



Canadian Security
Intelligence Service

Service canadien du
renseignement de sécurité



ANNUAL REPORT

2020-2021

Administration of the
ACCESS TO INFORMATION ACT

Canada 

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1. Introduction

The *Access to Information Act* (hereafter the “Act”) provides Canadian citizens, as well as individuals and corporations present in Canada, the right to access federal government records of a non-personal nature. The public’s right of access to information is balanced against the legitimate need to protect sensitive information and to maintain the effective functioning of government, while promoting transparency and accountability in government institutions. The *Act* complements, but does not replace, other means of obtaining government information.

In June 2019, Bill C-58, *An Act to Amend the Access to Information Act and Privacy Act and to make consequential amendments to other Acts*, received Royal Assent. The Bill brought forth the most significant advances to the *Act* since it came into force in 1983. The amendments include providing the Information Commissioner (IC) with order making powers, allowing government institutions to seek the approval of the IC to decline to act on vexatious requests, requiring government institutions to proactively publish various information, etc.

This report is prepared and tabled in Parliament in accordance with Section 94 of the *Access to Information Act*. It covers the way in which the Canadian Security Intelligence Service (CSIS) administered the *Act* from April 1, 2020 to March 31, 2021.

2. CSIS Mandate

CSIS has, for the past thirty-seven (37) years, continued to demonstrate its value to Canadians by providing the Government of Canada with crucial information and advice linked to threats to the security of Canada and of Canadian interests. The *CSIS Act* gives CSIS the mandate to investigate activities suspected of constituting threats to the security of Canada including terrorism and violent extremism, espionage and sabotage, foreign influenced activities, and subversion of government. CSIS also advises the Government on these threats and takes lawful measures to reduce them. In addition, the Service provides security assessments on individuals who require access to classified information or sensitive files within the Government of Canada as well as security advice relevant to the exercise of the *Citizenship Act* or the *Immigration and Refugee Protection Act*. Foreign intelligence collection within Canada is also conducted by CSIS at the request of the Minister of Foreign Affairs or the Minister of National Defence.

In June 2019, the *National Security Act, 2017* received Royal Assent. This legislation modernized the original *CSIS Act* by addressing outdated legal authorities, introducing new safeguards and accountability measures as well as clarifying CSIS’ responsibilities. The legislation addressed specific challenges and provided new modern authorities needed to keep pace with continuous changes in the threat, as well as the technological and legal landscapes.

3. Organizational Structure

During the 2020-2021 fiscal year, the Access to Information and Privacy (ATIP) Section remained under the Deputy Director, Policy and Strategic Partnerships Directorate. Within the Directorate, the ATIP Section is part of the Litigation and Disclosure Branch headed by the Director General. The employees of the ATIP Section are fully dedicated to the administration of both *Access to Information* and *Privacy Acts* programs within CSIS, providing high quality and timely responses to internal and external clients including other government departments as well as providing advice to CSIS employees as they fulfill their obligations under both *Acts*. CSIS Legal Services Branch, staffed by Department of Justice (DoJ) lawyers, provides legal advice as required.

The ATIP Section has twenty (20) full-time employees to fulfill CSIS' obligations under the *Access to Information* and *Privacy Acts*. During this reporting period, the ATIP Section included one (1) Chief (Coordinator), one (1) Deputy Chief, three (3) unit Heads, thirteen (13) full-time Analysts, one (1) Administrative Officer, one (1) Researcher as well as one (1) part-time Analyst.

The ATIP Section's responsibilities vis-à-vis the *Act* are divided in two (2) categories:

Operations

- receiving and processing all requests in accordance with the *Act*;
- assisting requesters in formulating their requests when required;
- gathering all pertinent records and ensuring that the search for information is rigorous and complete;
- conducting the initial review of the records and providing recommendations to the program areas;
- conducting and responding to all internal and external consultations;
- consolidating the recommendations;
- applying all discretionary and mandatory exemptions under the *Act*;
- assisting the Office of the Information Commissioner (OIC) in all access to information related matters including complaints against CSIS; and
- representing CSIS in access to information litigation cases.

