

# Health Canada

## Annual Report on the *Access to Information Act* and the *Privacy Act*

2019-2020

**Health Canada is the federal department responsible for helping the people of Canada maintain and improve their health.** Health Canada is committed to improving the lives of all of Canada's people and to making this country's population among the healthiest in the world as measured by longevity, lifestyle and effective use of the public health care system.

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Rapport annuel 2019-2020 sur la *Loi sur l'accès à l'information* et la *Loi sur la protection des renseignements personnels*

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# Introduction

Health Canada is pleased to present to Parliament its consolidated annual report on the administration of Access to Information and Privacy (ATIP) services, in accordance with section 94 of the *Access to Information Act* (ATIA), section 72 of the *Privacy Act* and section 20 of the *Service Fees Act*. The report describes activities that support compliance with these laws for the fiscal year beginning April 1, 2019 and ending March 31, 2020.

This is the first time that Health Canada is tabling a report that combines the reports on the delivery of services under the ATIA and the *Privacy Act*, while ensuring the requirements of each are clearly laid out. The delivery of these programs are very much intertwined, and thus, in the spirit of transparency, ease of access, efficiency, and continuous improvement, an integrated report outlining the department's accomplishments in delivering these services to Canadians is presented.

## About Health Canada

Health Canada is the federal department responsible for helping the people of Canada maintain and improve their health. Health Canada has regional offices in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, and the Atlantic and Northern Regions.

For more information about Health Canada, please [visit our website](#).

## Purpose of the Acts

The ATIA gives Canadian citizens and permanent residents of Canada the right to access information contained in federal government records, subject to certain specific and limited exceptions. The ATIA complements, but does not replace, other means of obtaining government information.

The Privacy Act protects an individual's privacy by setting out provisions related to the collection, retention, accuracy, disposal, use and disclosure of personal information. It also gives Canadian citizens and permanent residents of Canada the right of access to information about themselves held by the federal government, with certain specific and limited exceptions.

# Organizational Structure

Responsibilities for ATIP services are divided between two Divisions, both housed under the Planning, Integration and Management Services Directorate (PIMSD) of Health Canada's Corporate Services Branch (CSB). ATIP Operations Division manages the processing of requests under both the ATIA and the *Privacy Act*, while the Privacy Management Division is responsible for privacy policy and providing guidance to programs.

## Access to Information and Privacy Operations Division

The ATIP Coordinator oversees the development, coordination and implementation of policies, guidelines, systems and procedures that ensure the effective processing of requests made under the ATIA and the *Privacy Act*. In addition, ATIP Operations Division reviews information to support various disclosures such as appropriate sharing of investigation reports and proactive publication under Part 2

of the ATIA, as well as supporting Parliamentary Affairs in the collection and review of records for Parliamentary Motions to Produce Papers. The ATIP Coordinator is also responsible for the implementation of relevant government-wide policies, systems and procedures.

In 2019–2020, ATIP Operations was made up of 66.35 full-time equivalent (FTE) employees with the support of consultant services (5.32 FTEs), part-time and casual employees (2.12 FTEs), and a student (0.42 FTEs) for a total complement of 74.22 FTEs. This includes staff administering both the ATIA and the *Privacy Act*.

## Privacy Management Division

The primary functions of the Privacy Management Division (PMD) include ensuring compliance of Health Canada's program delivery with the provisions of the *Privacy Act* and the policies and directives of the Treasury Board Secretariat (TBS). Responsibilities include:

- The development of privacy policies, procedures and practices;
- The delivery of privacy training and awareness programs to staff;
- Assessing and reporting on privacy breaches;
- Coordinating the department's input of InfoSource; and
- Providing privacy analysis and advice using a number of tools including Privacy Impact Assessments (PIA) and Privacy Protocols.

In 2019-2020, PMD was made up of 6.99 full-time equivalent (FTE) employees with the support of 1.06 FTEs in consultant services, as well as part-time and casual employees of 1.74 FTEs, for a total resource complement of 9.79 FTEs. These figures include administrative support, management, reporting, monitoring, advisory services and policy resources, which contribute to the overall support of the operations of the application of the *Privacy Act*.

## Service Agreement

ATIP Operations Division and PMD provide services to both Health Canada and Public Health Agency of Canada, and do so as part of the Shared Services Partnership Agreement. The changes to the ATIA and *Privacy Act* enacted in June 2019 (Bill C-58) did not impact the way these services are delivered to both institutions.

Although ATIP services are provided to both institutions, the statistics and financial data provided in this report are only for Health Canada.

## Governance

Initiatives related to access to information and privacy are governed through the ATIP EX Leaders Committee. This committee is made up of executive-level representatives from across the department who provide leadership and strategic direction on key topics and communicate them within their respective branches. The committee is chaired by the Director General, PIMSD, CSB, who is responsible for the ATIP Operations Division and the Privacy Management Division.

ATI and privacy matters requiring a higher level of oversight are also brought forward to Health Canada's Executive Committee for strategic direction.

# Delegation of Authority

In keeping with Treasury Board Secretariat (TBS) recommendations on best practices, the Delegation Order extends authorities to multiple positions including the Deputy Minister, the Corporate Services Branch’s Assistant Deputy Minister, the Director General of Planning Integration and Management Services Directorate, and the ATIP Coordinator. As appropriate, certain administrative authorities are delegated to various senior levels within the ATIP Operations Division and PMD to support the effective and efficient administration of the ATIA and the *Privacy Act*. The most recent delegation order, signed by the Minister of Health, is included in this report ([Appendix A](#)).

## Performance for 2019-2020

In 2019-2020, Health Canada received 3,069 requests and responded to 3,331. In order to ensure that headway is being made on reducing the inventory of active requests, in addition to striving to meet legislated timelines, Health Canada’s operational goal is to close as many requests as received.

Type of Request	Received	Closed
Access to Information	2,087	2,153
Access Informal	747	942
Privacy	235	236
<b>Total</b>	<b>3,069</b>	<b>3,331</b>

The following section of the report includes an interpretation and explanation of the data contained in Health Canada’s Statistical Report, which summarizes Access to Information (ATI) and Privacy-related activity for the period between April 1, 2019 and March 31, 2020 ([Appendix B – ATI](#) and [Appendix C – Privacy](#)).

### ***Access to Information Act***

#### **Informal Requests**

Requests can be made for records previously released under the ATIA, which are referred to as ‘Access Informal Requests’. Summaries of previously released ATI requests are posted monthly on the [Open Government](#) website, as part of the Government of Canada’s commitment to openness and transparency. Health Canada processed 942 Access Informal requests in 2019-2020, an increase of 368 over the previous year.

#### **Caseload and Carry Forward**

In 2019-2020 Health Canada received 2,087 new ATI requests, an increase of 145 from the previous year. This set a new record for number of requests received by Health Canada in a year. The ATIP Operations Division has continued to take steps to manage the increasing volume, including hiring

additional staff, taking steps to increase employee retention, and adjusting processes to find efficiencies. These measures enabled Health Canada to close more ATI requests than were received, with 2,153 closed during the year. The Department was on track to break its record of closing 2,255 ATI requests (set in 2018-19), however the abrupt slowdown experienced in March due to COVID-19 measures did not make this possible. Nonetheless, Health Canada managed to close 66 more ATI requests than received and is therefore carrying forward fewer files than in the previous year.

### Access to Information Requests Received & Completed

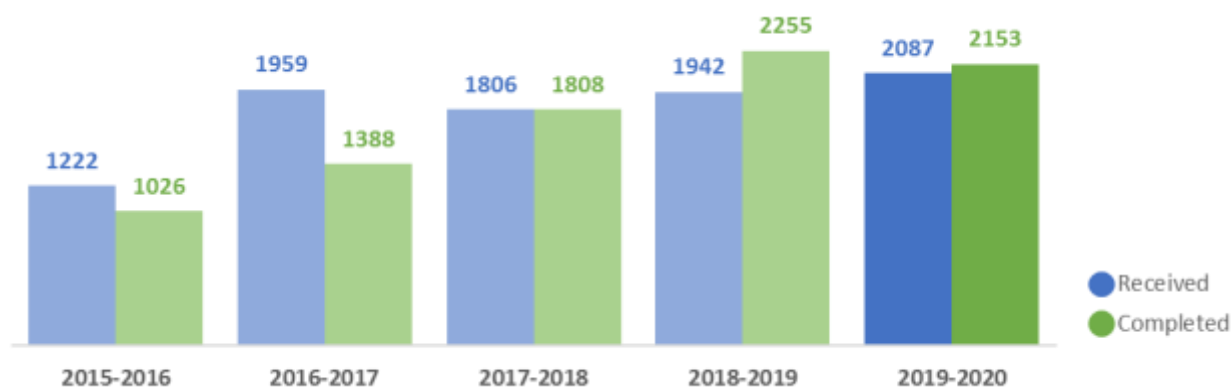


Figure 1 ATI Requests Received and Completed each fiscal year from 2015-2016 to 2019-2020

### Key Statistics by Fiscal Year

Fiscal Year	Number of Requests Received	Number of Requests Carried Over	Total Caseload	Number of Requests Closed	# of Pages Reviewed for Closed Files
2015-2016	1,222	851	2,073	1,026	214,792
2016-2017	1,959	1,047	3,006	1,388	1,891,795*
2017-2018	1,806	1,612	3,418	1,808	374,021
2018-2019	1,942	1,610	3,552	2,255	955,667
2019-2020	2,087	1,289	3,376	2,153	320,066

\*Note that this number includes 1.4 million pages on one subject matter that was later abandoned.

