



**Privy Council Office**

**Report Card  
On  
Compliance with Response Deadlines Under the  
*Access to Information Act***

**— Information Commissioner of Canada —**

**MARCH 1999**

# Privy Council Office (PCO)

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## Privy Council Office (PCO)

### A. REPORT—March 1999

#### I. Glossary of Terms

##### **ATI Coordinator:**

Each institution is required, by Treasury Board policy, to designate an official known as the Access to Information Coordinator. The Access to Information Coordinator is responsible for receiving access requests. Coordinators may also be delegated authority, from the heads of institutions, to levy fees, claim extensions, give notices and invoke exemptions. The scope of a coordinator's authority varies from institution to institution.

##### **Complaint Findings:**

- Well-founded—Complaints well-founded but not resolved, where the Commissioner sought consent from the requester to pursue the matters in Federal Court.
- Resolved—Well-founded complaints resolved by remedial action satisfactory to the Commissioner.
- Not Substantiated—Complaints considered not to be well-founded.
- Discontinued—Complaints discontinued, on request from the complainant, prior to a final resolution of the case.

##### **Deemed Refusal:**

10.(3) Where the head of a government institution fails to give access to a record requested under this Act or a part thereof within the time limits set out in this Act, the head of the institution shall, for the purposes of this Act, be deemed to have refused to give access.

##### **Extension:**

9. (1) The head of a government institution may extend the time limit set out in section 7 or subsection 8(1) in respect of a request under this Act for a reasonable period of time, having regard to the circumstances, if

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the original time limit would unreasonably interfere with the operations of the government institution,
- (b) consultations are necessary to comply with the request that cannot reasonably be completed within the original time limit, or
- (c) notice of the request is given pursuant to subsection 27(1) by giving notice of the extension and, in the circumstances set out in paragraph (a) or (b), the length of the extension, to the person who made the request within thirty days after the request is received, which notice shall contain a statement that the person has a right to make a complaint to the Information Commissioner about the extension.

### **Notice of Extension to Information Commissioner:**

9. (2) Where the head of a government institution extends a time limit under subsection (1) for more than thirty days, the head of the institution shall give notice of the extension to the Information Commissioner at the same time as notice is given under subsection (1).

**OPI:** Office of primary interest or the location in the department responsible for the subject matter to which the access request relates.

### **Pending:**

Unfinished requests or complaints.

- Pending Previous—Requests or complaints that were unfinished at the close of the previous fiscal year, and thus carried forward into the reporting period (the fiscal period indicated on the pie chart.)
- Pending at yearend—Requests or complaints that are unfinished at the end of the reporting period (the subject fiscal year), which will be carried into the next fiscal period.

### **Processing Time:**

The time taken to complete each stage in the access process, from the date the access request is received to the time a final response is given.

### **3<sup>rd</sup> Party:**

“Third party,” in respect of a request for access to a record under this Act, means any person, group of persons or organization other than the person that made the request or a government institution.

### **Treasury Board Guidelines:**

“The *Access to Information Act* is based on the premise that the head of each government institution is responsible for ensuring that their institution complies with the Act, and for making any required decisions. There is also provision for a designated Minister to undertake the government-wide co-ordination of the administration of the Act. The President of the Treasury Board fulfils this role.

“One of the statutory responsibilities of the designated Minister is to prepare and distribute to government institutions directives and guidelines concerning the operation of the *Access to Information Act* and regulations. The policy contained in this volume constitutes the directives referred to in the Act, and along with the Act and the Regulations establishes the minimum requirements for subject institutions. The guidelines are intended to provide an interpretation of the requirements and guidance on the application of the Act, the Regulations and the policy.”

## II. Background

For several years, the PCO has been one of a number of institutions of concern to the Information Commissioner because of evidence of chronic difficulty in meeting response deadlines. In his 1997-98 Annual Report to Parliament, the former information commissioner described PCO's planned initiatives for 1998-99 as "an enormously positive signal, reflective of a serious change of attitude and process." He also pointed out that, "PCO's leadership to the rest of government in this area is vital." A promise was there made to monitor PCO's performance to determine whether its reform initiatives would have the desired results.

This report card contains the results of the Information Commissioner's review of the PCO's performance statistics from April 1, 1998 to November 30, 1998.

## III. Grading Standard

Since Canadians have a right to timely access to information (i.e. 30 days or within extended times under specified conditions), a delayed response is equivalent to a denied response. Parliament articulated this "timeliness" requirement in subsection 10(3) of the Act, which states:

10.(3) Where the head of a government institution fails to give access to a record requested under this Act or a part thereof within the time limits set out in this Act, the head of the institution shall, for the purposes of this Act, be deemed to have refused to give access.

As a result, the Information Commissioner has adopted the following standard as being the best measure of a department's compliance with response deadlines: percentage of requests received which end as deemed refusals. The PCO is, in this report card, assessed against the following grading standard:

<b>% of Deemed Refusals</b>	<b>Comment</b>	<b>Grade</b>
0-5 per cent	Ideal compliance	A
5-10 per cent	Substantial compliance	B
10-15 per cent	Borderline compliance	C
15-20 per cent	Below standard compliance	D
More than 20 per cent	Red alert	F

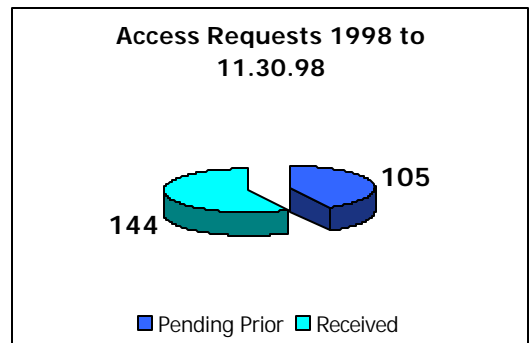
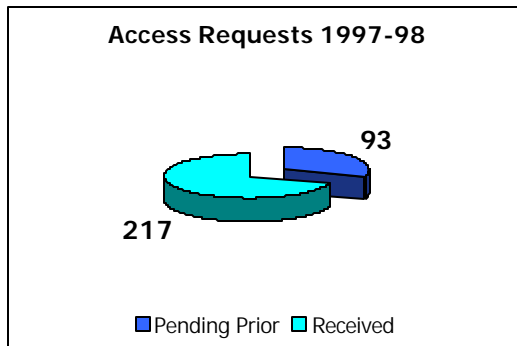
On this grading scale, the PCO rates **F\***. Its performance is unacceptable. [This fiscal year to November 30, the requests to deemed-refusal ratio is: 144:65=45.1% (based strictly on new requests). In 1997-98 the ratio was 217:117=53.9%]

What follows is an analysis of the statistical data, an explanation of the reasons for the performance record, a description of the steps being taken by management to improve performance and a set of recommendations to assist the department in this regard.