Policies and Procedures

- coordinating the annual Info Source update and submission to the Treasury Board Secretariat of Canada (TBS);
- preparing the annual report on the administration of the *Act*;
- providing ongoing advice and guidance to senior management and departmental staff on all matters related to the access to information program;
- promoting access to information awareness and training sessions and ensuring all employees are aware of the obligations imposed by the legislation;
- monitoring departmental compliance with the *Act*, regulations and relevant procedures and policies;

- posting summaries of ATIA requests to Open Canada and processing informal requests;
- maintaining the CSIS public reading room;
- ensuring the Service meets its obligations under Part 2 of the Act; and
- participating in ATIP community activities, such as the annual Canadian Access and Privacy Association (CAPA) conference, TBS ATIP community meetings and various working groups.

As defined by Section 96 of the Act, CSIS did not provide nor receive services related to any power, function to or from another government institution during this reporting period.

4. Delegation Order

In accordance with Section 95(1) of the Act, a delegation order signed by the Minister of Public Safety and Emergency Preparedness designates the persons holding the positions of Director of CSIS, Deputy Director of the Policy and Strategic Partnerships Directorate, Director General of the Litigation and Disclosure Branch as well as the Chief of the Access to Information and Privacy Section to exercise and perform the duties of the Minister as Head of the institution.

The Honourable Bill Blair, P.C., M.P. issued the current delegation order (Annex A) on October 27, 2020.

5. Interpretation of the 2020-2021 statistical report for requests under the Access to Information Act

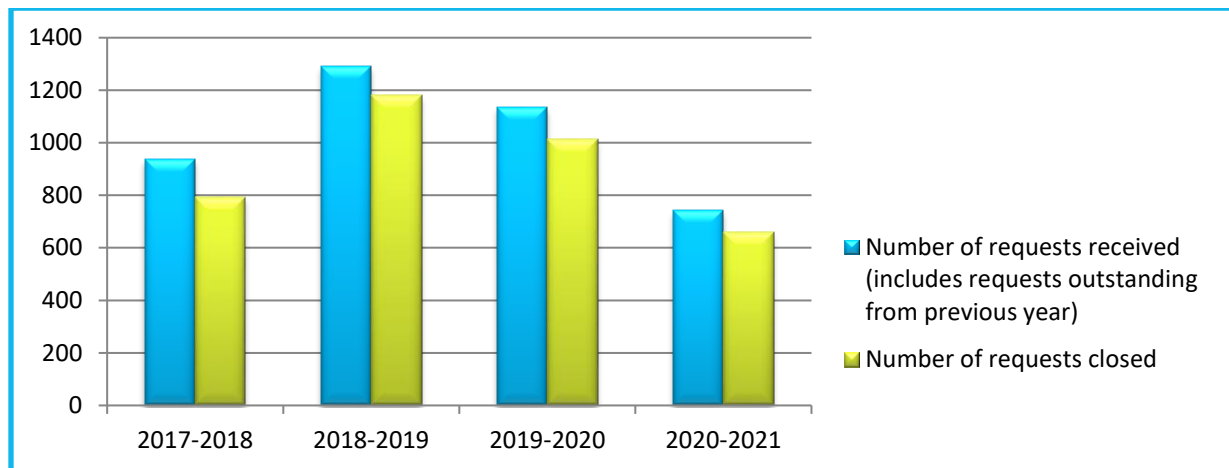
Every year, TBS requires institutions to submit a statistical report on their administration of the Access to Information Act, which contains cumulative data on the application of the legislation during the fiscal year. The CSIS Statistical Report for 2020-2021 as well as the Supplemental Report are included in Annex B and Annex C of this report. The statistics included in this report have been rounded to the nearest decimal point.

Table 1. Overview of the 2020-2021 statistics on the Service's administration of access to information requests in relation to statistics from the three previous years.