### Source of Requests Under the Access to Information Act

The majority of Health Canada’s ATI requests come from private businesses, mostly in the health sector (pharmaceutical, medical devices, natural health products, etc.), requesting records related to their competitors or their own corporation. Almost 50% of requests received this year were from private businesses, an increase of 7% over last year. Due to the nature of the records that these corporations request, Health Canada conducts a large number of third party consultations, as many records involve confidential business information, sometimes of multiple parties. In addition, records often contain highly technical and scientific information, which can be complex to review.

14% of requests came from both organizations and media and 13% from the general public.



## Proportion of Requests Among Sources

Source	Number of Requests	Proportion of Requests	Change from 2018-2019
Business (Private Sector)	1,040	50%	+7%
Organizations (e.g. political party, association, union)	297	14%	+9%
Media	284	14%	-12%
Public	277	13%	0%
Decline to Identify	132	6%	-4%
Academia	57	3%	0%
<b>Total</b>	<b>2,087</b>	<b>100%</b>	

## Processing Time for Requests

A total of 1,294 requests (60%) were processed within the legislated timeline. The majority of files where legislated timelines were not met were due to interference with operations (i.e. workload).

## Extensions

The vast majority of extensions (68%) invoked under the ATIA were to conduct consultations with third parties, while only 17% were due to voluminous records (interference with operations). Of the 2,087 files closed in 2019–2020, Health Canada invoked 1,307 extensions under section 9(1) of the ATIA.

Completing third party consultations is a necessary step in the process, enabling Health Canada to release as much information as possible. Over the last several years, at the departmental level, Health Canada has made accessible increasingly more information, continuously reassessing the balance between its commitment to openness and transparency, with the need to safeguard confidential business information. Health Canada's commitment to transparency can be at odds with the views of third parties, who routinely challenge Health Canada's proposed release of information, by seeking judicial review of Health Canada's intended disclosure.

## Consultations Completed From Other Institutions

In addition to processing its own requests, Health Canada also completes consultations received from other institutions and organizations to consent to the disclosure of the Department's information. In 2019-2020, Health Canada completed 267 consultations received from other Government of Canada institutions and 27 from other organizations, reviewing 13,681 pages of records. In the majority of cases, Health Canada consented to full disclosure of the records.

## Disposition of Completed Requests

Approximately 70% of the requests completed in 2019-2020 were either disclosed in part (51% of requests) or all disclosed (19% of requests). The breakdown of disposition of completed files is as follows:

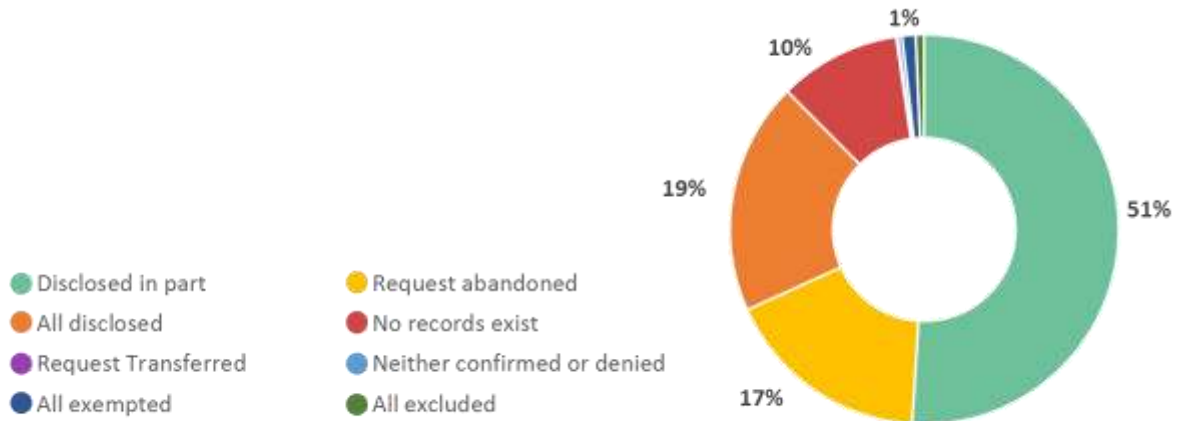


Figure 2 Disposition of Completed Requests

## Exemptions Invoked

Sections 13 to 24 of the ATIA provides specific legislated exemptions intended to protect information from disclosure, while section 26 provide a temporary exemption relating to information that will soon be published. In some instances, records may have multiple exemptions applied to them to appropriately safeguard information.

Within the 1,122 files partially or completely withheld, the large majority (1,053 requests) of exemptions applied were for section 19(1); this is a mandatory exemption that safeguards personal information. The application of section 20 to protect third party information in 448 requests required consultations to ensure that only proprietary and commercially sensitive information is protected. 258 requests had section 21 applied for the protection of information related to government operations.

## Exclusions Cited

The *Access to Information Act* does not apply to published material, material available to the public for purchase, or for public reference (section 68), nor does it apply to confidences of the Queen's Privy Council (section 69). Requests containing proposed exclusions under section 69 require consultation with the Department of Justice and, in some cases, the Privy Council Office.

In 2019-2020, 11 requests contained exclusions for publicly available material and 91 requests had records pursuant to confidences of the Queen's Privy Council.

## Translations

No translations were required to respond to requests in 2019-2020.

## Format of Information Released

Of the requests that were fully or partially disclosed, 854 were released in paper format, while the remaining 669 were released as electronic copies. Electronic copies are available through CD or

epost™. epost™ is a service offered by Canada Post that provides an accessible platform to share information. Use of epost™ was introduced in fiscal year 2018–2019 to provide requesters with easier and more timely access to information.

## Privacy Act

### Caseload and Carryforward

In 2019-2020, Health Canada received 235 new privacy requests, a slight increase over the 219 received in 2018-2019. 236 privacy requests were closed, and 53 privacy requests were carried forward to the 2020-2021 fiscal year, aligned with the previous year carry forward of 54. Many of the requests received are for access to public servants' medical records, as the Public Service Occupational Health Program is operated by Health Canada. In addition, requests are received from current and former Health Canada employees who want to obtain their personal information, and from people who have applied for employment at Health Canada or Public Health Agency of Canada, seeking the details of their applications.

### Privacy Requests Received and Completed

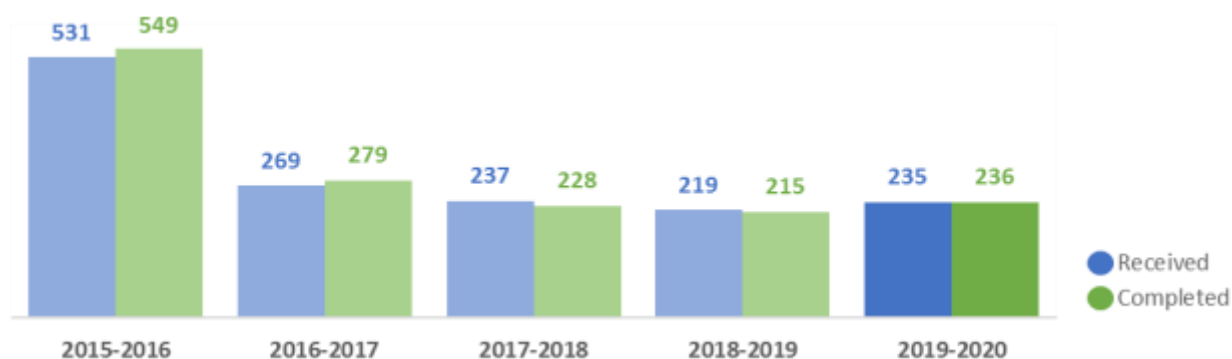


Figure 3 Privacy Requests Received and Completed each fiscal year from 2015-2016 to 2019-2020

### Key Statistics by Fiscal Year

Fiscal Year	Number of Requests Received	Number of Requests Carried Over	Total Caseload	Number of Requests Closed	# of Pages Reviewed for Closed Files
2015–2016	531	79	611	543	81,385
2016–2017	269	50	319	279	13,305
2017–2018	237	40	277	228	8,608
2018–2019	219	49	268	215	21,612
2019–2020	235	54	289	236	19,008

### Processing Time for Requests

Health Canada responded to 67% of privacy requests within legislated timelines (30 days plus applicable extension). The majority of those requests closed past the legislated timeline were due to interference with government operations (i.e. workload and voluminous records). In accordance with the TBS Directive on Personal Information Requests and Correction of Personal Information, Health Canada continues to notify requesters in writing of anticipated delays.

## Extensions

For the 21 requests where extensions were taken, the majority were to allow for review of a large volume of records, and almost half required consultations. Under the *Privacy Act*, 30 days is the longest extension that can be taken.

## Consultations Completed From Other Institutions

Health Canada also received two consultations received from other Government of Canada institutions, totalling 26 pages. One was completed on time and the other was carried forward into 2019-2020 due to delays caused by COVID-19 related restrictions. This consultation was completed and returned on April 1<sup>st</sup>, 2020.

## Exemptions Invoked

Of the 93 exemptions applied to privacy releases in 2019-2020, 67 (72%) were to protect the personal information of individuals other than the requester included in the records. The remainder were related to solicitor-client privilege (17%), safety of individuals (8%), and investigations (3%).

## Exclusions Cited

No exclusions were applied to privacy request releases made in 2019-2020.

## Translations

No translations were required to respond to requests in 2019-2020.

## Format of Information Released

Of the requests that were fully or partially disclosed, 17 were released in paper format, while the remaining 67 were released as electronic copies. Electronic copies are available through CD or epost™. epost™ is a service offered by Canada Post that provides an accessible platform to share information. Use of epost™ was introduced in fiscal year 2018–2019 to provide requesters with easier and more timely access to information.

