privacy Commissioner, Treasury Board of Canada Secretariat, and partner Departments.

The ATIP Division at the PCO has 26 approved full-time equivalents that are organized into three functional areas of responsibility.

1) ATIP Policy and Processes

- Provides expertise in Access to Information and Privacy policy
- Optimizes operations performance
- Researches trends and best practices in Access to Information and Privacy

2) Operations

- Processes Access to Information and Privacy requests
- Oversees the collection and release of personal and/or business information
- Maintains dialogue with secretariats and other federal or provincial institutions

3) Client Services and ATIP Training

- Produces training and promotional products
- Develops and delivers ATIP training programs
- Develops ATIP awareness messaging
- Coordinates responses to Parliamentary questions and petitions
- Provides database administration

The ATIP Division also provides a reading room where the public may examine requested Departmental records, manuals, and publications related to access to information. This is in compliance with section 12(1) of the *Act*, which outlines that “A person who is given access to a record or a part thereof under this Act shall, subject to the regulations, be given an opportunity to examine the record or part thereof or be given a copy thereof.”

Access to Information Act Delegation Order

Access to Information Act

DELEGATION ORDER

The Prime Minister, as head of the Privy Council Office and pursuant to section 73 of the Access to Information Act^a, hereby designates the officers or employees holding the positions set out in the schedule hereto, and any persons acting in those positions, to exercise or perform the powers, duties and functions of the Prime Minister as the head of a government institution under the sections of the *Act* and the regulations opposite each position in the schedule.

This delegation order supercedes all previous delegation orders.

Loi sur l'accès à l'information

ARRÊTÉ DE DÉLÉGATION

Le Premier ministre, en sa qualité de responsable du Bureau du Conseil privé et conformément à l'article 73 de la Loi sur l'accès à l'information^a, délègue aux titulaires des postes énumérés en annexe, et à toutes autres personnes agissant dans ces postes de façon intérimaire, ses attributions à titre de responsable d'une institution fédérale aux termes des articles de la *Loi* et du règlement figurant en regard de chaque poste à l'annexe.

Le présent arrêté de délégation remplace et annule tout arrêté qui le précède.



Prime Minister / Premier ministre

June 13, 2008
Date

^a R.S. 1985, c. A-1 / L.R. 1985, ch. A-1

SCHEDULE / ANNEXE

Position / Poste	Sections of the Access to Information Act^a / Articles de la Loi sur l'accès à l'information^a	Sections of the Access to Information Regulations^b / Articles du Règlement sur l'accès à l'information^b
1. Clerk of the Privy Council and Secretary to the Cabinet. / <i>Greffier du Conseil privé et Secrétaire du Cabinet.</i>	Full delegation. / <i>Délégation entière.</i>	Full delegation. / <i>Délégation entière.</i>
2. Any senior management position within the Privy Council Office that reports directly to the position set out in paragraph 1 above. / <i>Tout poste de la haute gestion au sein du Bureau du Conseil privé, qui se rapporte directement au poste indiqué au paragraphe 1 ci-dessus.</i>	Full delegation. / <i>Délégation entière.</i>	Full delegation. / <i>Délégation entière.</i>
3. All Assistant Secretaries and Assistant Deputy Ministers within the Privy Council Office. / <i>Tous les Secrétaires adjoints et les Sous-ministres adjoints au sein du Bureau du Conseil privé.</i>	Full delegation. / <i>Délégation entière.</i>	Full delegation. / <i>Délégation entière.</i>
4. Any management position that is responsible for a unit within the Privy Council Office and that reports directly to a position covered by paragraph 2 above other than the Assistant Deputy Minister of Corporate Services Branch. / <i>Tout poste de gestionnaire qui est responsable pour une unité au sein du Bureau du Conseil privé et qui se rapporte directement à un poste envisagé au paragraphe 2 ci-dessus autre que le Sous-ministre adjoint de la Direction générale des services ministériels.</i>	Full delegation. / <i>Délégation entière.</i>	Full delegation. / <i>Délégation entière.</i>
5. Coordinator of Access to Information within the Privy Council Office. / <i>Coordonateur/trice de l'accès à l'information au sein du Bureau du Conseil privé.</i>	7; 8(1); 9; 10; 11(2); 11(3); 11(4); 11(5); 11(6); 12(2)(b); 12(3)(b); 13; 19; 20; 27(1); 27(4); 28(1)(b); 28(2); 28(4); 29(1); 33; 37(4); 43(1); 44(2).	6(1); 8.