Fiscal year	Requests received	Outstanding requests	Requests closed	Requests carried over	Number of pages processed	Number of pages released	On-time compliance rate
2020-2021	624	119	658	85	41,415	11,887	81 %*
2019-2020	1,029	105	1,014	120	76,863	26,782	95 %*
2018-2019	1,146	143	1,181	108	40,146	16,304	98 %
2017-2018	851	86	791	146	65,873	23,873	98 %

* The on-time compliance rates for the 2019-2020 and 2020-2021 fiscal years were impacted by the COVID-19 pandemic and will be discussed further in this report.

Figure 1 - Multi-year trend: Number of requests received vs. number of requests closed

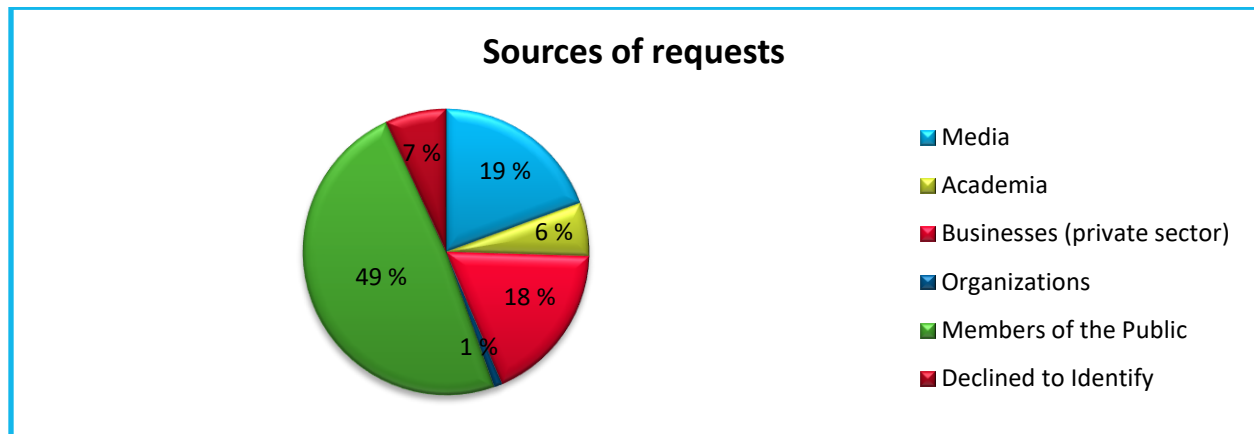


As indicated in table 1, the Service received 624 requests under the *Act* between April 1, 2020 and March 31, 2021. This represents a thirty-nine percent (39 %) decrease from the requests received during the previous reporting period. While the decrease in requests is substantial and most likely linked to the global pandemic, the Service processed a large number of highly complex and sensitive requests.

5.1 - Sources of requests

The 624 requests received during this reporting period came from various sources. Forty-nine percent (49 %) of requests came from members of the public who, largely, were seeking the status of their citizenship and immigration file or seeking to know whether the Service had information on them. Eighteen percent (18 %) of requests came from businesses; the most common being law offices dealing with immigration and citizenship files. Requests from the media increased by forty-four percent (44 %) this year compared to the previous reporting period.

Figure 2 - Sources of requests



5.2 - Disposition of completed requests

The ATIP Section successfully closed 658 requests during the 2020-2021 reporting period: forty-five percent (45 %) were closed within 1 to 15 days, twenty-two percent (22 %) were closed within 16 to 30 days and thirteen percent (13 %) took over 120 days to close. Of the records relevant to these requests, there were three (3) requests where all records were disclosed, while thirty-seven percent (37 %) were disclosed in part, twenty-eight percent (28 %) did not exist, and eighteen percent (18 %) for which the existence could neither be confirmed nor denied. No requests were denied based on being vexatious, submitted out of bad faith or an abuse of right.