## Performance During COVID-19

In mid-March 2020, ATIP Operations and PMD staff were subject to COVID-19 restrictions, including the immediate closure of government offices. Staff were quickly transitioned to work remotely as part of the federal government's plan to address the COVID-19 pandemic.

## Request Processing

Following TBS' Guidance, requesters were notified of reduced capacity and the expectation of delays due to the exceptional measures. Health Canada continued to make best efforts to respond to requests in accordance with operational realities.

Through the end of March 2020, Health Canada's ATIP Operations continued to operate at very limited capacity, processing records that were already retrieved and available electronically through modified means. Staff were advised that only those employees providing critical services were to access the Health Canada network during core business hours and the ATIP software was not to be used at all due to its very large usage of bandwidth. On March 27<sup>th</sup>, 2020, ATIP Operations staff were advised that they could begin using the ATIP software on the network, but only between the hours of 8 PM and 7 AM.

While many third parties and other governments were unable to accept consultation packages during this time, those packages continued to be prepared so that they were ready to send when external restrictions were lifted or capacity within these institutions increased.

During the time period from March 14 to March 31, 2020 ATIP Operations received 54 new ATI requests and 5 new privacy requests. 6 access to information requests were closed during this time. New requests continued to be sent to branches in order to ensure the retention of relevant records and to retrieve records as much as possible. Health Canada's Statistical Report on Requests Affected by COVID-19 Measures can be found in [Appendix D](#).

### Privacy Management Division Advisory Services

As the Privacy Management Division provides critical services to Health Canada, it remained fully operational, with a focus on providing advisory services for many initiatives aimed at responding to the COVID-19 pandemic. This included privacy advice on matters such contracts, digital solutions, the collection, use and disclosure of personal information, as well as research projects.

In order to meet the tight timelines and high demands, the Privacy Management Division developed privacy assessments tools and guidance documents specifically tailored to responding to these files. Privacy advisory services for COVID-19 related files has continued well into fiscal year 2020-21 and is also expected to be reported in next year's Annual Report.

Health Canada is committed to appropriately handling the personal information in its custody and ensured thorough consideration was given to privacy requirements, especially given the speed with which COVID-19 initiatives were being developed.

## Reporting on Fees for the *Service Fees Act*

The *Service Fees Act* requires a responsible authority to report annually to Parliament on the fees collected by the institution.

With respect to fees collected under the *Access to Information Act*, the information below is reported in accordance with the requirements of section 20 of the *Service Fees Act*.

**Enabling authority:** *Access to Information Act*

**Fee amount:** The only fee charged is \$5 to submit a request under the *Access to Information Act*.

**Total Revenue:** The total fee revenue for 2019-2020 was \$8,580.

**Fees waived:** In accordance with the Interim Directive on the Administration of the *Access to Information Act*, issued on May 5, 2016, and the changes to the *Access to Information Act* that came into force on June 21, 2019, Health Canada waives all fees prescribed by the ATIA and associated Regulations, other than the \$5 application fee set out in paragraph 7(1)(a) of the Regulations.

A total of \$2,185 was waived by Health Canada in 2019-2020.

**Cost of operating the program:** Health Canada spent a total of \$5,892,484 on ATI functions in 2019-2020. Of this total, salaries and overtime costs represent \$4,632,913 and administration costs were \$1,259,571. Most of the administration costs (\$1,069,105) were used to retain temporary resources to address the volume and complexity of requests.

# Costs for Administering the *Privacy Act*

Health Canada spent a total of \$1,728,896 on privacy functions in 2019-2020. For the processing of privacy requests, a total of \$645,902 was spent. Of this total, salaries and overtime costs represent \$507,835 and administration costs were \$138,067. Temporary resources to support the processing of privacy requests accounted for \$117,189 of these administration costs.

The Privacy Management Division's costs totalled \$1,082,994 with salaries and overtime representing \$829,365 and administration costs making up \$253,629. This includes \$234,818 to hire temporary resources to support the program.

## Training and Awareness

### Formal Training

#### Access to Information Training

An online 'Introduction to ATIP' course is available to all staff via the Canada School of Public Service and is recommended as a foundation for all departmental employees. In addition, in 2019-2020 Health Canada conducted in-person Access to Information and Privacy Request training for 651 employees. Training is available to groups by request and is tailored for each session to include examples that are relevant to the participants' day-to-day work. Four types of training are available:

- ATI 101 – fundamental principles of the ATIA and *Privacy Act*, Health Canada-specific processes, an overview of key exemptions, and a case study/exercises
- Abridged ATI 101 – a refresher course focussed on Health Canada-specific processes and policies, and updates on recent changes in the legislation
- ATI 102: How to Read a Request Text and Search for Relevant Records – Health Canada-specific procedures with a focus on practical advice for assessing and understanding requests, estimating volume and retrieving and assessing records
- ATI 104: Update on Bill C-58 – a review of Canada's commitment to openness and transparency, the recent changes to legislation through Bill C-58, including proactive publication requirements, and a review of the fundamentals of the ATIA and *Privacy Act*

Courses can also be tailored to the group seeking training, depending on their specific needs.

#### Privacy Training

During the reporting year, Health Canada delivered a number of privacy training sessions to support the GCDocs information management (IM) system implementation. This included "train the trainer" sessions to ensure privacy obligations and measures to reduce the risk of privacy breaches were included in the GCDocs user training sessions, as well as training to the GCDocs IM Tools team. The total number of participants for these sessions was 23.

Health Canada also delivered a number of targeted privacy training sessions to specific groups within

the department. This included privacy training to Information Management specialists, employees of the Controlled Substances and Cannabis Branch, and employees and managers of the Public Service Occupational Health Program. The total number of participants for these sessions was 81.

In addition, two privacy training sessions were delivered to the Health Canada Open Government Working Group: one session focused on providing an overview of the *Privacy Act* and privacy requirements and the other session focused on de-identified information and preventing privacy breaches. Training was also provided to HC's internal compensation team and to new employees at an orientation session. Total number of participants for these sessions was 137.

Finally, Health Canada delivered privacy awareness sessions on safeguarding personal information and preventing privacy breaches to the Information Management Services Directorate Executive Committee and the Human Resources Service Directorate Executive Committee. Total number of participants for these sessions was 29.

Health Canada continues to offer privacy awareness training via its online learning tool, Privacy Basics and Privacy Impact Assessments. Approximately 673 employees completed the online training in 2019-2020. In addition, regular communications are sent to all employees on privacy-related matters with the aim of supporting a culture of strong privacy awareness within the department.

## Right to Know Week

In 2019, Canada celebrated Right to Know Week from September 23-28. Health Canada marked this event by taking the opportunity to communicate to employees each day about the importance of access to information and the ways that employees help uphold the 'right to know'. Messages included information about Open Government and what Health Canada is doing to support it, ATIP training available to employees, and guidance for searching encrypted emails.

# Policies, Guidelines, Procedures and Initiatives

## Excellence in ATIP Award

In May 2019, Health Canada's ATIP Coordinator, Cynthia Richardson, was awarded the Chief Information Officer (CIO) Community Award for *Excellence in Access to Information and Privacy*, recognizing her successes in improving access to information through the ATI Action Plan at Health Canada. This project, which was in place from 2016 to 2019, resulted in profound improvement across the department in delivering the requirements under the ATIA. Through the project, Health Canada strengthened outcomes for Canadians. This included supporting the right of access through an increase in the number of resources dedicated to processing ATIP requests, fostering greater awareness and training of responsibilities, strengthened procedures to support consistency and release, as well as stronger record keeping to document those exemptions that are necessary. The results have been demonstrated through the steady decline in total inventory of ATI requests as an increased number of files are closed annually, improvements in retrieval timelines and the increasing ability to keep pace with incoming requests, and stronger rationales for necessary exemptions.

## ATIP Online Request System

In November 2019 Health Canada onboarded to the Government of Canada [Online Request System](#) for Access to Information requests and Privacy requests. Requesters can now submit requests under

the Access to Information Act and the Privacy Act electronically to Government of Canada institutions through one, centralized website. Requesters can also pay the \$5.00 application fee electronically for Access to Information requests, and submit proof of identity for requests for their own information.

## **Bill C-58**

On June 21, 2019 Bill C-58, *An Act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other Acts*, received Royal Assent and enacted the first changes to the ATIA in many years. This prompted an update to Health Canada's [Delegation Order](#) to align with the revised legislation.

One of the most significant changes was the requirement for Proactive Publication of records such as briefing note titles, Ministerial and Deputy Minister Transition briefing materials, Minister and Deputy Minister Parliamentary appearances, Question Period Notes, and reports tabled before Parliament. At Health Canada, the implementation of the new proactive publication requirements is led by Strategic Policy Branch, while the Chief Financial Officer Branch continued to lead on publication of contracts and expenses and Corporate Services Branch led on publication of reclassifications. In 2019-2020, all legislated timelines for publishing material were met.

The Department remains committed to supporting TBS's full review of the legislation in the upcoming year.

## **Privacy Act Modernization**

Health Canada has been very engaged in *Privacy Act* Modernization efforts, led by the Department of Justice, helping ensure that an eventual revised, modern *Privacy Act* addresses the realities of the department. In particular, Health Canada was consulted as part of the Department of Justice's targeted stakeholder engagement that commenced in summer 2019, and provided feedback on five discussion papers that focused on technical and legal considerations for modernizing the *Privacy Act*.

## **ATIP Coordinators' Working Group**

This year Health Canada's ATIP Coordinator continued to Chair the ATIP Coordinator's Working Group, which meets monthly to discuss common issues and share best practices, strategies and tools. Launched in October 2018, the Working Group is comprised of ATIP Coordinators representing 30 institutions. Notable discussions in 2019-2020 included the coming into force of Bill C-58, investigations by the Office of the Information Commissioner (OIC) and Office of the Privacy Commissioner (OPC), challenges with managing third party consultations and associated complaints, as well as partnering with the Association of Access to Information and Privacy Professionals to launch a pilot training program for federal access to information and privacy analysts.