^a R.S. 1985, c. A-1 / L.R. 1985, ch. A-1

^b SOR/83-507 / DORS/83-508

2010-2011 Statistical Report on the Access to Information Act



Government of Canada / Gouvernement du Canada

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

Institution Access to Information and Privacy Division / Division de l'accès à l'information et protection des renseignements personnels				Reporting Period / Période visée par le rapport 2010-04-01 to/à 2011-03-31	
Source	Media / Médias 395	Academia / Secteur universitaire 33	Business / Secteur commercial 68	Organization / Organisme 24	Public 127

Requests under the Access to Information Act / Demandes en vertu de la Loi sur l'accès à l'information	
Received during reporting period / Reçus pendant la période visée par le rapport	647
Outstanding from previous period / En suspens depuis la période antérieure	121
TOTAL	768
Completed during reporting period / Traitées pendant la période visée par le rapport	673
Carried Forward / Reportées	95

Disposition of requests completed / Disposition à l'égard des demandes traitées			
1. All Disclosed / Communication totale	49	6. Unable to process / Traitement impossible	203*
2. Disclosed in part / Communication partielle	342	7. Abandoned by applicant / Abandon de la demande	50
3. Nothing disclosed (excluded) / Aucune communication (exclusion)	15	8. Treated informally / Traitement non officiel	0
4. Nothing disclosed (exempt) / Aucune communication (exemption)	12	TOTAL	673
5. Transferred / Transmission	2		

Exemptions invoked / Exemptions invoquées							
S. Art. 13(1)(a)	41	S. Art. 16(1)(a)	6	S. Art. 18(b)	13	S. Art. 21(1)(a)	192
(b)	1	(b)	2	(c)	2	(b)	272
(c)	28	(c)	2	(d)	2	(c)	40
(d)	2	(d)	0	S. Art. 19(1)	307	(d)	13
S. Art. 14	134	S. Art. 16(2)	49	S. Art. 20(1)(a)	11	S. Art. 22	5
S. Art. 15(1) International rel. / Relations Intern.	1	S. Art. 16(3)	0	(b)	40	S. Art. 23	114
Defence / Défense	171	S. Art. 17	2	(c)	29	S. Art. 24	11
Subversive activities / Activités subversives	0	S. Art. 18(a)	10	(d)	13	S. Art. 26	2

Exclusions cited / Exclusions citées			
S. Art. 68(a)	21	S. Art. 69(1)(c)	31
(b)	2	(d)	15
(c)	0	(e)	89
S. Art. 69(1)(a)	56	(f)	7
(b)	2	(g)	113

Completion time / Délai de traitement	
30 days or under / 30 jours ou moins	386
31 to 60 days / De 31 à 60 jours	100
61 to 120 days / De 61 à 120 jours	64
121 days or over / 121 jours et plus	123

Extensions / Prorogations des délais			
	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus	
Searching / Recherche	58	20	
Consultation	22	162	
Third party / Tiers	6	35	
TOTAL	86	217	

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

Method of access / Méthode de consultation	
Copies given / Copies de l'original	385
Examination / Examen de l'original	3
Copies and examination / Copies et examen	3

Fees / Frais			
Net fees collected / Frais net perçus			
Application fees / Frais de la demande	\$3,365.00	Preparation / Préparation	\$0.00
Reproduction	\$510.00	Computer processing / Traitement informatique	\$0.00
Searching / Recherche	\$1,290.70	TOTAL	\$5,165.70
Fees waived / Dispense de frais		No. of times / Nombre de fois	\$
\$25.00 or under / 25 \$ ou moins		46	\$280.00
Over \$25.00 / De plus de 25 \$		9	\$876.80

Costs / Coûts	
Financial (all reasons) / Financiers (raisons)	(\$ 000)
Salary / Traitement	1685
Administration (O and M) / Administration (fonctionnement et maintien)	223
TOTAL	1908
Person year utilization (all reasons) / Années-personnes utilisées (raisons)	
Person year (decimal format) / Années-personnes (nombre décimal)	23.76

*"unable to process" = no records existed

Highlights of the Statistical Report

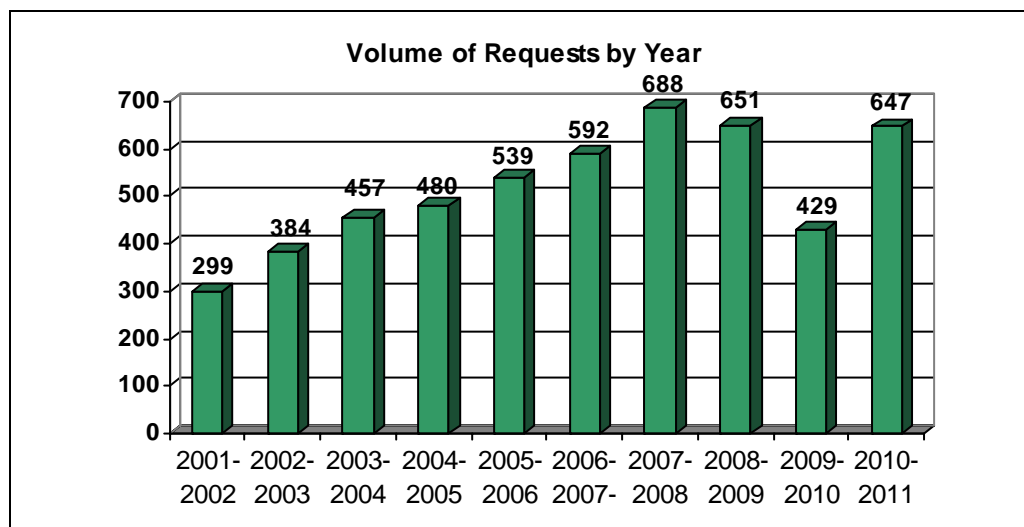
In 2010-2011, despite a 51% increase in access requests and an almost 40% increase in the volume of consultations received compared to the previous year, the Privy Council Office improved its performance in a number of areas. Productivity was up, with almost 25% more requests completed than in the previous year (673 vs. 545), achieved with only a moderate rise (10%) in full-time-equivalents. This efficiency meant fewer active on-time requests were carried forward into the new fiscal year (95 vs. 122 in 2009-2010). The PCO also significantly improved the timeliness of its response to clients. The percentage of total requests extended for more than 30 days dropped year-over-year, from 49% to 32%. The percentage of total requests requiring 121 days or more to complete also fell, from 37% in 2009-2010 to 18% this year.