Figure 3 - Multi-year trend: Disposition of closed requests

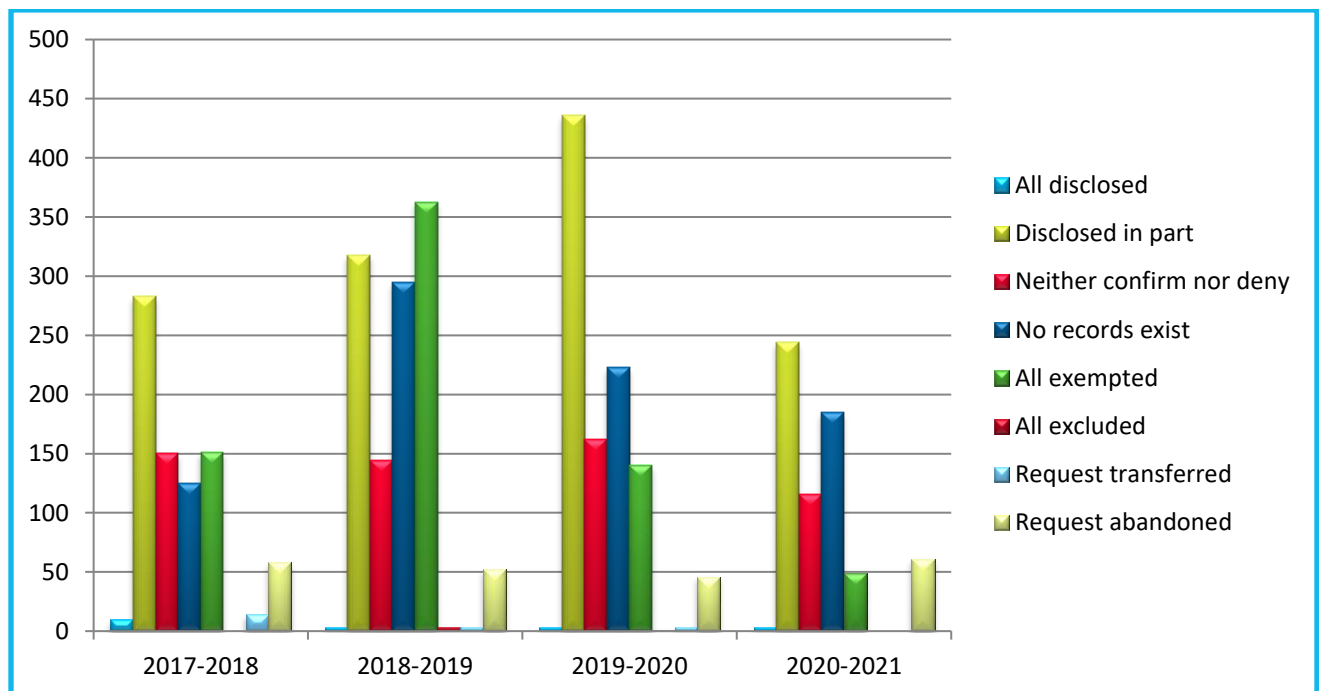
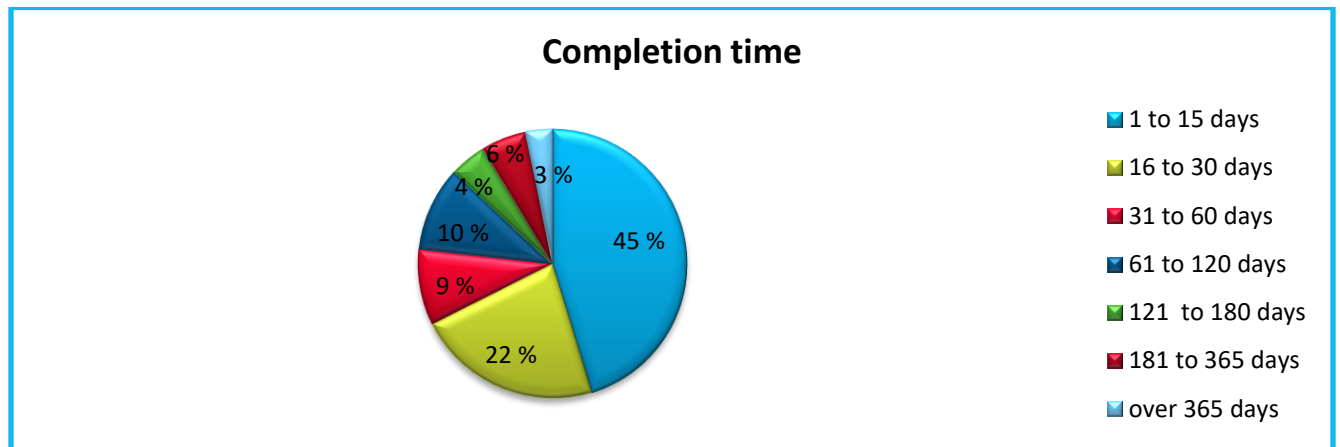