Attached to the report (Part B) are the various questionnaires and responses which formed the basis for the grading, observations and recommendations in this report card.

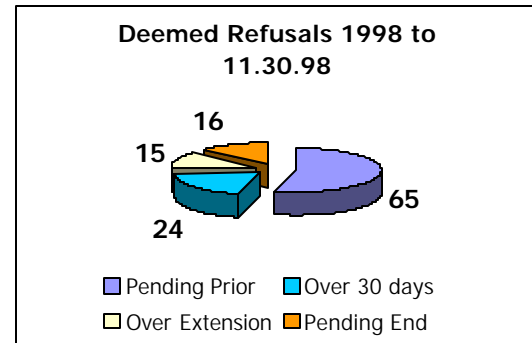
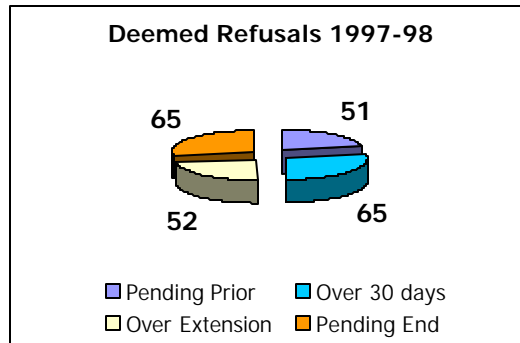
## IV. Statistical Information

### 1. Requests



The charts above present a good visual picture of PCO's significant request backlog.

\* This grade solely reflects on the department's performance in meeting response deadlines. It should not be taken as a measure of the department's performance in the application of exemptions. In general, PCO applies the exemption provisions of the act professionally and with restraint.



At the outset of the 1997-98 fiscal year, the PCO's Access to Information Office had 93 unfinished requests—51 (54.8%) were already in a deemed-refusal situation. The 1998-99 fiscal year started much the same with 105 outstanding requests—65 (61.9%) in a deemed-refusal situation. Considering the fact that 217 new requests were received in the 1997-98 fiscal year—144 to November 30 this fiscal year, these (Pending Prior) deemed refusals amount to approximately 1/3 of the yearly intake. Non-compliance considerations aside, this backlog is burdensome to the ATI office and must be eliminated.

The time taken to complete new requests is equally distressing:

- In 1997-98, processing times for 65 requests completed beyond the 30-day statutory limit—without an extension were:
  - 16 (24.6%) took an additional 1-30 days
  - 7 (10.8%) took between 31 to 60 additional days
  - 5 (7.7%) took between 31 to 90 days
  - 37 (56.9%) were completed in over 90 additional days
- In 1998 to November 30, 1998, additional processing times for 24 non-extended new requests were:
  - 14 (58.3%) took an additional 1-30 days
  - 5 (20.8%) took between 31 to 60 additional days
  - 2 (8.4%) took between 31 to 90 days
  - 3 (12.5%) were completed in over 90 additional days

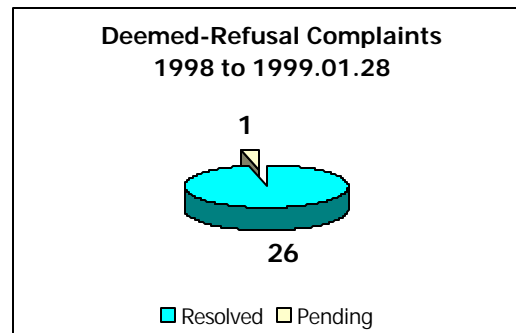
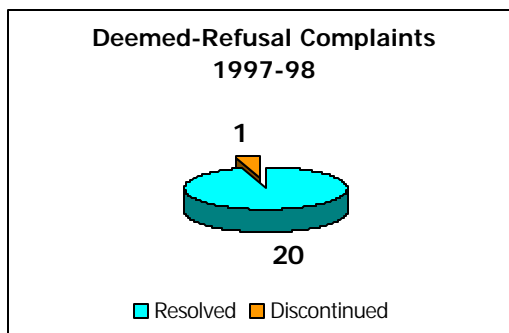
(This does not include completion figures for the deemed-refusal backlog, since the self-audit questionnaire did not ask PCO's ATI office to provide that information.)

- For extensions taken and not met, the breakdowns are similar. In 1997-98, of the 60 time extensions, 52 (86.7%) exceeded the extension of time;
  - 5 (9.6%) took an additional 1-30 days
  - 1 (1.9%) took 31-60 additional days
  - 6 (11.6%) took 61-90 additional days
  - 40 (76.9%) required more than 90 additional days

- For the current fiscal period (to November 30) of 49 time extensions—28 (57.1%) were still outstanding when the statistics were provided, and 15 (30.6%) exceeded the extension of time:
  - 7 (46.7%) took an additional 1-30 days
  - 3 (20%) took 31-60 additional days
  - 3 (20%) took 31-60 additional days
  - 2 (13.3%) required more than 90 additional days

As of November 30, 1998, 16 (11%) of unfinished new requests were in a deemed-refusal situation; seven of these outstanding requests are from the 1997-98 fiscal period. The duration for these outstanding requests is not known.

## 2. Complaints—Deemed refusals



In 1997-98, the Office of the Information Commissioner received 21 deemed-refusal complaints against the PCO—most (20—95.2%) were upheld (resolved). If all requesters where responses were late had exercised the right to complain, the commissioner’s office would have received 233 complaints.

As of January 28, 1999, the commissioner’s office had received 29 complaints—again, of the 21 completed most (20—95.2%) were upheld (resolved). That number (based on known statistics to November 30, 1998) could have been as high as 120 complaints. By the end of the fiscal year, it is predicted that the overall number of complaints received will be higher than last year.

## 3. ATI Office—Staff

The processing of access requests is the responsibility of the ATI Coordinator. The coordinator reports to the Assistant Deputy Minister, Corporate Services and is, thus, three levels removed from the deputy head of PCO. [Coordinator→ ADM, Corp→ Deputy Clerk→ Clerk.]



The coordinator's office is comprised of 12 employees—nine officer-level and three support staff.

In addition to the processing of access requests, the coordinator's office does the following:

1. Processes privacy requests
2. Advises PCO on all access and privacy issues
3. Provides academic research services
4. Conducts annual reviews of 30-year old Cabinet records for transfer to National Archives
5. Responds to inquiries
6. Coordinates responses to Parliamentary questions, petitions and motions for production of papers.