## **Data Strategy**

During fiscal year 2018-2019, the Clerk of the Privy Council called on all departments, agencies or portfolios to develop a data strategy appropriate to their business lines by September 2019. As Health Canada is responsible for a great deal of personal data, the department ensured its Data Strategy addressed privacy requirements in each of its key pillars. This will remain a focal point as phases of the Data Strategy are implemented in the coming years.



## **Risk-Based Approach to Privacy Breaches**

The Privacy Management Division launched a pilot project with the Corporate Services Branch (CSB) to implement a risk-based approach to managing privacy breaches. Once fully deployed, this approach will enable Health Canada to allocate more resources to managing medium and high-risk privacy breaches, while still meeting its Treasury Board policy requirements. The pilot has been successful and is expected to be implemented department-wide during fiscal year 2020-2021.

## **Risk-Based Approach to Reviewing Research Initiatives**

The Privacy Management Division, in collaboration with the joint Health Canada/Public Health Agency of Canada Research Ethics Board, developed a risk-based approach for determining whether a research initiative should undergo a full privacy protocol assessment based on its level of privacy risk. This approach enables the department to allocate more resources to assessing research initiatives that have higher risks to privacy, while ensuring it is still meeting its legislative and policy privacy requirements.

## **Telework**

On April 1, 2019, ATIP Operations Division launched a Telework Pilot for employees, providing the option to work remotely up to two days per week. Aligned with the Health Canada/Public Health Agency of Canada Telework Guide, the Pilot put in place parameters for managers to consider when approving telework agreements, in order to ensure consistency and equity across the Division. With almost 20 employees taking part in the Pilot, and management agreement that it was functioning well, the intention was to end the pilot and make telework part of normal operations as of April 1, 2020. In March 2020, when COVID-19 restrictions forced all employees to begin working remotely, the operationalization was no longer necessary, and employees and managers were well-placed to begin working remotely full time. While the switch to full-time remote work had challenges that the Telework Pilot could not have addressed, the foundation of being able to manage and collaborate virtually had already been laid.

## **Official Language Learning**

Throughout 2019-2020 ATIP Operations Division and the Privacy Management Division continued to offer part-time, on-site second language training to staff in order to support bilingual delivery of services. This learning model, which began in 2018, allowed staff to work in small groups with a certified language teacher, as well as using an online learning platform, to increase second language competency. ATIP is a field with a shortage of qualified resources across the Government of Canada, as well as a shortage of bilingual employees. Health Canada is committed to providing bilingual services to the public and is thus working to increase the bilingual capacity in this field.

# Summary of Key Issues and Actions Taken on Complaints and Audits

## Privacy Management Audit

An internal privacy audit was concluded during fiscal year 2019-2020 on the management of privacy practices at Health Canada and Public Health Agency of Canada. The audit found that key privacy controls were generally in place and functioned as intended to effectively protect personal information. Specifically, it found that controls were sufficient in the following areas:

- Health Canada has a defined Privacy Management Framework
- There is an appropriate process in place to respond to privacy breaches
- Privacy Impact Assessments (PIAs) and Privacy Protocols (PP) are prepared and approved by programs, and are reviewed by the Privacy Management Division

The audit found weaknesses in controls in the following areas:

- Without appropriate risk management, the Privacy Management Division was operating with limited organizational information and, as a result, its awareness efforts were mainly focused on the highest risk areas within its own branch, rather than being risk-based across Health Canada
- While PIAs and PPs were prepared and approved to mitigate privacy risks, the recommendations made by the Privacy Management Division in the assessments were not being monitored by Privacy Management Division
- Although some of the Privacy Management Division staff had had training on Sex and Gender-Based Analysis + (SGBA+), the Privacy Management Division had not documented an analysis of consideration of SGBA+ in its processes

In fiscal year 2019-2020, the Privacy Management Division began addressing the recommendations of the Management Action Response Plan in response areas where weaknesses were identified. Work on addressing these areas is expected to continue in fiscal year 2020-2021.

A copy of the full audit report can be found at: <https://www.canada.ca/en/public-health/corporate/transparency/corporate-management-reporting/internal-audits/reports/management-privacy-practices-2019.html>

## Complaints Management

### Complaints to the Information Commissioner

In 2019–2020, 54 complaints under the ATIA were filed with the Office of the Information Commissioner (OIC) for Health Canada's requests. The passage of Bill C-58 on June 21, 2019 bestowed order-making powers to the OIC for complaints submitted on or after that date. No orders were issued to Health Canada by the OIC in 2019-2020.

Areas of complaint include deemed refusal (late), time extensions taken, and exemptions applied, in particular related to personal information and third party information. The Department reviews the outcomes of all OIC investigations, and where appropriate, incorporates lessons learned into business processes.

## Complaints to the Privacy Commissioner

Health Canada received four (4) complaints from the OPC related to the way the department managed personal information. Representations were provided for all four complaints. Two (2) Letters of Findings on complaints related to the department's management of personal information were received from the OPC. One complaint was not well-founded and the other complaint was well-founded.

# Federal Court Cases

## Applications & Appeals Submitted to the Federal Court

### *Access to Information Act*

When Health Canada decides to disclose information related to third parties under the *Access to Information Act*, the third party is officially informed and has the opportunity to challenge the disclosure through judicial review. This can happen before the initial publication of the documents (notice under section 28) or following a formal complaint by the OIC and a subsequent recommendation or order to reconsider the publication (notice under section 29).

In 2019–2020, Health Canada was served with six notices of application for judicial review. One case was discontinued during the fiscal year and a second received a decision, which Health Canada is appealing (see Elanco below). 12 court cases were still active at the end of the year, including the appeal. All of the cases were brought forward by third parties under Section 44 of the *Access to Information Act*. These cases are summarized in [Appendix E](#).

#### **Elanco Canada Limited v. Canada (Health)**

In January 2020, the Federal Court [decided in favour of Elanco](#) and overruled Health Canada's decision to partially release third party records related to Elanco's submissions for the veterinary medicine Fortekor Flavour Tabs. Health Canada argued that some of the information is available in the public domain already or could be verified through independent observation of the product, and that confidentiality agreements held by the company do not supercede the right to access under the ATIA. The judge declared Health Canada's decision to release was invalid, awarded costs to Elanco, and allowed exemption of the entirety of the disputed records. Health Canada is appealing this decision.

### *Privacy Act*

No applications or appeals were made to the Federal Court or the Federal Court of Appeal during the 2019–2020 fiscal year.

# Monitoring Compliance

ATIP Operations Division produces weekly, monthly and quarterly reports to senior management in order to monitor performance within Health Canada. This includes incoming volume of requests, number of closed requests, and timeliness of retrieval of records.

Similarly, the Privacy Management Division produces quarterly reports on privacy breaches and privacy impact assessments. The Privacy Management Division supports compliance by periodically reviewing its privacy policies, procedures and practices.

## Other Reporting Requirements Specific to the *Privacy Act*

### Material Privacy Breaches

Health Canada reported one (1) material privacy breach during the 2019-2020 fiscal year to the Office of the Privacy Commissioner and the Treasury Board Secretariat. The breach involved an email containing personal information about numerous individuals that was sent to an unintended recipient. Measures were taken to secure the personal information that was breached and to prevent the risk of recurrence, including reminders on appropriate procedures to ensure the protection of personal information.

### Privacy Impact Assessments

Two (2) PIAs were completed during the 2019-2020 fiscal year. Below are brief descriptions of the PIAs.

#### **Monitoring of Medical Assistance in Dying (MAID)**

Federal legislation and regulations require physicians, nurse practitioners and pharmacists to submit personal information related to themselves, and patients seeking MAID, for the purpose of monitoring and reporting activities related to MAID. A PIA was completed on these activities and their business processes to ensure compliance with the *Privacy Act* and Treasury Board policies and to recommend mitigation actions to address any risks to privacy. For more information, please refer to the [MAID PIA](#) website.

#### **Public Service Occupational Health Program (PSOHP)**

Health Canada, under the *Policy on Occupational Safety and Health* delegation from Treasury Board, is tasked with the administration of the PSOHP. Under the program, Health Canada provides occupational health medical advice, guidance and services to departments listed in schedules I and IV of the *Financial Administration Act*. A PIA was completed to assess the PSOHP and its business processes to ensure compliance with the *Privacy Act* and Treasury Board policies and to recommend mitigation actions to address any risks to privacy. A summary of this PIA has not yet been published. For more information, please contact [hc.privacy-vie.privee.sc@canada.ca](mailto:hc.privacy-vie.privee.sc@canada.ca).

## Public Interest Disclosures

There were two (2) disclosures made under section 8(2)(m) of the *Privacy Act* and two (2) section 8(5) written notifications made to the Office of the Privacy Commissioner on these disclosures. One disclosure related to a media request regarding an employee who had misappropriated public funds. Given the tight deadline to respond to this media request, the OPC was notified after the disclosure took place. The other disclosure was to the Canada Revenue Agency in order to assist in locating individuals who were eligible for thalidomide survivor benefits. The OPC was notified prior to this disclosure taking place.

# Appendix A: Access to Information Act and Privacy Act – Delegation Order

Delegation Order

*Access to Information Act and Privacy Act*

I, the Minister of Health, pursuant to section 95 of the *Access to Information Act* and section 73 of the *Privacy Act*, hereby delegate the persons holding the positions set out in the Delegation of Authority Schedule attached hereto, or the persons occupying on an acting basis those positions, to exercise the powers, duties and functions of the Minister as head of Health Canada, under the provisions of the Act and related regulations set out in the schedule opposite each position. This delegation supersedes all previous delegation orders.