The result of this improved performance was a reduction in complaints from clients. Year-over-year, complaints against the Department dropped 60% (164 to 66). Complaints by the media, which submit half or more of all access requests to the PCO, fell 74% over the same period, from 119 to 31.

Interpretation of the Statistical Report

a) Requests under the *Access to Information Act*

Between April 1, 2010 and March 31, 2011, the PCO received 647 requests for information under the *Access to Information Act*. This is a 51% increase from the number of requests received in 2009-2010, and the third-highest volume of requests on record, as shown below.



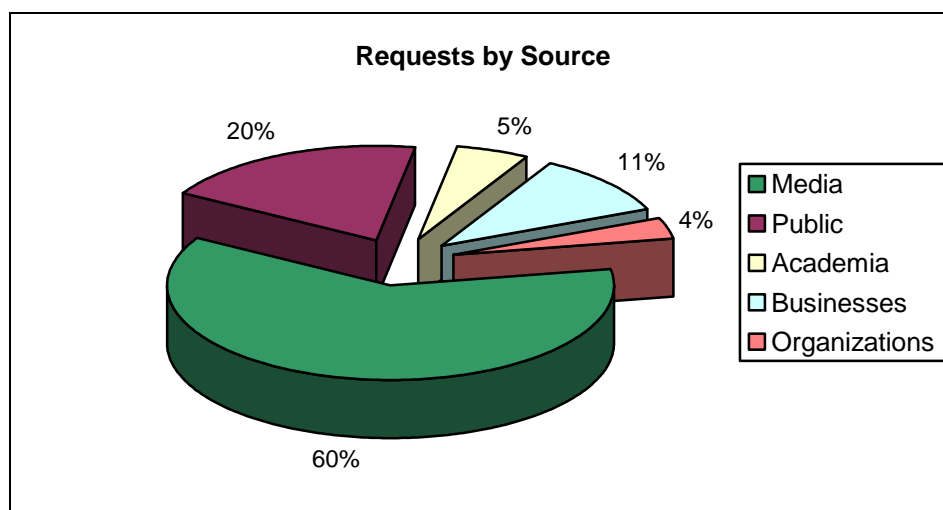
The volume increase was partly due to the number of requests from the media, which rose over 100% from the 2009-2010 reporting period. A total of 121 requests were outstanding from the previous fiscal year, and 95 were carried forward into 2011-2012.

b) Trends of the Requests Received

Over the past two years, the greatest number of requests came from, in order: the media, the public, businesses, academia, and organizations. The number of requests from all types of requesters increased in the 2010-2011 reporting period, with the exception of academia.

As shown in the chart below, the breakdown of the requests received during 2010-2011 is as follows:

- 395 or 60% from the media
- 127 or 20% from the public
- 68 or 11% from businesses, including 38 from lawyers
- 33 or 5% from academia
- 24 or 4% from organizations, including 19 from Parliament (members of the House of Commons or Senate)



While access requests from Parliament increased slightly from 15 in 2009-2010 to 19 this year, this figure remains less than half of the total number of requests received from Parliament in 2008-2009 (40). This coincides with a steady rise in Parliamentary written questions tasked to the Department over the last three reporting periods, from 33 in 2008-2009 to 164 in 2010-2011.

c) Types of Information Requested

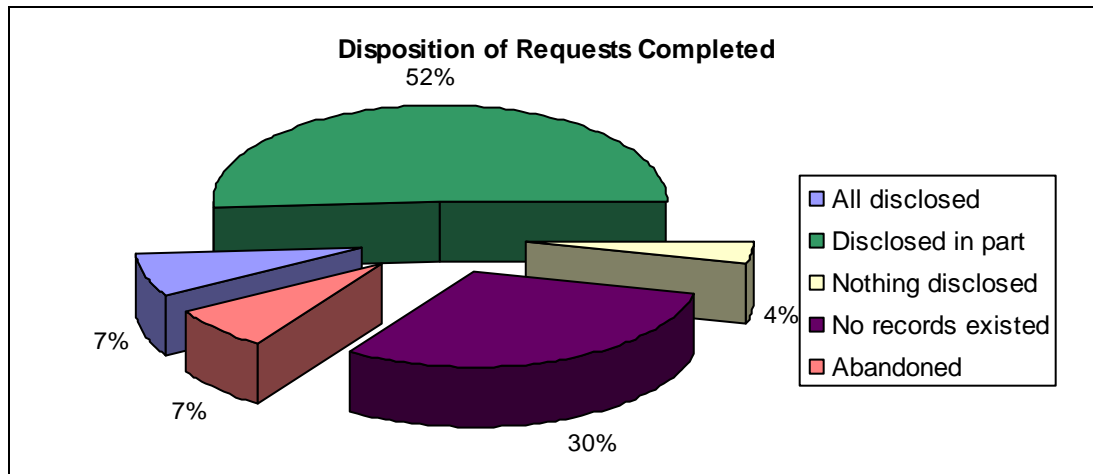
Just as the source of requests varied, so did the subject of requests received. Subjects included:

- Afghanistan and Afghan detainee documents
- Records on Canada's Economic Action Plan
- Briefing notes to the Prime Minister for various time periods
- Contracts and call-ups
- Cabinet minutes

d) Disposition of Requests Completed

In 2010-2011, the PCO completed 673 requests. As shown in the chart below, the breakdown of the disposition of records is as follows:

- 342 or 52% were disclosed in part
- 49 or 7% were released entirely
- 27 or 4% were entirely withheld pursuant to the *Act* – 12 were withheld under exemptions, and 15 were excluded from release



As these figures indicate, 391 or 59% of the requests were fully or partially disclosed. While this percentage represents a decrease in the release of information compared to the 2009-2010 reporting period (72%), it is qualified by the increase in the percentage of requests where no records existed (“unable to process”), which doubled year-over-year (from 96 to 203).

Note that the Treasury Board Secretariat uses the terminology “unable to process” at Part II (6) of the statistical report. However, these requests were processed. No records were found to exist in response to the requests.

The percentage of requests where nothing was disclosed remained relatively the same at 4%.

The breakdown of the disposition for the remaining requests is as follows:

- 203 or 30% no records existed (“unable to process”)
- 50 or 7% were abandoned by the applicant
- 2 were transferred to another Department

e) Exemptions Invoked

Although the *Act* promotes disclosure, there are instances where information qualifies for necessary protection under the *Act*.

Totals for the six most commonly used exemptions during 2010-2011 were, in order:

- 307 under subsection 19(1) – personal information
- 272 under paragraph 21(1)(b) – consultations or deliberations related to operations of government
- 192 under paragraph 21(1)(a) – advice or recommendations developed by or for a government institution or minister
- 171 under subsection 15(1) – international affairs and defence
- 134 under Section 14 – federal-provincial affairs
- 114 under Section 23 – solicitor-client privilege

In compliance with the reporting requirements for the 2010-2011 statistical report to Parliament on the *Access to Information Act*, additional information is provided on exemptions. The following exemptions were not invoked during the 2010-2011 reporting period:

Paragraph 13(1)(e) – information obtained in confidence from an aboriginal government

Subsection 16.1(1)(a) – records related to investigations for the Auditor General of Canada

Subsection 16.1(1)(b) – records related to investigations for the Commissioner of Official Languages for Canada

Subsection 16.1(1)(c) – records related to investigations for the Information Commissioner

Subsection 16.1(1)(d) – records related to investigations for the Privacy Commissioner

Subsection 16.2(1) – records related to investigations for the Commissioner of Lobbying

Subsection 16.3 – records related to investigations under the *Canada Elections Act*

Subsection 16.4(1)(a) – records related to investigations under the *Public Servants Disclosure Protection Act* for the Public Sector Integrity Commissioner

Subsection 16.4(1)(b) – records from a conciliator related to investigations under the *Public Servants Disclosure Protection Act* for the Public Sector Integrity Commissioner

Subsection 16.5 – records related to a disclosure under the *Public Servants Disclosure Protection Act*

Subsection 18.1(1)(a) – records related to the economic interests of the Canada Post Corporation

Subsection 18.1(1)(b) – records related to the economic interests of Export Development Canada

Subsection 18.1(1)(c) – records related to the economic interests of the Public Sector Pension Investment Board

Subsection 18.1(1)(d) – records related to the economic interests of VIA Rail Canada Inc.

Subsection 20(1)(b.1) – third party information related to emergency management plans

Subsection 20.1 – third party investment information obtained by the Public Sector Pension Investment Board

Subsection 20.2 – third party investment information obtained by the Canada Pension Plan Investment Board

Subsection 20.4 – performance contracts with the National Arts Centre Corporation