#### **4. ATI Office—Budget**

The ATI salary dollar budget for 1998-99—excluding the recent PSAC settlement—is \$596,490 for 12 person years. For 1997-98, the budget was \$596,400 for 12 person years, and for 1996/97, \$595,600 for 12 person years.

The ATI operating budget for 1998-99 is \$9,000, which is unchanged from the operating budgets for 1997-98 and 1996/97. Training is paid by the departmental training budget, and included one PM-05 for six months in 1997-98 to prepare training materials.

#### **5. Allotted Times for Request Processing**

Most departments have established set turnaround times applicable to each stage of the processing of an access request. The sum total of the times should add up to no more than 21-22 working days, if the 30-day response deadline is to be met. PCO, however, has not established internal deadlines.

## V. Sources of Delay

There appear to be three primary reasons for the delay problem at PCO: extensions poorly managed or not taken, complex processing system, outdated technology, and the time taken to review of records containing Cabinet confidences.

### 1. Extensions Poorly Managed or Not Taken

Approximately 1/3 of all new requests are extended pursuant to section 9, and in most cases, the extended deadlines are currently not met.

In 1997-98, out of 217 new requests, 60 were extended and 52 (86.7%) exceeded the extended deadlines. During the current fiscal period to November 30<sup>th</sup>, 144 new requests were received, and 49 were extended—28 of these were not complete on the date the statistics were obtained, and of the 21 for which a final response was provided, in 15 (71.4%) the extended deadlines were missed.

Few, if any, of these extensions involve paragraph 9(1)(a). This is not because the PCO does not receive requests that involve a large number of records. Although PCO is starting to invoke 9(1)(a) more frequently, the low use of 9(1)(a) extensions may be due, partly, to the slow provision of records from OPIs to the ATI office. Even if it determines that there is a large volume of records to search through or that the request is for a large volume of records—such information must be made known by the OPI to ATIP with dispatch. An extension cannot be claimed if the ATI office is not aware that an extension is necessary. However, for the most part, legitimate opportunities to extend time were missed because the PCO does not well-understand the circumstances in which extensions may be claimed. The difficulty involves an interpretation of paragraph 9(1)(a)—“the request is for a large number of records or necessitates a search through a large number of records and meeting the original time limit would unreasonably interfere with the operations of the government institution.” Specifically, the PCO has not adopted guidelines for determining what constitutes a “large number” of records.

In the summer of 1997, PCO received a consultant’s report of the results of a review of PCO’s access process. One of the items dealt with was the management of lawful extensions. The consultant suggested a number of criteria for determining whether a 9(1)(a) extension should be claimed and urged PCO to develop its own extension criteria. PCO has not acted on this recommendation.

Another problem faced by PCO in administering the extension provisions concerns the determination of whether a requested record contains a Cabinet confidence. All other departments must consult with PCO counsel for this purpose and may claim an extension of time for so doing. However, PCO did

not believe it could claim an extension under 9(1)(b) in order to consult its own counsel concerning Cabinet confidences. During 1998, the Information Commissioner informed PCO that he would accept a 30-day extension where PCO needed to consult its counsel on the matter of Cabinet confidences. This agreement was temporary and intended to give PCO the breathing room necessary to put the processes and resources in place to enable it to handle its ordinary caseload in a timely fashion.

Most, if not all, of the extensions reported in the statistics involve third-party or other consultations. It is the Information Commissioner's view that the PCO has all the legal tools it requires under the Act to extend response deadlines for the purpose of consultations. It is entirely within the PCO's control to manage the duration of these consultations. After selecting the period of extension, in consultation with the third party, or other jurisdiction, the PCO should proceed to answer the request whether or not the third party or other jurisdiction has responded to the consultation.

## **2. Application and Review of Exemptions/Exclusions**

The process by which requested records are reviewed to determine if exemptions or exclusions should be claimed is poorly designed. The process cannot produce timely responses on a consistent basis. It is fragmented, diffuses responsibilities and is awkwardly linked with a multi-purpose senior approval process.

When a request is received, the relevant OPIs are tasked to search for, locate and provide the records to the ATI Coordinator. The OPIs are not asked, at the front end, to review the records and provide the coordinator with recommendations for exemptions/exclusions. Rather, the ATIP group conducts the first review and prepares a package of recommended severances which are then returned to the OPI(s) for consideration.

If the ATIP group determines that some of the records might contain Cabinet confidences, the records are sent to legal counsel for a Cabinet confidence opinion and the recommended severances are not sent to the OPI(s) for review until a response from legal counsel has been received. Even if only a few of the records need to be reviewed for possible confidences, all of the records are held back (from OPI review) until the legal counsel review has been completed. This is also true when a need is identified for consultation with other government departments.

During the review by the OPIs of the ATIP recommendations, there are discussions between the OPIs and ATIP which result in a "letter of concurrence" setting out the agreed severances. This letter of concurrence must then be reviewed by the Assistant Secretary of the OPI who either agrees or changes the recommendation. It is, then, the version approved by the Assistant Secretary of

the OPI which becomes the official recommended response which becomes part of the approval sign-off packages. However, Assistant Secretaries do not have authority to apply discretionary exemptions. If discretionary exemptions are recommended, they are sent to the Deputy Clerk (who has the delegated authority) for application of such exemptions.

Prior to the final sign-off process, the ATI office prepares memoranda to and from all those involved in the approval process: Assistant Secretary to OPI (Assistant Secretary); OPI (Assistant Secretary) to the Deputy Clerk; the Deputy Clerk to the PMO (for information).

The sign-off process comprises: Assistant Secretary (OPI), and Deputy Clerk (discretionary exemptions). Officials who need to be informed of the impending response (such as communications, and the PMO) are informed in a parallel process.

This process reflects an institutional reflex to “play it safe” when it comes to disclosure. The mandatory nature of the response deadlines has not been sufficient to suppress the reflex. Meeting statutory deadlines will require a less top-heavy process for answering access requests.

### **3. Computer Tracking System and Use of Technology**

The PCO's current Windows-based System for recording statistical information pertaining to requests is outdated, inefficient and does not appear to be used for tracking capabilities, which impacts the delay problems.

Inventory reports—Access to Information and Privacy Office Weekly Situation Report and List of Delayed Access to Information Requests report—used for administrative purposes, and for the weekly Senior Management meetings chaired by the Clerk are created and maintained using a word-processing software package. These reports also appear to be used to track requests: not assigned; in danger of not meeting the 30 day deadline; nearing or past the end of an extension period, or almost one year old.