L'ordonnance de délégation de pouvoirs

*Loi sur l'accès à l'information et Loi sur la protection des renseignements personnels*

En ma qualité de ministre de la Santé et en vertu de l'article 95 de la *Loi sur l'accès à l'information* et de l'article 73 de la *Loi sur la protection des renseignements personnels*, je délègue par la présente aux titulaires des postes énoncés à l'annexe de délégation de pouvoirs ci-après, ou aux personnes occupant les dits postes à titre intérimaire, les attributions dont je suis investie, à titre de ministre de Santé Canada, aux termes des dispositions des lois et des règlements connexes mentionnés en regard de chaque poste. Le présent document remplace toute ordonnance de délégation de pouvoirs antérieure.

Minister of Health  
Ministre de la Santé

SEP 29 2020

Date

## Delegation of Authority Schedule

### Access to Information Act

#### Part 1 and 3

Provision	Description	DM	Assoc. DM	ADM CSB	DG PIMSD	Dir ATIP Ops	Deputy Dir ATIP Ops
	All powers, duties and functions under the <i>Access to Information Act</i> , R.S.C. 1985, c. A-1 (prior to and following June 21, 2019) and related regulations (prior to and following June 21, 2019)	Full authority					

Provision	Description	Dir, PMD	Manager	Team Leader	Senior Analyst	Analyst
4(2.1)	Responsibility of government institutions	No	Yes	Yes	Yes	Yes
6.1(1)	Reasons for declining to act on request	No	Yes	No	No	No
6.1(1.3), (1.4), (2)	Notice – suspension, end of suspension	No	Yes	Yes	Yes	No
7	Notice when access requested	No	Yes	Yes	Yes	Yes
8(1)	Transfer of request	No	Yes	Yes	No	No
9 (1)	Extension of time limits	No	Yes	Yes	No	No
9(2)	Notice of extension to Information Commissioner	No	Yes	Yes	Yes	Yes
10	Where access is refused	No	Yes	Yes	No	No
11(2)	Application Fee Waiver	No	Yes	Yes	No	No
12(2)(b)	Language of access	No	Yes	Yes	No	No
12(3)(b)	Access to record in alternative format	No	Yes	Yes	No	No
<b>Exemption Provisions of the Access to Information Act</b>						
13	Information obtained in confidence	No	Yes	No	No	No
14	Federal-provincial affairs	No	Yes	No	No	No
15	International affairs and defence	No	Yes	No	No	No
16	Law enforcement and investigations	No	Yes	Yes	No	No
16.5	<i>Public Servants Disclosure Protection Act</i>	No	Yes	No	No	No
17	Safety of individuals	No	Yes	No	No	No
18	Economic interests of Canada	No	Yes	No	No	No
18.1	Economic interest of certain government institutions	No	Yes	No	No	No
19	Personal information	No	Yes	Yes	No	No
20	Third party information	No	Yes	Yes	No	No
21	Advice, etc.	No	Yes	No	No	No
22	Testing procedures, tests and audits	No	Yes	No	No	No
22.1	Internal Audits	No	Yes	No	No	No
23	Protected information – solicitors, advocates and notaries	No	Yes	Yes	No	No
23.1	Protected information – patents and trade-marks	No	Yes	Yes	No	No
24	Statutory prohibitions against disclosure	No	Yes	Yes	No	No
<b>Other Provisions of the Access to Information Act</b>						
25	Severability	No	Yes	Yes	No	No
26	Refusal of access if information to be published	No	Yes	No	No	No
27(1), (4)	Notice to third parties	No	Yes	Yes	Yes	No
28(1)(b),	Representations of third party and decision	No	Yes	No	No	No
33	Notice to Information Commissioner of notices to third parties	No	Yes	Yes	Yes	No
35(2)(b)	Right to make representations	No	No	No	No	No
37(1)(c)	Notice of actions to implement recommendations of Commissioner	No	No	No	No	No
37(4)	Access to be given to complainant	No	Yes	No	No	No
41(2)	Review by Federal Court – government institution	No	No	No	No	No
43(2)	Service or notice of application to Federal Court for review	No	Yes	Yes	No	No
44(2)	Notice to person who requested record	No	Yes	Yes	No	No
52(2)(b), 52(3)	Special rules for hearings	No	No	No	No	No
94	Annual report – government institutions	No	No	No	No	No
96(3)	Notice of Provision of services related to access to information	No	No	No	No	No
96(5)	Spending authority	No	No	No	No	No
<b>Access to Information Regulations</b>						
6(1)	Transfer of request	No	Yes	No	No	No
8	Method of access	No	Yes	No	No	No
8.1	Limitations in respect of format	No	Yes	No	No	No

## Privacy Act

Description	DM	Assoc. DM	ADM CSB	DG PIMSD
All powers, duties and functions under the Act and Regulations	Full authority			

Description	Dir ATIP Ops	Deputy Dir ATIP Ops	Dir, PMD
All powers, duties and functions under the Act and Regulations, with noted exceptions	Full authority except Sections 8(2)(j), 8(2)(m), 8(5), 9(1), 9(4), 10	Full authority except Sections 8(2)(j), 8(2)(m), 8(5), 9(1), 9(4), 10	Full authority except Sections 14-28 inclusively

Provision	Description	Manager	Team Leader	Senior Analyst	Analyst
8(2)(j)	Disclosure for research or statistical purposes	No	No	No	No
8(2)(m)	Disclosure in the public interest or in the interest of the individual	No	No	No	No
8(4)	Copies of requests under paragraph 8(2)(e)	No	No	No	No
8(5)	Notice of disclosure under paragraph 8(2)(m)	No	No	No	No
9(1)	Record of disclosures to be retained	No	No	No	No
9(4)	Consistent uses	No	No	No	No
10	Personal information to be included in personal information banks	No	No	No	No
14(a)	Notice where access requested	Yes	Yes	Yes	No
14(b)	Giving access to the record	Yes	Yes	No	No
15	Extension of time limits	Yes	Yes	Yes	No
16	Where access is refused	Yes	Yes	No	No
17(2)(b)	Language of access	Yes	Yes	No	No
17(3)(b)	Access in an alternative format	Yes	Yes	No	No
18(2)	Exempt banks	Yes	No	No	No
19	Information obtained in confidence	Yes	No	No	No
20	Federal-provincial affairs	Yes	No	No	No
21	International affairs and defence	Yes	No	No	No
22	Law enforcement and investigations	Yes	No	No	No
22.3	<i>Public Servants Disclosure Protection Act</i>	Yes	No	No	No
23	Security clearances	Yes	No	No	No
24	Individuals sentenced for an offence	Yes	No	No	No
25	Safety of individuals	Yes	No	No	No
26	Information about another individual	Yes	Yes	No	No
27	Protected information – solicitors, advocates and notaries	Yes	Yes	No	No
27.1	Protected information – patents and trade-marks	Yes	Yes	No	No
28	Medical records	Yes	No	No	No
33(2)	Right to make representations	No	No	No	No
35(1)(b)	Notice of actions to implement recommendations of Commissioner	Yes	No	No	No
35(4)	Access to be given to complainant	Yes	No	No	No
36(3)(b)	Notice of actions to implement recommendations of Commissioner	Yes	No	No	No
51(2)(b),(3)	Special rules for hearings	No	No	No	No
72	Annual report to Parliament	No	No	No	No
73.1(3)	Notice of Provision of services related to privacy	No	No	No	No
73.1(5)	Spending authority	No	No	No	No
<b>Privacy Regulations</b>					
7	Retention of personal information requested under paragraph	No	No	No	No
9	Examination of information	Yes	Yes	Yes	Yes
11(2),11(4)	Notification concerning corrections	Yes	Yes	Yes	Yes
13(1)	Disclosure of personal information relating to physical or mental	Yes	Yes	No	No
14	Examination in presence of medical practitioner or psychologist	Yes	Yes	No	No

### Legend

Yes	Delegated
No	No Delegation



**Position Titles**

Deputy Minister	DM
Associate Deputy Minister / Sous-Ministre Délégué	Assoc. DM
Assistant Deputy Minister, Corporate Services Branch (CSB)	ADM CSB
Director General, Planning, Integration and Management Services, CSB	DG PIMSD
Director (Coordinator), Access to Information and Privacy (ATIP Ops)	Dir ATIP Ops
Deputy Director, ATIP Ops	Deputy Dir ATIP Ops
Director, Privacy Management Division	Dir, PMD
Manager, ATIP Ops	Manager
Team Leader, ATIP Ops	Team Leader
Senior Analyst, ATIP Ops	Senior Analyst

# Appendix B: Statistical Report on the *Access to Information Act*

Reporting period: 2019-04-01 to 2020-03-31

## Section 1: Requests Under the *Access to Information Act*

### 1.1 Number of Requests

Category	Number of requests
Received during reporting period	2,087
Outstanding from previous reporting period	1,289
<b>Total</b>	<b>3,376</b>
Closed during reporting period	2,153
Carried over to next reporting period	1,223

### 1.2 Sources of Requests

Source	Number of requests
Media	284
Academia	57
Business (private sector)	1,040
Organization	297
Public	277
Decline to Identify	132
<b>Total</b>	<b>2,087</b>

### 1.3 Informal Requests

Completion Time	Number of Requests
1 to 15 days	646
16 to 30 days	38
31 to 60 days	34
61 to 120 days	85
121 to 180 days	29
181 to 365 days	29
More than 365 days	81
<b>Total</b>	<b>942</b>