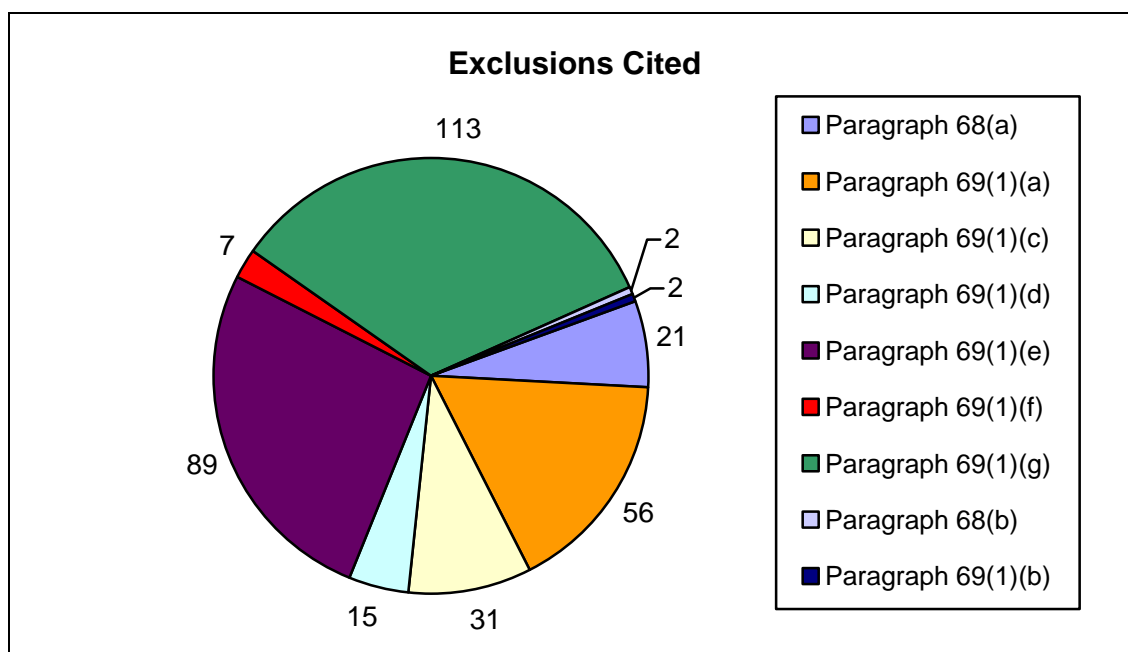
Subsection 22.1(1) – draft internal audits less than 15 years old

f) Exclusions Cited

The *Act* does not apply to certain information described by Section 68 of the *Act* or to confidences of the Queen's Privy Council pursuant to Section 69. These exclusions are:

- Paragraph 68(a) – published material
- Paragraph 68(b) – museum or library material
- Paragraph 68(c) – material donated to Canadian museums or archives
- Paragraph 69(1)(a) – memoranda to Cabinet
- Paragraph 69(1)(b) – discussion papers
- Paragraph 69(1)(c) – agenda and records of Cabinet deliberations
- Paragraph 69(1)(d) – records of communication between Ministers
- Paragraph 69(1)(e) – records to brief Ministers
- Paragraph 69(1)(f) – draft legislation
- Paragraph 69(1)(g) – records containing information about Cabinet confidences

In 2010-2011, Section 68 was invoked 23 times, and Section 69 was invoked on 313 occasions.



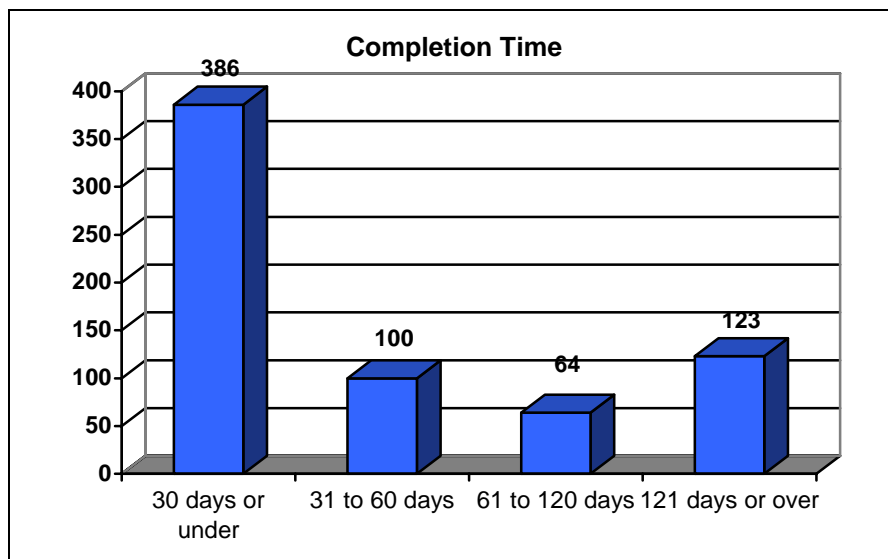
In compliance with the reporting requirements for the 2010-2011 statistical report to Parliament on the *Access to Information Act*, additional information is provided on exclusions. The following exclusions were not cited during the 2010-2011 reporting period:

- Subsection 68.1 – journalistic, creative or programming records of the Canadian Broadcasting Corporation
- Subsection 68.2(a) – administrative records of Atomic Energy of Canada Limited
- Subsection 68.2(b) - operational records of Atomic Energy of Canada Limited
- Subsection 69.1(1) – disclosure prohibited by a certificate under the *Canada Evidence Act*

g) Completion Time

Section 9 of the *Act* provides for the extension of the statutory time limits if consultations are necessary, or the request is for a large volume of records and processing the request within the original time limit would unreasonably interfere with the operations of the Department.