The PCO's “paper” environment does not take full advantage of current technological programs designed to automate processes and promote effective work-sharing through an electronic environment. Information contained on reports produced using a word processing software cannot be expected to effectively identify significant trends or weak areas. Useful, statistical reports and analysis require database manipulation through the use of sophisticated computer programs.

### **4. Inadequate Awareness**

Too many officials, even at the senior-levels, are either unaware of the mandatory nature of the response deadlines or simply give other duties a higher priority. Moreover, since PCO has not established internal deadlines for the various processing stages, the notion is reinforced that compliance is discretionary and that answering requests need not be given a high priority. In the past, no concerted effort has been made to ensure that PCO managers are adequately trained concerning their obligations and responsibilities under the access law. Since there is a high degree of turnover at the senior levels of PCO, formal training may be even more vital than is the case in other departments.

## **5. Inadequate Information Management**

PCO suffers from a problem it shares with most other departments—a records management system that has not kept pace with the decentralized functional and computing environments, which characterize today's public administration. At PCO, this manifests itself in difficulty locating relevant records in a timely fashion. In order to ensure that record searches are thorough (something PCO makes laudable efforts to do) too much time is taken to enable the later processing stages (review, preparation and approval) to be completed in a timely manner.

## **6. Inadequate Resources**

Bottlenecks at PCO occur in the OPIs and in the legal counsel area. Additional resources are required to enable these areas to conduct their searches and reviews in a timely manner. As well, the ATI area resources have remained static despite the growing backlog of carry-forward requests. Finally, resources are required to modernize the information management function at PCO.

## VI. Management Response to the Problem of Delay

### 1. Approval Process

In the 1997-98 Annual Report to Parliament, the former information commissioner reported that PCO's approval process was being streamlined. Some officials previously in the approval chain would be removed to involve as few people as possible. This included a truncated approval process when no exemptions are applied or when the exemptions are mandatory.

The PCO's process and procedural changes have been phased-in as of April 1, 1998. Responses which include full disclosure or that contain mandatory exemptions are no longer reviewed by PCO Counsel or by the Deputy Clerk. The ADM Corporate Services signs an information memorandum addressed to the PMO for these types of files. The Prime Minister's office only sees requests with a direct link to that office. And Counsel only sees requests occasionally, at the end of the process (or where Cabinet confidences or section 23 are involved).

The Communications area has been removed from the approval chain. All requests sent to OPIs include a communications form. The OPI Reviewing Officer uses the form to indicate whether or not communications implications might result from disclosure of information responsive to requests. If "Yes" is indicated, the OPI Reviewing Officer must contact the communications analyst for this file (either PCO Communications or Intergovernmental Affairs Communications, or both) to discuss the possible preparation of Questions and Answers or media lines. In addition, communications is given a "heads up" on the day of disclosure.

Fast track process meetings—held to resolve differences, instead of sequential review, on certain files—have had little impact on improving overall timeliness. These meetings are ad hoc and infrequent because too much preparation time is required. Thus, the meetings are only arranged for precedent-setting situations.

Processing at the PCO now includes the following steps:

- (1) Applicant: Submits request in writing, along with the required \$5 application fee.
- (2) ATI Office: Receives and registers requests in the administrative tracking system and CAIR. Senior management is advised of new requests, weekly, through a severed version of the ATI office's Situation Report.
- (3) ATI Office: Determines any necessary action, and may seek additional information or clarification from the applicant. The ATI office sends a

memo to the Records Management office and/or appropriate Secretariat or Section (OPIs) for a search for the appropriate records. If the request involves Intergovernmental Affairs (IGA), copies of the memos are sent to IGA.

- (4) Secretariat or Section (OPIs) / Records Management Office: Searches for records, and contacts the ATI office if a time extension is necessary. The OPIs do not perform any preliminary review at this stage. Records are submitted to the ATI office.
- (5) ATI Office: Sorts records; collects background from similar, previous requests; and determines if the information sought is publicly available. The Reviewing Officer also determines if there a need to extend due to volume; the need to consult a 3<sup>rd</sup> party or other government departments, and whether the records require consideration under sections 69 or 23, and if there are discretionary exemptions.
- (6) Legal Counsel: Cabinet Confidences / Discretionary: If records involve Cabinet confidences, the ATI office takes a 30 day extension and then sends the records to legal counsel for review. The request remains on hold during this stage of the process.
- (7) ATI Office—Administration, Consultations & Preliminary Review: The coordinator ensures appropriate administrative actions are taken and complete—extensions of statutory time limits, cost estimates, keeping applicant informed and giving any required notice of extension to the Information Commissioner. If consultations and 3<sup>rd</sup> party notices are required, these are completed during this processing step; the request remains on hold until this process is complete. The final stage of this step includes the ATI office's preliminary review, exemption/exclusion recommendations and rationalization of different exemptions.
- (8) OPI—Advice and Recommendation(s): Records are sent to the OPI official to provide written advice and recommendation(s) for exemptions/exclusions. If there is disagreement between the ATI office and the OPI, resolution between the two areas must be reached.
- (9) ATI Office—Preparation for Sign-Off: The ATI office prepares the record of decision, which is used during the sign-off process. The ATI office also prepares memoranda involved in the various sign-off processes: 1) The ATI office to the OPI (Assistant Secretary); 2) the OPI (Assistant Secretary) to the Deputy Clerk and 3) from the Deputy Clerk to the PMO.
- (10) Intergovernmental Affairs (IGA): If IGA is involved, that area is sent a severed set of records.

- (11) Final Recommendation/Decision: The Assistant Secretary or Assistant Deputy Minister provides the final recommendation, including a decision on whether to disclose or declassify; a brief explanatory memorandum for exemptions/exclusions, and signs the Record of Decision.

Mandatory Exemptions: Simultaneous to step 11, the Assistant Secretary signs the Record of Decision to indicate agreement concerning recommendations for mandatory exemptions:

- s.13 information received in confidence from another government (unless consent is received)
- s.19 personal information about an identifiable individual (unless consent is received)
- s.20 third-party information (financial, commercial, scientific or technical information about a third party).

- (12) Legal Counsel—Sign-Off: Provides approval for Cabinet confidences and recommendation for s.23 (solicitor-client) exemptions.

- (13) Deputy Clerk—Sign-Off: Following recommendation—and approval signature from Legal Counsel on Cabinet confidences only—the Deputy Clerk reviews recommendations and provides a final decision. If approval is given, the Record of Decision is signed, thus confirming the discretionary exemption(s) and the section(s) of the Act.