**Note:** All requests previously recorded as “treated informally” will now be accounted for in this section only.

## Section 2: Decline to act on vexatious, made in bad faith or abuse of right requests

Category	Number of Requests
Outstanding from previous reporting period	0
Sent during reporting period	0
<b>Total</b>	<b>0</b>
Approved by the Information Commissioner during reporting period	0
Declined by the Information Commissioner during reporting period	0
Carried over to next reporting period	0

## Section 3: Requests Closed During the Reporting Period

### 3.1 Disposition and completion time

Disposition of requests	1 to 15 days	16 to 30 days	31 to 60 days	61 to 120 days	121 to 180 days	181 to 365 days	More than 365 days	Total
All disclosed	28	154	101	94	22	10	7	416
Disclosed in part	19	134	163	379	133	103	167	1,098
All exempted	2	2	0	12	3	2	3	24
All excluded	0	3	5	5	1	0	1	15
No records exist	116	76	15	3	3	5	0	218
Request transferred	3	0	0	0	0	0	0	3
Request abandoned	156	35	8	5	1	9	157	371
Neither confirmed nor denied	4	4	0	0	0	0	0	8
Decline to act with the approval of the Information Commissioner	0	0	0	0	0	0	0	0
<b>Total</b>	<b>328</b>	<b>408</b>	<b>292</b>	<b>498</b>	<b>163</b>	<b>129</b>	<b>335</b>	<b>2,153</b>

### 3.2 Exemptions

Section	Number of requests
13(1)(a)	19
13(1)(b)	9
13(1)(c)	17
13(1)(d)	0
13(1)(e)	0
14	1
14(a)	25
14(b)	10
15(1)	13
15(1) - International Affairs	16
15(1) - Defence of Canada	1
15(1) - Subversive Activities	1
16(1)(a)(i)	0
16(1)(a)(ii)	0
16(1)(a)(iii)	2
16(1)(b)	3
16(1)(c)	10
16(1)(d)	0
16(2)	7
16(2)(a)	0
16(2)(b)	0
16(2)(c)	75
16(3)	0
16.1(1)(a)	1
16.1(1)(b)	0
16.1(1)(c)	2

<b>Section</b>	<b>Number of requests</b>
16.1(1)(d)	0
16.2(1)	1
16.3	0
16.31	0
16.4(1)(a)	0
16.4(1)(b)	0
16.5	0
15.6	0
17	30
18(a)	3
18(b)	0
18(c)	0
18(d)	0
18.1(1)(a)	0
18.1(1)(b)	0
18.1(1)(c)	0
18.1(1)(d)	0
19(1)	1,053
20(1)(a)	11
20(1)(b)	240
20(1)(b.1)	2
20(1)(c)	151
20(1)(d)	144
20.1	0
20.2	0
20.4	0
21(1)(a)	109
21(1)(b)	112
21(1)(c)	27
21(1)(d)	10
22	14
22.1(1)	0
23	89
23.1	0
24(1)	8
26	0

### 3.3 Exclusions

Section	Number of requests
68(a)	11
68(b)	0
68(c)	0
68.1	0
68.2(a)	0
68.2(b)	0
69(1)	25
69(1)(a)	2
69(1)(b)	0
69(1)(c)	0
69(1)(d)	1
69(1)(e)	13
69(1)(f)	0
69(1)(g) re (a)	21
69(1)(g) re (b)	0
69(1)(g) re (c)	7
69(1)(g) re (d)	1
69(1)(g) re (e)	10
69(1)(g) re (f)	11
69.1(1)	0

### 3.4 Format of Information Released

Paper	Electronic	Other
630	870	14

### 3.5 Complexity

#### 3.5.1 Relevant Pages Processed and Disclosed

Number of Pages Processed	Number of Pages Disclosed	Number of Requests
320,066	220,731	1,932

#### 3.5.2 Relevant Pages Processed and Disclosed by Size of Requests

Disposition	Less than 100 pages processed		101 to 500 pages processed		501 to 1,000 pages processed		1,001 to 5,000 pages processed		More than 5,000 pages processed	
	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed
All disclosed	380	7,598	28	5,479	5	3,544	2	6,865	1	23,918
Disclosed in part	678	20,203	325	72,546	61	33,650	33	40,028	1	6,634
All exempted	17	0	6	0	0	0	0	0	1	0
All excluded	5	0	10	0	0	0	0	0	0	0
Request abandoned	339	0	18	266	6	0	6	0	2	0
Neither confirmed nor denied	8	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>1,427</b>	<b>27,801</b>	<b>387</b>	<b>78,291</b>	<b>72</b>	<b>37,194</b>	<b>41</b>	<b>46,893</b>	<b>5</b>	<b>30,552</b>

### 3.5.3 Other Complexities

Disposition	Consultation Required	Assessment of fees	Legal Advice Sought	Other	Total
All disclosed	126	0	1	13	140
Disclosed in part	481	0	27	115	623
All exempted	12	0	1	2	15
All excluded	3	0	3	1	7
Request abandoned	0	0	0	2	2
Neither confirmed nor denied	0	0	0	0	0
<b>Total</b>	622	0	32	133	787

### 3.6 Closed Requests

#### 3.6.1 Number of Requests Closed Within Legislated Timelines

Category	Requests Closed Within Legislated Timelines
Number of requests closed within legislated timelines	1,294
Percentage of requests closed within legislated timelines (%)	60.1

### 3.7 Deemed Refusals

#### 3.7.1 Reasons for Not Meeting Legislated Timelines

Total Number of requests closed past the statutory deadline	Interference with Operations / Workload	External Consultation	Internal Consultation	Other
859	604	112	31	112

#### 3.7.2 Requests Closed Beyond Legislated Timelines (including any extension taken)

Number of days past legislated timelines	Number of requests past legislated timeline where no extension was taken	Number of requests past legislated timeline where an extension was taken	Total
1 to 15 days	49	74	123
16 to 30 days	23	60	83
31 to 60 days	33	93	126
61 to 120 days	28	67	95
121 to 180 days	12	40	52
181 to 365 days	36	47	83
More than 365 days	125	172	297
<b>Total</b>	306	553	859

### 3.8 Requests for Translation

Translation Requests	Accepted	Refused	Total
English to French	0	0	0
French to English	0	0	0
<b>Total</b>	0	0	0

## Section 4: Extension

### 4.1 Reasons for Extensions and Disposition of Requests

Disposition of Requests Where an Extension was Taken	9(1)(a) Interference with Operations	9(1)(b) Consultation: Section 69	9(1)(b) Consultation: Other	9(1)(c) Third Party Notice
All disclosed	5	2	19	171
Disclosed in part	128	10	119	641
All exempted	1	1	3	14
All excluded	1	10	0	1
No records exist	0	0	0	5
Request abandoned	92	2	28	54
<b>Total</b>	<b>227</b>	<b>25</b>	<b>169</b>	<b>886</b>

### 4.2 Length of Extensions

Length of Extensions	9(1)(a) Interference with Operations	9(1)(b) Consultation: Section 69	9(1)(b) Consultation: Other	9(1)(c) Third Party Notice
30 days or less	84	0	49	2
31 to 60 days	51	2	75	876
61 to 120 days	52	21	39	8
121 to 180 days	22	2	3	0
181 to 365 days	11	0	3	0
365 days or more	7	0	0	0
<b>Total</b>	<b>227</b>	<b>25</b>	<b>169</b>	<b>886</b>

## Section 5: Fees

Fee type	Fee collected		Fee waived or refunded	
	Number of requests	Amount	Number of requests	Amount
Application	1,716	\$8,580	380	\$1,900
Other fees	0	\$0	114	\$285
<b>Total</b>	<b>1,716</b>	<b>\$8,580</b>	<b>494</b>	<b>\$2,185</b>

## Section 6: Consultations Received From Other Institutions and Organizations

### 6.1 Consultations Received from Other Government of Canada Institutions and Organizations

Consultations	Other Government of Canada Institutions	Number of Pages to Review	Other Organizations	Number of Pages to Review
Received during reporting period	250	10,800	24	1,809
Outstanding from the previous reporting period	17	961	3	111
<b>Total</b>	267	11,761	27	1,920
Closed during the reporting period	244	9,994	26	1,909
Carried over to next reporting period	23	1,767	1	11

### 6.2 Recommendations and Completion Time for Consultations Received from Other Government of Canada Institutions

Recommendation	1 to 15 days	16 to 30 days	31 to 60 days	61 to 120 days	121 to 180 days	181 to 365 days	More than 365 days	Total
Disclose entirely	102	74	16	2	0	0	0	194
Disclose in part	8	11	3	5	1	0	1	29
Exempt entirely	1	0	0	0	0	0	0	1
Exclude entirely	0	0	0	1	0	0	0	1
Consult other institution	5	2	1	0	0	0	0	8
Other	8	0	0	3	0	0	0	11
<b>Total</b>	124	87	20	11	1	0	1	244

### 6.3 Recommendations and Completion Time for Consultations Received from Other Organizations

Recommendation	1 to 15 days	16 to 30 days	31 to 60 days	61 to 120 days	121 to 180 days	181 to 365 days	More than 365 days	Total
Disclose entirely	11	7	2	1	0	0	0	21
Disclose in part	2	0	0	0	0	0	0	2
Exempt entirely	0	0	0	0	0	0	0	0
Exclude entirely	0	0	0	0	0	0	0	0
Consult other institution	0	0	0	0	0	0	0	0
Other	2	0	1	0	0	0	0	3
<b>Total</b>	15	7	3	1	0	0	0	26