Figure 4 - Completion time



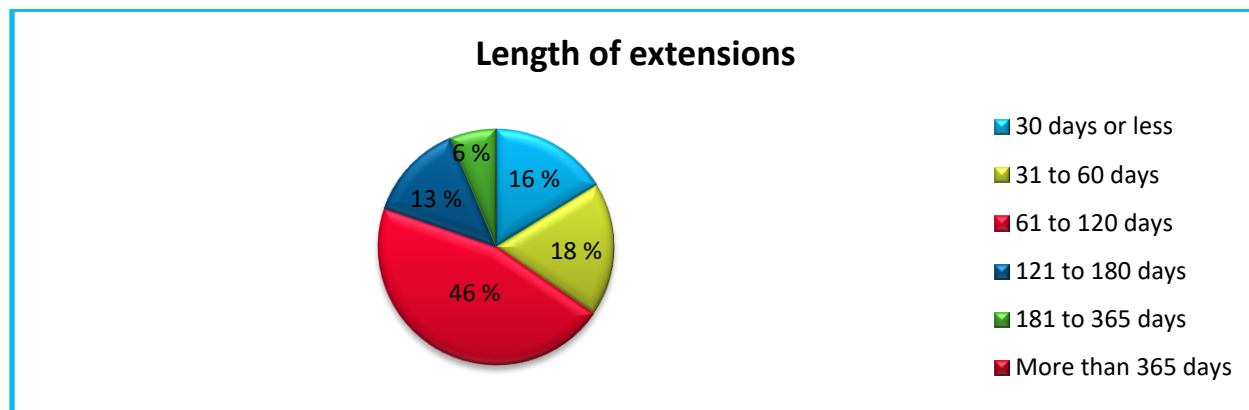
5.3 - Deemed refusals

Out of the 658 requests closed during this reporting period, the ATIP Section successfully closed 531 requests (eighty-one percent (81 %)) within the legislated timelines; however, the remaining 127 requests (nineteen percent (19 %)) were closed past the legislated timelines. It is important to note that out of the 127 requests, extensions were taken on forty-seven percent (47 %). The two (2) main reasons for requests being closed past the legislated timelines were the COVID-19 pandemic and the need to consult other government departments on classified records. The COVID-19 pandemic measures taken by the Service as well as those taken by other Government of Canada departments had a big impact on requests being closed after the legislated timelines.

5.4 - Extensions

The legislation allows for extensions when the response requires internal or external consultations, additional review time due to large amount of records, or when the review could interfere with Service operations. Throughout the reporting period, fifty-nine (59) extensions were taken. Sixty percent (60 %) of the fifty-nine (59) extensions taken were due to the Service's need to consult various other government departments on classified records.

Figure 5 - Length of extensions



5.5 – Exemptions and exclusions invoked

The *Access to Information Act* allows institutions to exempt information from being released for a variety of reasons. The ATIP Section invoked 1,675 exemptions under the *Act* during the reporting period.

Table 2. Breakdown of the exemptions used

Section of the Act	Type of exemption	Number of times
Section 13	Records obtained in confidence from other levels of government	74
Section 14	Records expected to be injurious to federal-provincial relations	0
Section 15	Records expected to be injurious to the Government of Canada in the conduct of international affairs, the defence of Canada and subversive activities	350
Section 16	Records containing law enforcement, investigations and security information	701
Section 17	Records expected to threaten the safety of individuals	8
Section 19	Records containing personal information	150
Section 20	Records containing third-party information	4
Section 21	Records containing information related to the internal decision-making processes of government	108
Section 22	Records containing test procedures, tests and audits	6
Section 23	Records related to solicitor-client privilege	31
Section 24	Records where there are statutory prohibitions against disclosure	243
Section 26	Records where information is to be published within 90 days	0

The Act does not apply to information already publically available and excludes from disclosure material such as Cabinet Confidences. The ATIP Section invoked exclusions under the Act, 137 times.