Prime Minister's Office: If a request involves the Prime Minister's office, a one-page memorandum is sent by the Deputy Clerk to the PMO for information.

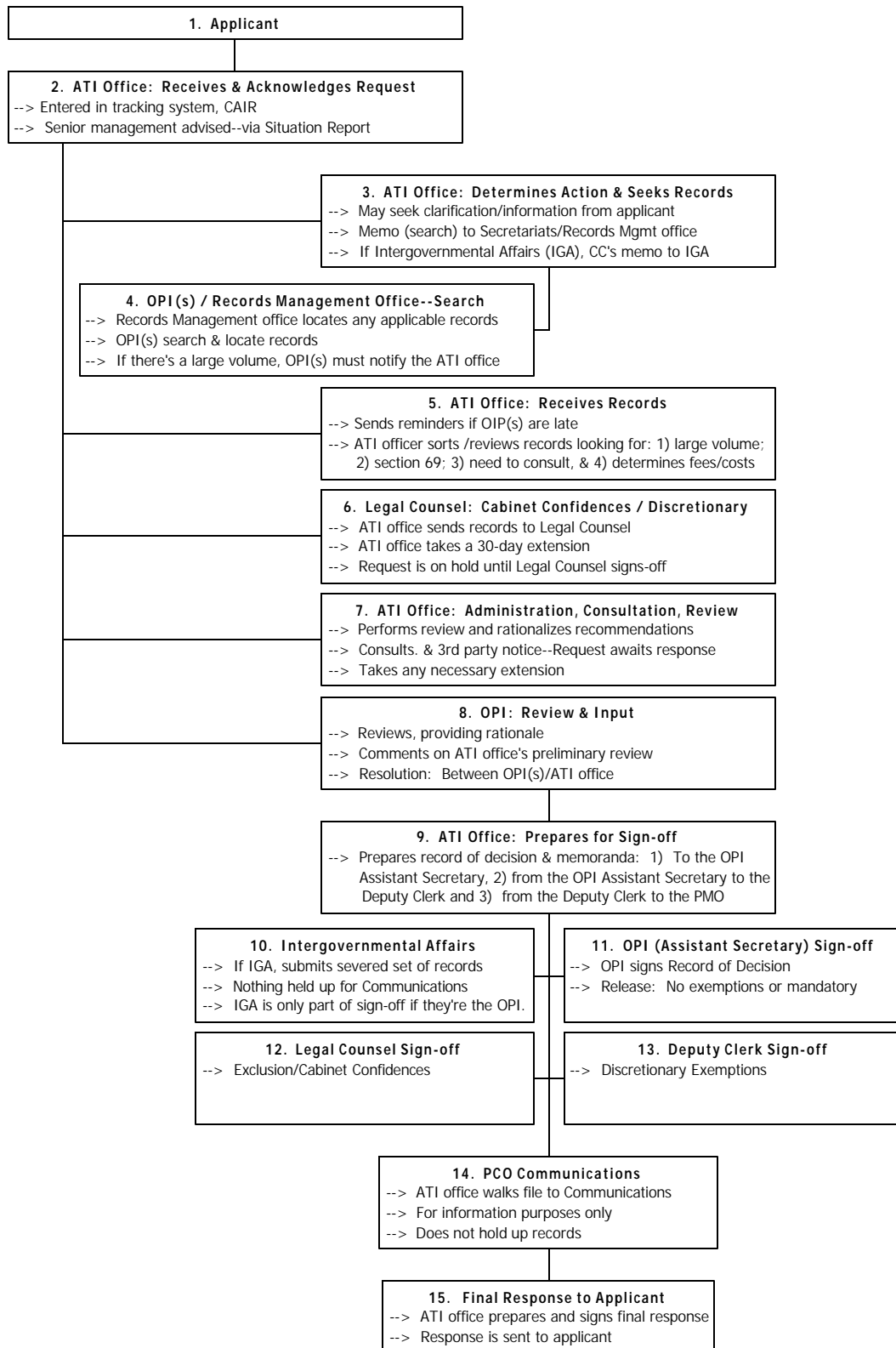
- (14) PCO Communications: If there are communication implications, the ATI office walks the file up to the Communication's office. This step is intended to let that office know that records are about to be released, for information purposes only. It does not hold up the release process.

- (15) ATI Office—Final Response: Once the approval process is complete, the ATI office prepares the records for release, severing exempted or excluded information, and prepares the final response letter. This step would also include the provision of reasonable facilities for the examination of records when a requester chooses to examine the records in person.

A flow chart showing the steps included in PCO's new processing procedures is provided on the following page.



Flow Chart--Processing of ATI Requests



## **2. Case Tracking System**

The PCO is in the process of updating the computer tracking system. The replacement system is MS Access, which the coordinator says is similar to the current ATIP tracking system. The current system no longer has any technical support, and PCO's technical staff cannot alter the code. The new system has support and code can be tailored to suit the PCO's needs. The coordinator anticipates that the new system will be in place by the end of the 1998-99 fiscal period. A specification sheet for the new system was requested, but none is available.

The ATIP *flow* from MPR & Associates, recently selected by other departments for case tracking purposes, has not been considered. The coordinator said the PCO has too much information to even consider a transfer to another system. The necessary conversion would be too demanding. Furthermore, the MS Access system is already in use by other areas of the PCO.

No consideration has been given to the automation of the PCO's paper flow.

## **3. Cabinet Confidences**

Cabinet confidence procedures were examined and streamlined. In previous years, legal counsel was central to the processing and approval processes. In the past, legal counsel had review and sign-off on all access requests. Now, counsel reviews sections 69 and 23 only, and signs-off when the request involves these provisions.

That said, since a high number of requests involve Cabinet confidences, a full-time counsel has been hired to review proposed section 69 exclusions.

## **4. Other**

Since April, the PCO's ATI Coordinator has given 30 briefing sessions to PCO staff.

Although an overall procedural reference should be written, training and quick-reference material have been produced. This information is available to all employees through PCO's internal bulletin board.

## VII. Recommendations

Since 1996-97, when almost 96 per cent of all access requests received by PCO were not answered within deadline, PCO's performance has improved. In 1997-98, 53.9 per cent were late and in 1998-99, 45.1 per cent were late. It should also be noted that the duration of the delays has dropped dramatically (see page 5). The trend is in the right direction but the progress towards full, or even substantial, compliance seems stalled.