## Section 7: Completion Time of Consultations on Cabinet Confidences

### 7.1 Requests with Legal Services

Number of days	Fewer than 100 pages processed		101 to 500 pages processed		501 to 1,000 pages processed		1,001 to 5,000 pages processed		More than 5,000 pages processed	
	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed
1 to 15	13	19	0	0	0	0	0	0	0	0
16 to 30	25	81	0	0	0	0	0	0	0	0
31 to 60	20	0	3	0	0	0	0	0	0	0
61 to 120	2	0	0	0	0	0	0	0	0	0
121 to 180	0	0	0	0	0	0	0	0	0	0
181 to 365	1	0	0	0	0	0	0	0	0	0
More than 365	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>61</b>	<b>100</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

### 7.2 Requests with Privy Council Office

Number of days	Fewer than 100 pages processed		101 to 500 pages processed		501 to 1,000 pages processed		1,001 to 5,000 pages processed		More than 5,000 pages processed	
	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed
1 to 15	0	0	0	0	0	0	0	0	0	0
16 to 30	1	0	0	0	0	0	0	0	0	0
31 to 60	3	0	0	0	0	0	0	0	0	0
61 to 120	0	0	0	0	0	0	0	0	0	0
121 to 180	0	0	0	0	0	0	0	0	0	0
181 to 365	0	0	0	0	0	0	0	0	0	0
More than 365	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

## Section 8: Complaints and Investigations

Section 32 Notice of intention to investigate	Subsection 30(5) Ceased to investigate	Section 35 Formal representations	Section 37 Reports of finding received	Section 37 Reports of finding containing recommendations issued by the Information Commissioner	Section 37 Reports of finding containing orders issued by the Information Commissioner
54	0	20	50	6	0

## Section 9: Court Action

### 9.1 Court Actions on Complaints Received Before June 21, 2019 and On-going

Section 41 (before June 21, 2019)	Section 42	Section 44
0	0	6

## 9.2 Court Actions on Complaints Received After June 21, 2019 (Section 41)

Complainant (1)	Institution (2)	Third Party (3)	Privacy Commissioner (4)	Total
0	0	5	0	5

## Section 10: Resources Related to the Access to Information Act

### 10.1 Costs

Expenditures	Amount
Salaries	\$4,570,049
Overtime	\$62,864
Goods and Services	\$1,259,571
Professional services contracts	\$1,069,105
Other	\$190,466
<b>Total</b>	<b>\$5,892,484</b>

### 10.2 Human resources

Resources	Person Years Dedicated to Access to Information Activities
Full-time employees	59.80
Part-time and casual employees	1.91
Regional staff	0.00
Consultants and agency personnel	4.79
Students	0.39
<b>Total</b>	<b>66.89</b>

# Appendix C: Statistical Report on the *Privacy Act*

Reporting period: 2019-04-01 to 2020-03-31

## Section 1: Requests Under the *Privacy Act*

### 1.1 Number of Requests

Category	Number of requests
Received during reporting period	235
Outstanding from previous reporting period	54
<b>Total</b>	289
Closed during reporting period	236
Carried over to next reporting period	53

## Section 2: Requests Closed During the Reporting Period

### 2.1 Disposition and completion time

Disposition of requests	1 to 15 days	16 to 30 days	31 to 60 days	61 to 120 days	121 to 180 days	181 to 365 days	More than 365 days	Total
All disclosed	3	7	5	1	0	0	0	16
Disclosed in part	4	20	19	11	3	7	4	68
All exempted	1	0	0	0	0	0	0	1
All excluded	0	0	0	0	0	0	0	0
No records exist	41	14	4	2	1	5	2	69
Request abandoned	60	4	4	2	2	6	3	81
Neither confirmed nor denied	1	0	0	0	0	0	0	1
<b>Total</b>	110	45	32	16	6	18	9	236

### 2.2 Exemptions

Section	Number of requests
18(2)	0
19(1)(a)	0
19(1)(b)	0
19(1)(c)	0
19(1)(d)	0
19(1)(e)	0
19(1)(f)	0
20	0
21	0
22(1)(a)(i)	1
22(1)(a)(ii)	0
22(1)(a)(iii)	0
22(1)(b)	2
22(1)(c)	0
22(2)	0
22.1	0
22.2	0

Section	Number of requests
22.3	0
22.4	0
23(a)	0
23(b)	0
24(a)	0
24(b)	0
25	7
26	67
27	16
27.1	0
28	0

### 2.3 Exclusions

Section	Number of requests
69(1)(a)	0
69(1)(b)	0
69.1	0
70(1)	0
70(1)(a)	0
70(1)(b)	0
70(1)(c)	0
70(1)(d)	0
70(1)(e)	0
70(1)(f)	0
70.1	0

### 2.4 Format of Information Released

Paper	Electronic	Other
17	67	0

### 2.5 Complexity

#### 2.5.1 Relevant Pages Processed and Disclosed

Number of Pages Processed	Number of Pages Disclosed	Number of Requests
19,008	13,492	167

## 2.5.2 Relevant Pages Processed and Disclosed by Size of Requests

Disposition	Less than 100 pages processed		101 to 500 pages processed		501 to 1,000 pages processed		1,001 to 5,000 pages processed		More than 5,000 pages processed	
	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed
All disclosed	16	378	0	0	0	0	0	0	0	0
Disclosed in part	39	1,683	21	3,683	5	2,586	2	1,807	1	3,355
All exempted	1	0	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0	0	0
Request abandoned	80	0	1	0	0	0	0	0	0	0
Neither confirmed nor denied	1	0	0	0	0	0	0	0	0	0
<b>Total</b>	137	2,061	22	3,683	5	2,586	2	1,807	1	3,355

## 2.5.3 Other Complexities

Disposition	Consultation Required	Legal Advice Sought	Interwoven Information	Other	Total
All disclosed	0	0	0	0	0
Disclosed in part	4	6	4	11	25
All exempted	0	0	0	0	0
All excluded	0	0	0	0	0
Request abandoned	0	0	0	0	0
Neither confirmed nor denied	0	0	0	0	0
<b>Total</b>	4	6	4	11	25

## 2.6 Closed Requests

### 2.6.1 Number of Requests Closed Within Legislated Timelines

Category	Requests Closed Within Legislated Timelines
Number of requests closed within legislated timelines	158
Percentage of requests closed within legislated timelines (%)	66.9

## 2.7 Deemed Refusals

### 2.7.1 Reasons for Not Meeting Legislated Timelines

Total Number of requests closed past the statutory deadline	Interference with Operations / Workload	External Consultation	Internal Consultation	Other
78	64	1	2	11

## 2.7.2 Requests Closed Beyond Legislated Timelines (including any extension taken)

Number of days past deadline	Number of Requests Past Legislated Timeline Where No Extension was Taken	Number of Requests Past Legislated Timeline Where an Extension was Taken	Total
1 to 15 days	18	2	20
16 to 30 days	11	2	13
31 to 60 days	8	3	11
61 to 120 days	5	1	6
121 to 180 days	3	3	6
181 to 365 days	11	3	14
More than 365 days	4	4	8
<b>Total</b>	60	18	78

## 2.8 Requests for Translation

Translation Requests	Accepted	Refused	Total
English to French	0	0	0
French to English	0	0	0
<b>Total</b>	0	0	0

## Section 3: Disclosures Under Subsections 8(2) and 8(5)

Paragraph 8(2)(e)	Paragraph 8(2)(m)	Subsection 8(5)	Total
4	2	2	8

## Section 4: Requests for Correction of Personal Information and Notations

Disposition for Correction Requests Received	Number
Notations attached	0
Requests for correction accepted	0
<b>Total</b>	0

## Section 5: Extensions

### 5.1 Reasons for Extensions and Disposition of Requests

Reason for Extension	Number of Requests Where an Extension was Taken
15(a)(i) Interference with Operations: Further Review Required to Determine Exemptions	3
15(a)(i) Interference with Operations: Large Volume of Pages	10
15(a)(i) Interference with Operations: Large Volume of Requests	0
15(a)(i) Interference with Operations: Documents are Difficult to Obtain	1
15(a)(iii) Consultation: Cabinet Confidence (Section 70)	0
15(a)(iii) Consultation: External	1
15(a)(iii) Consultation: Internal	6
15(b) Translation Purposes or Conversion	0
<b>Total</b>	21

## 5.2 Length of Extensions

Reason for Extension	1 to 15 days	16 to 30 days	31 days or greater	Total
15(a)(i) Interference with Operations: Further Review Required to Determine Exemptions	0	3	N/A	3
15(a)(i) Interference with Operations: Large Volume of Pages	0	10	N/A	10
15(a)(i) Interference with Operations: Large Volume of Requests	0	0	N/A	0
15(a)(i) Interference with Operations: Documents are Difficult to Obtain	0	1	N/A	1
15(a)(iii) Consultation: Cabinet Confidence (Section 70)	0	0	N/A	0
15(a)(iii) Consultation: External	0	1	N/A	1
15(a)(iii) Consultation: Internal	0	6	N/A	6
15(b) Translation Purposes or Conversion	0	0	0	0
<b>Total</b>	0	21	0	21

## Section 6: Consultations Received From Other Institutions and Organizations

### 6.1 Consultations Received from Other Government of Canada Institutions and Other Organizations

Consultations	Other Government of Canada Institutions	Number of Pages to Review	Other Organizations	Number of Pages to Review
Received during reporting period	2	26	0	0
Outstanding from the previous reporting period	0	0	0	0
<b>Total</b>	2	26	0	0
Closed during the reporting period	1	4	0	0
Carried over to next reporting period	1	22	0	0

### 6.2 Recommendations and Completion Time for Consultations Received from Other Government of Canada Institutions

Recommendation	1 to 15 days	16 to 30 days	31 to 60 days	61 to 120 days	121 to 180 days	181 to 365 days	More than 365 days	Total
All disclosed	1	0	0	0	0	0	0	1
Disclosed in part	0	0	0	0	0	0	0	0
All exempted	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0
Consult other institution	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0
<b>Total</b>	1	0	0	0	0	0	0	1