Table 3. Breakdown of exclusions used

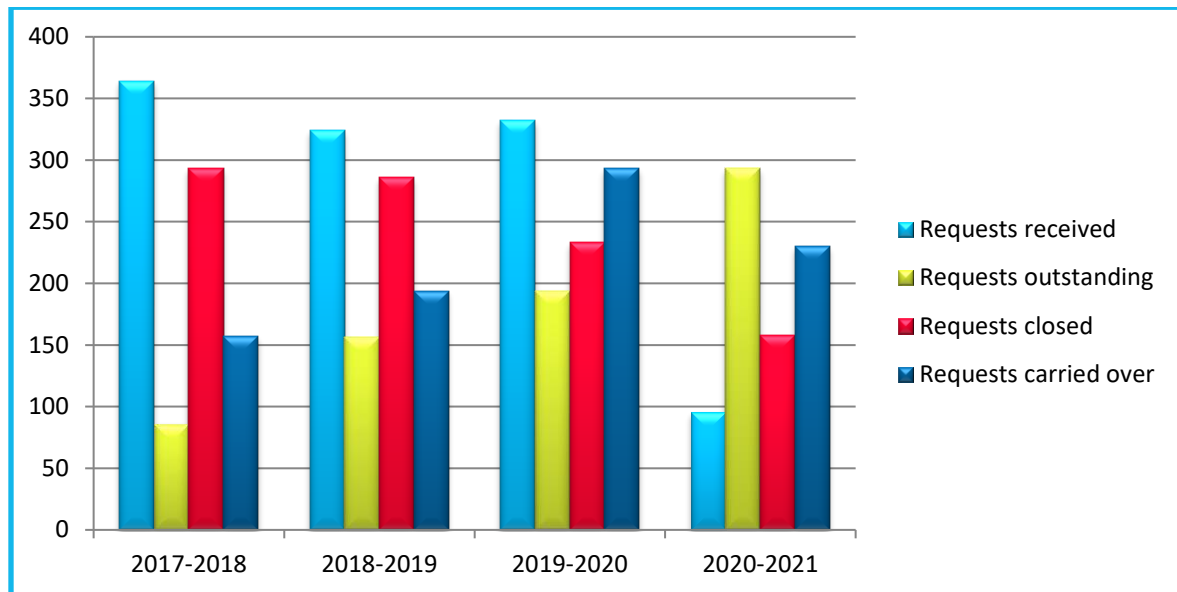
Section of the Act	Exclusion type	Number of times
Section 68	Information that could be found in the public domain	5
Section 69	Confidence's of the Queen's Privy Council for Canada	132

5.6 - Consultations received from other Government of Canada institutions

During the 2020-2021 fiscal year, the Service received ninety-five (95) access to information consultation requests involving Service records or matters. Two-hundred and ninety-three (293) requests were outstanding from the 2019-2020 fiscal year. The large majority of the requests carried over to the 2020-2021 fiscal year were consultation requests from Library and Archives Canada (LAC). These consultations involve an immense number of pages to review and contain dated RCMP and CSIS security intelligence files as well as complex and sensitive information. The Service is continuously striving to address the backlog of LAC consultations. For example, during this reporting period, the ATIP Section was able to have a few ATIP employees work exclusively on LAC requests when time and workload permitted to do so.

During the 2020-2021 reporting period, the ATIP Section closed 158 consultation requests totaling 30,913 pages reviewed. Thirty-seven percent (37 %) of consultation requests were processed in less than 60 days, while sixty-three percent (63 %) took more than 61 days to process. Two-hundred and thirty (230) consultation requests were carried over to the next fiscal year.