It is our view that PCO must break through a psychological barrier in order to complete the job. The psychological barrier is PCO's reluctance to adopt the "coordinator as decider" approach which is taken in all the successful departments.

PCO's preference, to invest its senior-level operational managers with decision-making authority in access matters, reflects, in our view, its institutional fear of losing control over the disclosure of its information. To achieve success in meeting timeframes, it will need to confer on its access coordinator a full delegation of decision-making authority and allow a full-time access professional to fully administer the legislation within PCO.

This review recommends the following:

- ❖ The coordinator is directly responsible for ensuring compliance with the Access Act, and should take a strong leadership role in establishing a culture of compliance throughout RC. Such a role requires the unwavering support and endorsement of the Minister and the Deputy Minister.
- ❖ The coordinator should be directed by the Minister, in writing, to exercise the delegation to answer requests within deadlines whether or not the senior approval process has been completed.
- ❖ PCO should start making use of extensions under section 9, and OPIs (including field offices) should be trained to identify records that would justify a valid extension. Further, OPIs should contact the ATI office without delay to indicate the request involves a large number of records, or a search through a large number of records. If the ATI office is aware of the need to extend, within the initial 30 days, a valid extension can be taken if the appropriate notice is sent on time.
- ❖ Allotted turnaround times should be tightened up, with some approval processes dropped or performed simultaneously. An information sheet, clearly showing the expected turnaround times for each stage in the access process, should be developed. This might help those not familiar with the request process to understand the tight timelines.

- ❖ OPI-specific training (and information packages), with a focus on timelines and other considerations, should be developed, and training sessions given.
- ❖ If a request is clarified or modified, the ATI unit should confirm, in writing, its understanding of the revised request—when the original wording of a request does not provide sufficient detail to enable an experienced employee of the institution with a reasonable effort to identify the record. The date clarified becomes the effective date of the request, and the requester should be informed.
- ❖ If an extended date will not be met, the ATI office should routinely contact the requester to indicate it will be late, to provide an expected response date and of the right to complain to the Information Commissioner. This will not impact the deemed-refusal status once the extension date is missed; however, it will alleviate some of the requester's frustration and perhaps avert a complaint.
- ❖ If an outstanding request is almost one year old, the ATI office should notify the requester about section 31, the one-year limitation on the right to complain.
- ❖ Performance contracts with operational managers should contain consequences for poor performance in processing access requests.
- ❖ Come into substantial compliance with the Act's deadlines no later than March 31 of 2000.
- ❖ Where possible, the ATI office should provide partial response releases for portions of records not involved in 3<sup>rd</sup> party or other consultations.
- ❖ Approach the overall delay problem by establishing milestones to reach pre-set targets for improved performance (i.e. move to a project management mode).
- ❖ ATI training should be mandatory for all new managers as part of their orientation and for all managers on a refresher basis.
- ❖ An information sheet, clearly showing expected turnaround times for each stage in the access process, should be developed. This might help those not familiar with the request process to understand the tight timelines.
- ❖ The delegation order now in force (October 23, 1996) and the procedures thereunder are needlessly complex and diffused. The delegation should be to a single official, preferably the coordinator, whose full-time job it is to fully administer the access law, invoke all exemptions and answer all requests. Moreover, the delegated official should be instructed in writing by the Prime

Minister, to answer requests within deadlines whether or not the senior approval process has been completed.

- ❖ Consistent with more delegated authority, the coordinator should be classified at a more senior level and placed closer to the Clerk in the PCO hierarchy.
- ❖ OPIs should undertake the first reviews of requested records and provide the records to ATIP with suggested severances.
- ❖ Covering memoranda to OPIs should require immediate contact with the ATI office if the request involves a large number of records, or a search through a large number of records. The OPI might not be aware that this could indicate a valid reason for an extension—but only if the ATI office is notified and can send the appropriate notice on time.
- ❖ Since specification information for new computer tracking system to be established in the ATI office has not been provided, we cannot assess the capabilities. For information purposes, we are listing the features of the *ATIPflow* System from MPR & Associates. PCO's new system should match the benefits of the *ATIPflow* program:
  - Is year 2000 compliant.
  - Calculates due dates, days allowed and the number of days taken.
  - The automated correspondence feature transparently extracts and merges information into word-processing software.
  - Confidential text marking ensures requester confidentiality when uploading to CAIR.
  - Electronic case history.
  - Search options on applicant, full text, OPI, actions, etc.
  - Standard reports include: active requests, status, and workload reports including the last action, progress report, on-time trends, BF by officer, annual statistical report and more.
  - Allows extensive trend analysis.
  - Captures annual report statistics automatically as the request is processed.
- ❖ Paper processes should be automated as much as possible.
- ❖ Departmental policies and procedures are outdated and need to be updated.

## B. BASIS OF REPORT

### I. INTERVIEW WITH THE PCO'S ATIP COORDINATOR—DECEMBER 21, 1998

On December 21, 1998, the PCO's ATIP Coordinator was interviewed for the purpose of this Report Card.

### II. PCO—PRE-INTERVIEW SELF-AUDIT QUESTIONNAIRE

<b>Questionnaire for Statistical Analysis Purposes in relation to official requests made under the <i>Access to Information Act</i></b>			
<b>Part A: Requests carried over from the prior fiscal period</b>		April 1/97 to March 31/98	April 1/98 to Nov. 30/98
1.	Number of requests carried over:	93	105
2.	Requests carried over from the prior fiscal year—in a deemed-refusal situation on the first day of the new fiscal year:	51	65
<b>Part B: New Requests—Exclude requests included in Part A.</b>		April 1/97 to March 31/98	April 1/98 to Nov. 30/98
3.	Number of requests received during the fiscal period:	217	144
4.A	How many were processed within the 30-day statutory time limit:?	68	30
4.B	How many were processed beyond the 30-day statutory time limit where no extension was claimed?	65	24
4.C	How long after the statutory time limit did it take to respond Where no extension was claimed?		
	1-30 days:	16	14
	31-60 days:	7	5
	61-90 days:	5	2

	Over 90 days:	37	3
<b>5.</b>	How many were extended pursuant to section 9?	60	49
<b>6.A</b>	How many were processed within the extended time limit?:	8	6
<b>6.B</b>	How many exceeded the extended time limit?:	52	15
<b>6.C</b>	How long after the expiry of the extended deadline did it take to respond?		
	1-30 days:	5	7
	31-60 days:	1	3
	61-90 days:	6	3
	Over 90 days:	40	2
<b>7.</b>	As of December 1, 1998, how many requests are in a deemed refusal situation?		16
Part C: Contributing Factors			
<b>8.</b>	Use this area to describe any particular aspect about a request or type of request that may impact on the difficulty or time necessary to complete a request:		
	No comment.		
THANK YOU FOR COMPLETING THIS QUESTIONNAIRE			