### 6.3 Recommendations and Completion Time for Consultations Received from Other Organizations

Recommendation	1 to 15 days	16 to 30 days	31 to 60 days	61 to 120 days	121 to 180 days	181 to 365 days	More than 365 days	Total
All disclosed	0	0	0	0	0	0	0	0
Disclosed in part	0	0	0	0	0	0	0	0
All exempted	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0
Consult other institution	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0
<b>Total</b>	0	0	0	0	0	0	0	0

## Section 7: Completion Time of Consultations on Cabinet Confidences

### 7.1 Requests with Legal Services

Number of days	Fewer than 100 pages processed		101 to 500 pages processed		501 to 1,000 pages processed		1,001 to 5,000 pages processed		More than 5,000 pages processed	
	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed
1 to 15	0	0	0	0	0	0	0	0	0	0
16 to 30	0	0	0	0	0	0	0	0	0	0
31 to 60	0	0	0	0	0	0	0	0	0	0
61 to 120	0	0	0	0	0	0	0	0	0	0
121 to 180	0	0	0	0	0	0	0	0	0	0
181 to 365	0	0	0	0	0	0	0	0	0	0
More than 365	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	0	0	0	0	0	0	0	0	0	0

### 7.2 Requests with Privy Council Office

Number of days	Fewer than 100 pages processed		101 to 500 pages processed		501 to 1,000 pages processed		1,001 to 5,000 pages processed		More than 5,000 pages processed	
	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed
1 to 15	0	0	0	0	0	0	0	0	0	0
16 to 30	0	0	0	0	0	0	0	0	0	0
31 to 60	0	0	0	0	0	0	0	0	0	0
61 to 120	0	0	0	0	0	0	0	0	0	0
121 to 180	0	0	0	0	0	0	0	0	0	0
181 to 365	0	0	0	0	0	0	0	0	0	0
More than 365	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	0	0	0	0	0	0	0	0	0	0

## Section 8: Complaints and Investigation Notices Received

Section 31	Section 33	Section 35	Court Action	Total
4	5	2	0	11



## Section 9: Privacy Impact Assessments (PIA) and Personal Information Banks (PIB)

### 9.1 Privacy Impact Assessments

<b>Number of PIA(s) Completed</b>	2
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### 9.2 Personal Information Banks

Active	Created	Terminated	Modified
48	0	0	15

## Section 10: Material Privacy Breaches

<b>Number of material privacy breaches reported to TBS</b>	1
<b>Number of material privacy breaches reported to OPC</b>	1

## Section 11: Resources Related to the *Privacy Act*

### 11.1 Costs

Expenditures	Amount
Salaries	\$1,327,515
Overtime	\$9,685
Goods and Services	\$391,696
Professional services contracts	\$352,008
Other	\$39,688
<b>Total</b>	<b>\$1,728,896</b>

### 11.2 Human Resources

Resources	Person Years Dedicated to Privacy Activities
Full-time employees	13.55
Part-time and casual employees	1.95
Regional staff	0.00
Consultants and agency personnel	1.59
Students	0.03
<b>Total</b>	<b>17.12</b>

## Appendix D: 2019-2020 Supplemental Statistical Report – Requests Affected by COVID-19 Measures

In addition to completing the forms for the Statistical Reports on the ATIA and *Privacy Act* for 2019-2020, institutions are asked to complete this Supplemental Report to help identify the impact of COVID-19 measures on institutional performance for 2019-2020 and going forward. The data requirements are set out in the tables below.

### Supplemental Statistical Report on the *Access to Information Act*

The following table reports the total number of formal requests received during two periods; 2019-04-01 to 2020-03-13 and 2020-03-14 to 2020-03-31.

**Table 1 – Requests Received**

Timeperiod	Numer of Requests
Received from 2019-04-01 to 2020-03-13	2,033
Received from 2020-03-14 to 2020-03-31	54
<b>Total</b>	<b>2,087</b>

The following table reports the total number of requests closed within the legislated timelines and the number of closed requests that were deemed refusals during two periods 2019-04-01 to 2020-03-13 and 2020-03-14 to 2020-03-31.

**Table 2 – Requests Closed**

Timeperiod	Number of requests closed within the legislated timelines	Number of requests closed past the legislated timelines
Received from 2019-04-01 to 2020-03-13 and outstanding from previous reporting periods	1,294	859
Received from 2020-03-14 to 2020-03-31	0	0
<b>Total</b>	<b>1,294</b>	<b>859</b>

The following table reports the total number of requests carried over during two periods; 2019-04-01 to 2020-03-13 and 2020-03-14 to 2020-03-31.

**Table 3 – Requests Carried Over**

Timeperiod	Number of Requests
Requests received from 2019-04-01 to 2020-03-13 and outstanding from previous reporting period that were carried over to the 2020-2021 reporting period	1,169
Requests received from 2020-03-14 to 2020-03-31 that were carried over to the 2020-2021 reporting period	54
<b>Total</b>	<b>1,223</b>

## Supplemental Statistical Report on the *Privacy Act*

The following table reports the total number of formal requests received during two periods; 2019-04-01 to 2020-03-13 and 2020-03-14 to 2020-03-31.

**Table 4 – Requests Received**

Timeperiod	Number of requests
Received from 2019-04-01 to 2020-03-13	230
Received from 2020-03-14 to 2020-03-31	5
<b>Total</b>	235

The following table reports the total number of requests closed within the legislated timelines and the number of closed requests that were deemed refusals during two periods 2019-04-01 to 2020-03-13 and 2020-03-14 to 2020-03-31.

**Table 5 – Requests Closed**

Timeperiod	Number of requests closed within the legislated timelines	Number of requests closed past the legislated timelines
Received from 2019-04-01 to 2020-03-13 and outstanding from previous reporting periods	158	78
Received from 2020-03-14 to 2020-03-31	0	0
<b>Total</b>	158	78

The following table reports the total number of requests carried over during two periods; 2019-04-01 to 2020-03-13 and 2020-03-14 to 2020-03-31.

**Table 6 – Requests Carried Over**

Timeperiod	Number of requests
Requests from 2019-04-01 to 2020-03-13 and outstanding from previous reporting period that were carried over to the 2020-2021 reporting period	48
Requests from 2020-03-14 to 2020-03-31 that were carried over to the 2020-2021 reporting period	5
<b>Total</b>	53

# Appendix E: Federal Court Review

## **Abbott Laboratories Limited v. Minister of Health and AGC**

In August 2018, Abbott Laboratories Limited (the Applicant) filed a judicial review application to contest the decision to partially release records the company considers confidential. In October 2018, the parties were granted a Confidentiality Order for the proceedings. The Applicant cross-examined Health Canada affiants in March 2019 and Health Canada is waiting for a hearing to be scheduled.

## **Abbott Laboratories Limited v. Minister of Health and AGC**

In July 2019, Abbott Laboratories Limited filed a judicial review of a Health Canada decision to release assessments of implantable medical devices from a number of third parties. Cross-examinations were held in December 2019 and a hearing date has not yet been set. Health Canada is still reviewing the records related to other third parties, and further legal action related to this file is possible.

## **Organigram Holdings Inc. v. Minister of Health**

Organigram filed for judicial review in July 2019, to overturn a Health Canada decision to release records following an Office of the Information Commissioner complaint that was determined to be well-founded. The records contain pesticide reports related to a cannabis recall. Health Canada filed an affidavit in October 2019 and is waiting for a hearing to be scheduled.

## **Samsung Electronics Canada Inc. v. Minister of Health**

In September 2018 an application was filed for a judicial review of Health Canada's intention to partially release records related to potential safety issues concerning certain top load, high efficiency washing machines. A court date for decision was set for May 2020 however was postponed due to the pandemic-related court suspension.

## **Provital Health v. Canada (Minister of Health), Preventous Collaborative Health v. Canada (Minister of Health), Copeman Healthcare v. Canada (Minister of Health)**

In January 2019, three private health care clinics each filed judicial review applications in relation to one ATI request. The applications for judicial review concern the partial release of audit reports in relation to the three clinics. The parties are filing confidentiality orders to protect the records at question during the proceedings. Health Canada's affiants were cross-examined in November 2019 and await further direction from the court.

## **Apotex Inc. v. Minister of Health et al**

In August 2019 Apotex filed for judicial review of the decision to release records related to a drug product that had been withdrawn from assessment. The fact that it was withdrawn impacts the records that may already publicly exist. Both parties are preparing evidence to submit before the court.

## **Actial Farmaceutical S.R.L. v. Minister of Health**

In January 2020, Actial Farmaceutical filed for judicial review of a Health Canada decision issued to Ferring Inc. to partially release records related to two natural health products. Court proceedings have been delayed due to the pandemic.

## **Apotex Inc. v. Minister of Health et al (proposed to discontinue)**

Apotex filed for judicial review in July 2019, of a Health Canada decision to release records related to a drug product. While Health Canada agreed with the majority of the recommendations to protect confidential business information, some portions were already publicly available and thus were decided to be released. Apotex has since decided to discontinue the case, and once formalized, the records will be released.

## **Elanco Canada Limited v. Canada (Minister of Health) (Under Appeal)**

This case is summarized in the [Applications & Appeals Submitted to the Federal Court](#) section of this report.

## **Apotex Inc. v. Minister of Health, AGC and Information Commissioner of Canada (Discontinued)**

A judicial review application was filed in September 2015 to contest Health Canada's decision to partially release records related to an Abbreviated New Drug Submission that the third party considers confidential. Two additional applications for judicial review were filed in October 2015 in relation to two other ATI requests for the same information. In December 2019, Apotex agreed to discontinue litigation without costs. The ATI records have been released to the requesters.