As shown in the chart below, out of 673 requests, the PCO completed 386 in 30 days or under. Expressed as a percentage of total requests, 57% were completed in 30 days or less, similar to the 59% of the previous year. However, the percentage of total requests requiring 121 days or more to complete dropped from 37% in 2009-2010 to 18% (123) this year, a significant reduction in turnaround times and an improvement in the timeliness of response to clients.



h) Extensions of Time Limits

During the 2010-2011 reporting period, 13% of total requests (86) were extended for 30 days or less, up from 6% of total requests in 2009-2010. However, the percentage of total requests extended for more than 30 days dropped year-over-year, from 49% to 32%. This represents a substantial reduction in processing time and an improvement in timeliness of response to the public.

The breakdown of types of extensions taken in 2010-2011 is as follows:

- 184 or 61% for consultations with other government institutions
- 78 or 26% for large-scale searches
- 41 or 13% for third party consultations

i) Translations

The *Act* states at section 12(2) that “where access to a record or a part thereof is to be given under this Act and the person...requests that access be given in a particular official language, a copy of the record or part thereof shall be given to the person in that language”, (a) if the record already exists in that language, or (b) if the head of the government institution considers its translation in the public interest. There were no translations requested during the reporting period.

j) Method of Access

The PCO provides records in hard copy only. Applicants have the option of receiving the response by mail or by picking it up in person. Nearly all replies are sent to the applicant by mail.

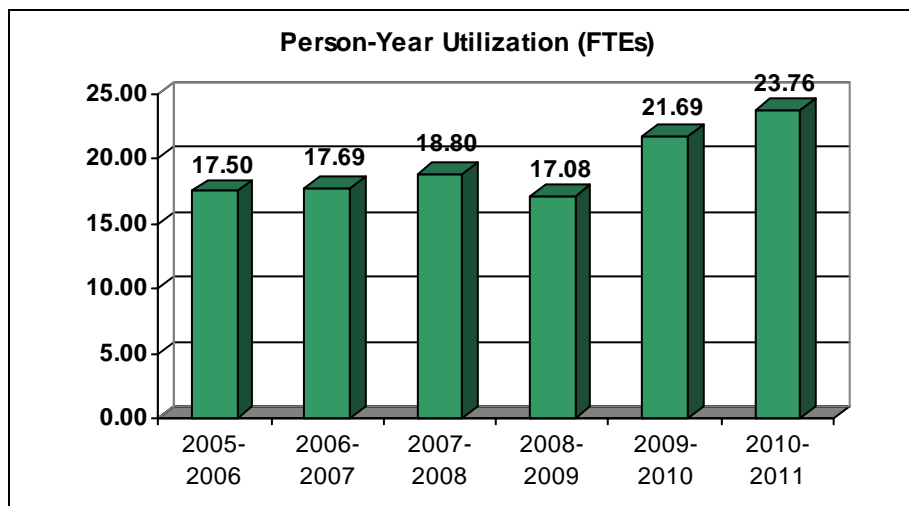
k) Fees

The fees collected during the reporting period totalled \$5,165.70. The PCO collected \$3,365.00 in application fees. In 2010-2011, the PCO waived fees totalling \$1,156.80 – nearly 84% of instances were for photocopying fees less than \$25.

l) Costs

Total salary costs associated with administration of the *Access to Information Act* are estimated at \$1,711,562.68 for 2010-2011, an increase from \$1,606,900.00 in 2009-2010. Administrative costs amounted to \$227,024.80, a decrease from \$661,819.00 in 2009-2010. These costs do not include the resources expended by program areas of the Department to meet the requirements of the *Act*.

It remains a challenge to attract and retain ATIP personnel, given the shortage of qualified analysts across the federal government. The associated person-year resource utilization for the 2010-2011 reporting period was 23.76 full-time equivalents (FTEs) out of 26 approved FTEs. As shown in the chart below, this is an increase in resources over the 21.69 FTEs of the previous year and the highest FTE resource level in recent years, reflecting the Department's commitment to recruitment and retention of ATIP expertise.