### III. PCO—REVIEW QUESTIONNAIRE (DECEMBER 1998)

#### Review Questionnaire—December, 1998

##### Delegation of Authority:

- 1. On the Delegation Order for your institution, which powers, duties and functions have been delegated and to whom? (Provide a current copy of the Delegation Order.)**

**Text from the Designation Order provided in response to this questionnaire is as follows:**

OCT 23, 1996

Access to Information Act  
**DELEGATION ORDER**

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

Jean Chrétien  
R.S., 1985 c. A. 1

SCHEDULE

<u>Position</u>	<u>Section(s) of the Access to Information Act</u>
Clerk/Associate Secretary to the Cabinet and Deputy Clerk of the Privy Council; or, in the absence of the latter, the Assistant Deputy Minister (Corporate Services).	10(2); 14; 15; 16, 17, 18; 21; 22; 23; 26
2. Assistant Secretaries/Assistant Deputy Ministers or the person acting in those positions.	13; 19; 20; 24
3. Coordinator, Access to Information or the person acting in that position.	7; 8(1); 9; 11(2) to (6); 12; 27(1) and (4); 28(1)(b); 28(2) and (4); 29(1), 33; 37(4); 43(1); 44(2)
	<b><u>Access to Information Regulations</u></b>
1. Coordinator, Access to Information or the person acting in that position.	6(1); 8

**2. Are the ATI roles and responsibilities for those with delegated authority clearly defined?**

X yes; \_\_\_ no

**3. Do officers with delegated authority actually exercise the delegation? Or, in practice, does the approval process require the approval or concurrence of officials who are not holders of delegated authority? (Explain.)**

Officers with delegated authority exercise the delegation. See attached sample Record of Decision.

**Government of Canada  
Privy Council Office**



## ACCESS TO INFORMATION RECORD OF DECISION

Secretariat Officials, Counsel and Access Co-ordinator are responsible for ensuring appropriate advice, decisions, and signatures are shown on this document, which will be retained on file for record purposes in the event the request becomes a subject of complaint involving the Information Commissioner.

SIGNATURES OF ALL AUTHORITIES LISTED SHALL BE OBTAINED PRIOR TO SUBMITTING THIS RECORD OF DECISION TO DEPUTY SECRETARY AND DEPUTY HEAD

### Written Advice/Recommendation of Official

(1) \_\_\_\_\_  
Signature of Official—Date

### Final Recommendation of Assistant Secretary

(2) \_\_\_\_\_  
Signature of Assistant Secretary—Date

When processing has reached this stage, if any exemptions or exclusions are being recommended, the appropriate entries shall be typed in stages (6) and/or (7) and (8), to assist the signing authority. The file with all supporting documentation shall then be passed to:

- Counsel for legal verification; and
- The Access Co-ordinator for administrative verification

The file should contain:

- A. a brief explanatory memorandum from the Assistant Secretary to the Deputy Secretary/Deputy Head with recommendations for exemptions/exclusions; and
- B. when any disclosure is involved, a one page memorandum for the PM for the signature of the Deputy Head. This memorandum should provide information on the material being disclosed.

Verification—Legal/Administrative

Verified that decision (total disclosure without any exemptions) or recommendations (in case of exemptions/exclusions) and supporting documentation prepared by Secretariat and being forwarded to senior management for final decision are consistent with the provisions of the Act.

(3) \_\_\_\_\_  
Signature of Counsel—Date

Verified that all appropriate administrative action (extensions of statutory time limits, cost estimates, keeping applicant informed and giving notice of extension to the Information Commissioner when required under the Act) related to this request has been taken and all supporting documentation prepared by Secretariat and verified by Counsel is complete and ready for consideration of senior management.

(4) \_\_\_\_\_  
Signature of Access Coordinator—Date

When this verification phase is completed, this record of decision with all supporting documentation will be CARRIED BY HAND to the appropriate approving authority.

Final Decision by appropriate authority  
(Assistant Secretary/Director, Deputy Secretary/Deputy Head)  
Disclose  
Declassify

(5) \_\_\_\_\_  
Signature of Assistant Secretary—Date

Mandatory Exemption  
s. \_\_\_\_\_ of the Act

(6) \_\_\_\_\_  
Signature of Deputy Secretary—Date

Discretionary Exemption  
s. \_\_\_\_\_ of the Act

(7) \_\_\_\_\_  
Signature of Deputy Head—Date

Exclusion  
s. \_\_\_\_\_ of the Act

(8) \_\_\_\_\_  
Signature of Deputy Head—Date

- On completion of this record of decision, the following action will be taken:
- A. When no disclosure is involved, the file will be returned to the Access Coordinator to notify the applicant.
  - B. In the event any disclosure is involved, the memorandum will go forward to the PM. The rest of the file and documentation will be returned to the Access Coordinator who will prepare a response to the applicant and make preliminary arrangements for giving access, pending return of the memorandum.

**ATI Office:**

1. **To which unit/division (and management level) of the institution does the ATI coordinator report?**
  - a) **For operational purposes:**

ADM/Corporate Services.

**b) For administrative purposes:**

ADM/Corporate Services.

**2. Who (name and title) completes the coordinator's annual performance appraisal?**

Mme Elisabeth Nadeau, Assistant Deputy Minister, Corporate Services.

**3. Does the ATI Coordinator have a clear mandate? (Please provide all documentation which sets out the coordinator's goals, objectives, duties, responsibilities and authorization.)**

X yes; \_\_\_ no

See attached Resource Package.

**ROLES AND RESPONSIBILITIES OF THE  
ACCESS TO INFORMATION AND PRIVACY OFFICE**

The Access to Information and Privacy (ATIP) Office of the PCO provides support, advice and guidance to the institution at large on the administration of the legislation.