Figure 6 - Multi-Year trend: Consultations received from other federal Institutions



5.7 – Other requests

The Service processes informal requests (not subject to the *Access to Information Act*) in an efficient and timely manner in order to promote transparency and open government. The ATIP Section processed 823 informal requests compared to last year's 410, which represents a significant increase of 101 percent. Of those 823 informal requests, seventy-four percent (74 %) were processed within 30 days of receipt and 71,635 pages were rereleased during the 2020-2021 fiscal year.

The ATIP Section also acted as a resource for CSIS employees, including executives, by offering advice and guidance further to provisions in the legislation. The ATIP Section provided assistance, over 196 times, on a variety of matters including, but not limited to, information management, security of information, draft policies and memorandums of understanding, Parliamentary Question Period notes (QPNs) and releases of information made by CSIS outside the parameters of the *Act*.

During the reporting period, there were seventy (70) requests made under the *Act* further to the proactive publication of briefing note titles and tracking numbers. These requests will likely increase as the Service continues to proactively publish information and as the public becomes more aware of government institutions' responsibilities under Part 2 of the *Act*.

Throughout 2020-2021, the ATIP Section continued to receive telephone calls and emails from the public seeking direction on how to obtain information and/or how to submit a request under the *Access to Information Act*. The administration team in the ATIP Section provided guidance in a professional manner and often directed these individuals to the ATIP Online Request Service website for additional information.

5.8 – Impact of Covid-19 measures

As indicated in table 1, the on-time compliance rate of the ATIP Section for this reporting period was greatly impacted by the global COVID-19 pandemic. The measures taken by the Service as well as those taken by the Government of Canada to combat the spread of the Coronavirus had negative repercussions for the CSIS ATIP Section.

On March 14, 2020, CSIS activated its Business Continuity Plan (BCP). Due to the BCP and the CSIS ATIP Section's inability to process Secret and Top Secret records from home, the ATIP Section had to remain closed for eight (8) weeks. Consequently, access to information requests sent to the Service between March 14, 2020 and May 19, 2020 were neither registered nor processed. However, the ATIP Section was able to follow the recommendations of the TBS and issue delay letters to the requesters affected. The CSIS website, as well as the public CSIS ATIP email auto-reply and voicemail message, were amended to notify requesters of potential delays in the processing of their requests due to the implementation of workplace measures to curb the spread of COVID-19.

When it was suitable and safe to do so, a limited number of employees returned to the office. The ATIP Section remained at partial capacity from May 19, 2020 to August 24, 2020 for a total of fourteen (14) weeks. For security reasons, the Service does not have the capability to process Secret or Top Secret electronic records. Nevertheless, during those fourteen (14) weeks, the ATIP Section was able to close 201 ATIA paper requests; 127 of those requests were received after April 1, 2020. Starting August 24, 2020, the ATIP Section returned to the office at full capacity and remained as such until the end of the fiscal year. As noted in the 2020-2021 Supplemental Statistical Report on the *Access to Information Act* and *Privacy Act* (Annex C), the Service was able to receive paper requests by mail and through the digital request service forty-four (44) out of the fifty-two (52) weeks.

As previously mentioned, one of the biggest impacts of the COVID-19 pandemic on the Service's ability to meet legislated timeframes was the inability of certain institutions to receive and process Secret and Top Secret records. Although the CSIS ATIP Section was operating at full capacity for most of the year, many institutions advised the Service of their inability to process classified material due to their employees working from home, or that they were ultimately not accepting classified consultation requests. This resulted in requests being in deemed refusal, partial responses to requesters and necessary lengthy extensions. When the pandemic restrictions are lifted and institutions can once again receive and process classified records, the Service will be inundated with consultation requests and responses. The impact will likely be discussed in the 2021-2022 annual report.