Consultations

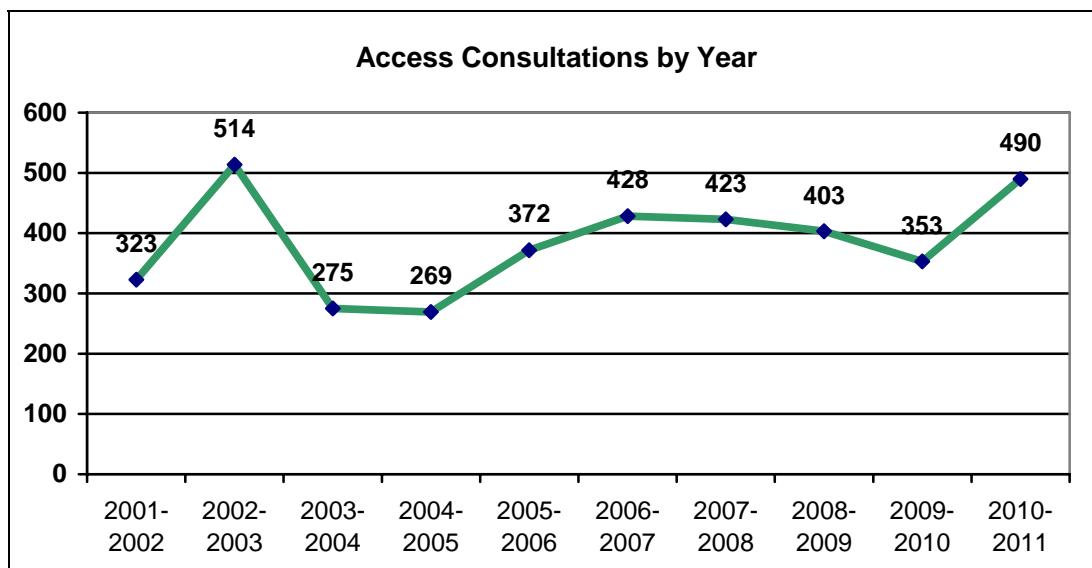
a) External Consultations

The interdepartmental nature of information in many records under the control of the PCO continues to necessitate external consultations. This requirement is the principal reason why some requests take an extended length of time to process, although it was possible to respond to 57% of access requests within 30 days. In addition, it was frequently necessary to consult with third parties, such as businesses and organizations.

The PCO sent out 141 consultations to other government institutions.

b) Consultations Received from Other Government Institutions

The number of consultation requests received from other government institutions increased significantly since the last reporting period, from 353 in 2009-2010 to 490 in 2010-2011. As shown in the chart below, this is the second-highest volume of consultations received by the Department in the last ten years. Consultation volumes are a factor in workload, as their processing requires resources at a level similar to that of access requests.



The following departments and institutions frequently sought the views of the PCO during this reporting period:

- Department National Defence
- Department of Foreign Affairs and International Trade
- Canadian Security Intelligence Service
- Department of Finance
- Royal Canadian Mounted Police
- Environment Canada
- Public Safety Canada

c) Consultations with PCO Cabinet Confidences Counsel

In accordance with Treasury Board guidelines, the PCO consults with PCO Cabinet Confidences Counsel (CCC) for the review and certification of Cabinet confidences contained in government records. The PCO Access to Information and Privacy Division (PCO-ATIP) sent 51 consultations to PCO-CCC in the reporting period versus 136 in 2009-2010.

Education and Training Activities

PCO promotes access to information imperatives in face-to-face meetings, presentations, special events, learning products, on the Intranet and through its training program. It fosters responsible working relationships with clients, and operates under a clearly elaborated timeline.

The PCO delivered ATIP training or awareness sessions to 242 employees through a total of 60 training events during the reporting year. Of these training events, 48 were training sessions presented jointly with Corporate Information Services Division, including 32 delivered in English, and 16 in French. These joint sessions form an integral part of the orientation program for employees new to the PCO. The PCO-ATIP Director met with officials of portfolio Ministers to detail the ATIP business environment and promote understanding. The PCO Executive Committee was also briefed on access statistics, performance and compliance. ATIP senior staff met with senior officials in PCO Secretariats to clarify roles and strengthen the working relationship. PCO-ATIP analysts liaised with clients on a regular basis to explain the five-stage request timeline, train on processes such as record search or review, and make expectations clear. The access business process is elucidated through a 24-page booklet, learning materials, and electronic resources maintained on the PCO Intranet.

In fall 2010, PCO-ATIP developed and delivered an electronic presentation to all 900 PCO staff promoting compliance with the Act. ATIP content on the internal website was also updated to reflect streamlined approval procedures for access to information requests.

Information-Related Policies, Guidelines, and Procedures

a) Technological Change

In the second quarter of 2010, following testing and validation, the Department brought into service a redesigned version of its case management software. The program contains more comprehensive reporting and document management functions than the outgoing version, and will facilitate the completion of expanded Statistical Reports brought into effect by the Treasury Board in April 2011.

b) Co-location

Recognizing the value to the access to information process that co-location of ATI staff provides, the PCO secured additional floor space adjacent to one of two current PCO access to information worksites in Ottawa, Ontario. Consolidation of all ATI staff in this expanded workspace is planned for spring 2011. The move will increase oversight, improve communication and reduce logistical movement in the processing of records.

c) Cabinet Confidence Schedule Optimization

While an automated Certification schedule function in upgraded software adopted by the Department was expected to expedite the consultation process with PCO Cabinet Confidences Counsel, technical deficiencies were found. These issues were brought to the attention of the software manufacturer late in the reporting year, and adjustments will be made to ensure that technical performance meets Departmental requirements.

d) Turnaround Times Reduced

Over the reporting year, the Department continued to monitor its ATI business model and extract efficiencies from its work process. Areas under review included consultations with other organizations, and the use of extensions permitted under the ATIA. As a result of these efforts, average completion times were reduced from an average 157 days in 2009-2010 to 132 days in 2010-2011, when requests from previous years are included. With carryover requests excluded, the average completion time drops from an average of 78 days in 2009-2010 to 38 days this past year, a significant improvement in service to the public.