6. Training and Awareness

During the 2020-2021 reporting period, the ATIP Section did not conduct in-person training. Rather, employees were encouraged to use other means of communication such as phone calls, collaboration software, teleconferences, etc. However, the ATIP Section continued to offer its awareness sessions through ATIP e-learning narrated slides. The narrated slides form part of the employee orientation program, which is required for all new employees. All other Service employees have the ability to reference the narrative slides at any given time through an e-learning application. The narrated slides

provides participants with an overview of the *Act* and the *Privacy Act*, promotes a better comprehension of individual responsibilities and obligations relating to the *Acts* and offers a greater understanding of the internal ATIP process. During the 2020-2021 fiscal year, 241 Service employees viewed the ATIP online module.

7. Policies, Guidelines, Procedures and Initiatives

The Service did not implement new policies, guidelines and procedures because of new TBS policies and directives. However, the Service provided recommendations to the TBS *Access to Information Act* review initiative where TBS requested the input of 265 federal government institutions subject to the *Access to Information Act* in relation to the legislation itself, proactive publication as well as processes and systems used.

8. Issues and Actions Taken on Complaints or Audits

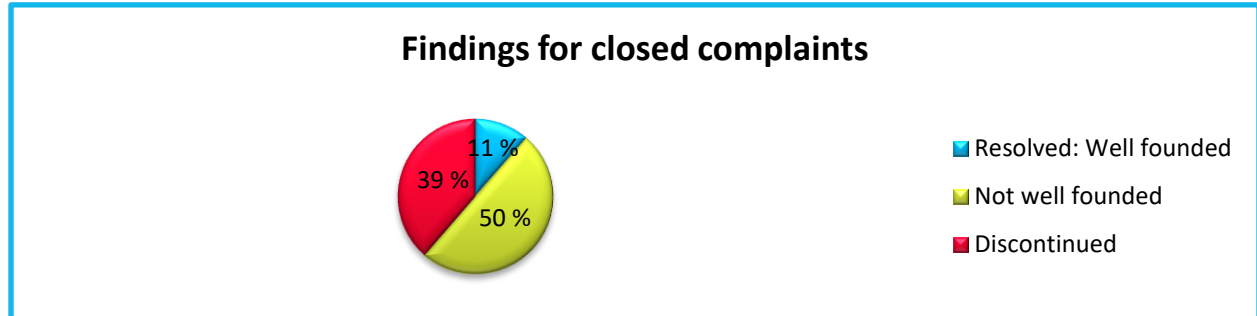
Section 30(1) of the *Act* provides requesters with the right to file a complaint with the OIC should they be dissatisfied with the response to their access to information request. Reasons for complaints include the refusal of an institution to disclose records, missing information, and delays in receiving a response. Fifty-two (52) complaints were registered with the OIC during the 2020-2021 fiscal year. This represents eight percent (8 %) of the total number of *ATIA* requests received throughout the fiscal year.

Table 4. Reasons for complaints

Reasons for complaints	Number of complaints
Delay (Deemed refusal)	7
Refusal – Exemption or exclusion	4
Refusal – No records or incomplete searches	37
Miscellaneous	4
Total	52

OIC investigators closed and issued their findings on forty-four (44) complaints. They determined that fifty percent (50 %) were not well founded, while thirty-nine percent (39 %) of the complaints were discontinued. There were five (5) complaints found to be well founded; however, they were resolved and did not require any action from the Service.

Figure 7 – Findings for closed complaints



CSIS continues to work closely with the OIC in order to resolve complaints in an efficient and timely manner. The Service reviews the outcome of all investigations by the OIC and where appropriate, integrates lessons learned into corporate processes. The CSIS ATIP Section prides itself on providing excellent service and a proactive approach.

There were no audits conducted during the reporting period.

There were no Court actions filed against CSIS relating to the *Act* during the reporting period.

9. Monitoring Compliance

There is a robust case monitoring system in place using reports produced by the ATIP Case Management software. Requests are monitored by the Chief ATIP as well as the unit Heads on an ongoing basis. The ATIP Coordinator conveys compliance issues to the Director General, Litigation and Disclosure Branch when required.

10. Other

During the 2020-2021 fiscal year, the ATIP Section incurred \$ 903,213 in salary costs and \$ 192 in other costs associated with the administration of the *Access to Information Act*.