Other Activities

a) User Finding Aids

User finding aids were available in the public Reading Room located in the Access to Information and Privacy office. An index of Cabinet agenda title items served as a guide in identifying subject areas in Cabinet records which, after 20 years, are subject to the *Act*.

The federal *Info Source* and the Governor in Council Appointments Guides were also available to the public. ATIP staff members assisted those who wished to consult these resources.

The Reading Room is located at:

Access to Information and Privacy Division
Privy Council Office
55 Metcalfe Street, Room 1340
Ottawa, Ontario

b) Processing of Informal Access Requests

Requests are treated informally when it has been determined that, through consultation with the applicant, processing a formal request can be discontinued in favour of providing the information informally, i.e. outside the processes defined by the *Act*. No requests were processed in this manner by the PCO during the reporting period.

c) Proactive disclosure

In compliance with mandatory proactive disclosure requirements for government organizations, the Privy Council Office website (www.pco-bcp.gc.ca) continued to make available information

concerning PCO travel and hospitality expenses, reclassification of positions, contracts over \$10,000, and grant and contribution awards.

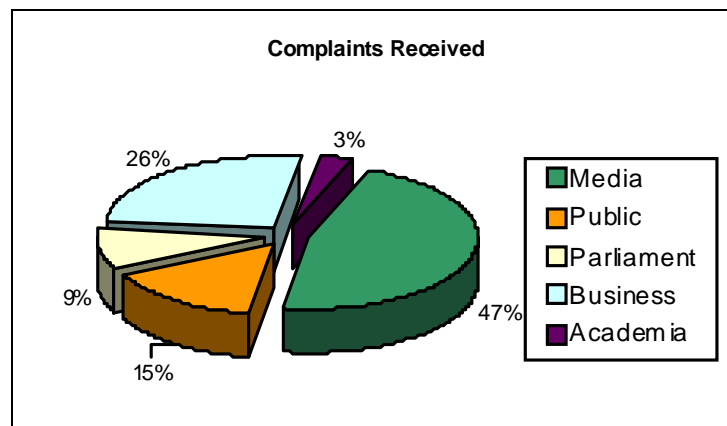


Complaints and Investigations

a) Complaints Received

In 2010-2011, the PCO received 66 complaints pursuant to the *Act*, with the majority of complaints related to exemptions taken. As it continued to extract efficiencies in its work processes, the Department made progress in the reduction of complaints. Year-over-year, complaints against the Department dropped 60% (164 to 66). Notably, while the volume of media requests rose from 192 in 2009-2010 to 395 in 2010-2011, media complaints against the Department fell 74% over the same period, from 119 to 31. The breakdown of complaints received in 2010-2011 is as follows:

- 31 or 47% from the media
- 17 or 26% from businesses, with 14 from lawyers
- 10 or 15% from the public
- 6 or 9% from Parliament (members of the House of Commons or Senate)
- 2 or 3% from academia



b) Types of Complaints

In the 2010-2011 reporting period, complaints related to extensions taken for consultations, the use of exemptions and/or exclusions, photocopying and search fees, and instances where the complainant alleged that records should exist.

c) Investigations

In February 2011, the Office of the Information Commissioner (OIC) commenced its investigation into interference in access to information at the Privy Council Office, one of eight government organizations selected for systemic review. Departmental staff, including the ATIP Director and Deputy Directors, met with OIC investigators on site to analyze specific requests, provide information, and discuss the Department's business procedures in responding to requests. The investigation continues into the 2011-2012 fiscal year.

Court Cases

In May 2008, the Federal Court heard arguments in the matter of *Canada (Information Commissioner) v. Canada (Prime Minister, Ministers of National Defence and Transport and the Commissioner of the RCMP)*.

The two principal issues were whether certain records in the Ministers' Offices are under the control of the government institution, and whether the Prime Minister is an officer or an employee of the Privy Council Office.

The decision of the Federal Court was rendered on June 19, 2008. The Court found that while a minister is the head of that Department, it does not make the minister, or his or her office, a component part of the Department. The Court concluded that Parliament did not intend that the PMO or ministerial offices be implicitly included as a component part of the government institutions listed in Schedule I of the *Act*.

In regard to what constitutes a record "under the control of a government institution", the Court found that if a document was prepared by someone in a Minister's office, was to be used for the sole purposes of the Minister's office, and if no government or Departmental official has, or should have, a reasonable expectation of obtaining a copy of it, then that document is not under the control of the government institution for the purposes of the *Act*.

On June 28, 2009, the Federal Court of Appeal unanimously dismissed an appeal of that decision by the Information Commissioner and further ruled that the Prime Minister is neither an officer nor an employee of the Privy Council Office in relation to the *Act*.

The Information Commissioner was granted leave to appeal by the Supreme Court of Canada. The Court heard arguments in October 2010. On May 13, 2011, the Supreme Court upheld the decision of the Federal Court of Appeal.