***Specific Case Files***

- 1) Receives requests and designates the office(s) of primary interest whenever possible.
- 2) Acts as point of contact with applicants throughout processing.
- 3) Initiates search for records within all relevant offices of the institution.
- 4) Receives relevant material often from a variety of sources. Collates and arranges the material.
- 5) Conducts background research which may assist in providing context and background for the relevant information.
- 6) Conducts a preliminary assessment of the information to identify any potential exemptions and/or exclusions as well as any need for interdepartmental or other internal consultations.
- 7) Reports the results of this preliminary assessment to the office of primary interest by way of a briefing note. Suggests strategies for processing such as consultations, Cabinet confidences etc.
- 8) Undertakes consultations (interdepartmental internal and third party) and coordinates responses received from all sectors. Identifies any inconsistent approaches on similar information and proposes options for solution.  
In the case of third parties, handles all follow up correspondence and any documentation required in the case of a challenge mounted by the third party in Federal Court.
- 9) Prepares schedule of potential Cabinet confidences for review by Counsel. Undertakes consultation with Legislation and House Planning/Counsel to verify Cabinet confidences.
- 10) Arranges meetings to resolve differences of opinion among PCO officials or to fulfil the requirements of the "fast track process" .

- 11) Prepares all required sign-off documentation including: Record of Decision or other sign-off instrument; schedule(s); sign-off memorandum; and briefing memoranda for Deputy Clerk and for Chief of Staff, PMO.
- 12) Prepares the relevant records for disclosure to the applicant.
- 13) Drafts all correspondence to applicants required throughout the course of the request.

***General Guidance and Assistance:***

- 1) Advises senior management on the operation of the legislation and the disposition of cases.
- 2) Monitors departmental compliance with the *Access to Information Act*, regulations, procedures and policies and provides guidance on institutional policies which may touch on legislative provisions.
- 3) Represents the PCO in dealings with the Treasury Board Secretariat, the Information and Privacy Commissioners and other government departments and agencies.
- 4) Develops and interprets departmental policies, procedures and guidelines for the orderly implementation of the Act and providing direction thereon.
- 5) Promotes awareness of the legislation to ensure departmental responsiveness to the obligations imposed on the government.
- 6) Coordinates activities for maintaining current inventories of departmental information holdings for the Info Source publication.
- 7) Coordinates the preparation of information for management and Parliamentary reports as well as material that may be required by other central agencies.
- 8) Receives and manages consultations received from other government departments. Prepares files and drafts briefing memoranda which are forwarded to Secretariats for comment and drafts response to the consulting institution.
- 9) Coordinates the response of the department to consultations from provincial and foreign governments regarding the release of information under provincial and foreign access legislation.
- 10) Administers the review of thirty-year old Cabinet material for transfer to the National Archives of Canada
- 11) Administers the "academic access program" in the PCO which grants researchers to historical records through a parallel process to the formal access program.
- 12) Responds to requests for previously disclosed information through the informal access process.

**4. Is the ATI Coordinator performing his/her duties on a full-time basis? If not—in instances where the individual also performs duties under another position title—please indicate the percentage of time spent on ATI matters.**

Full-time basis.

**5. Does the ATI Coordinator have authority/control over ATI activities throughout the institution (i.e. headquarters, regions, etc.)?**

Yes.

**6. If not, who is responsible for the ATI activities in other areas? (If more than one other person, please identify each by name, title, and classification—ground level.)**

N/A.

7. Please provide a breakdown of all employees in the ATI office, showing classification, full or part-time status, and number of years of experience.

**A: Officer Level:**

<u>Classification</u>	<u>Full-time</u>
PM-4	6
PM-5	2
AS-8	1 (also, Coordinator, Parliamentary Returns - 10%)

(Note: One PM-5 position is dedicated to Review of 30-year old records and academic requests)

**B: Support:**

<u>Classification</u>	<u>Full-time</u>
ST-SCY	1
PM-01	1 (.5 of this position assists with Parliamentary Returns)
AS-01	1

8. Have written, internal procedures been developed and implemented to ensure that access requests are processed in accordance with the statutory provisions of the Act, Regulations and the Treasury Board Guidelines? (If yes, please provide copies.)

X yes; \_\_\_ no

**Privy Council Office**  
Departmental Policies and Procedures

A.I.1  
Revised October, 1993

**IMPLEMENTATION OF THE ACCESS TO INFORMATION ACT**

**REFERENCES:**

- a) *The Access to Information Act*
  - b) Treasury Board Manual  
[...]
5. Responsibilities and Functions
- a) Delegation of Minister's Powers  
[...]
  - b) Coordination

The Access and Privacy Coordinator is the PCO official responsible for the implementation of the program on behalf of the Deputy Head of PCO. The coordinator is the “appropriate officer” referred to in the Access Register published pursuant to section 5 of the ATI Act to whom requests for access to a record should be sent. The Coordinator reports to the Assistant Deputy Minister (Corporate Services).

The Coordinator shall:

- 1) administer the procedure for the operation of the Act within PCO;
  - 2) establish department standards and procedures to assure compliance with and implementation of the Act according to Treasury Board guidelines and directives;
  - 3) direct the central office for the receipt of requests for records under ATI received within PCO;
  - 4) supervise the search, review, examination and release or exemption of records requested under the Act;
  - 5) maintain a record of the process to ensure that the request is responded to within the time limits established by the Act;
  - 6) collect fees which may be charged for the application, search and reproduction of records;
  - 7) establish a facility where the public may inspect records as provided for in the Act;
  - 8) prepare for submission by the Deputy Head the quarterly statistical reports to Treasury Board and the annual reports to Parliament as required by the Act; and
  - 9) provide the Deputy Head and Legal Counsel with documentation on the decision-making process prior to investigations by the Information Commissioner in the event of a complaint.
- c) Legal Counsel shall:
- 1) provide legal advice and assistance in the application or interpretation of exemptions to PCO officials as may be required in the processing of ATI requests;
  - 2) provide advice to all government institutions concerning decisions whether to exclude records as being confidences of the Queen’s Privy Council for Canada; and
  - 3) consult, as appropriate, with the Department of Justice concerning recommendations of the Information Commissioner when appeals to the Federal Court or other litigation involving the PCO is likely.
- d) Secretariats
- On receipt of a request for access to a record, the ATI Section, in cooperation with the Management Records Office, shall be responsible for the search, production and initial review of a record. The official in the secretariat in PCO having expertise in the subject area of the record will then be required to review the record and advise on the implications of releasing the record. Officials in secretariats shall:
- 1) assess the implications of disclosing the record, especially in relation to any injury which might occur;
  - 2) consult with other PCO secretariats or sections or other departments which may have a significant interest in the subject matter of the requested record;
  - 3) formulate advice on the basis that exceptions to the general requirement for disclosure shall be in accordance with the exemptions prescribed in the Act; and
  - 4) refer the records to their Assistant Secretary to the Cabinet or Director along with a written statement of advice, including any perceived injury which might occur upon.
- e) Assistant Secretaries to the Cabinet/Directors

The Assistant Secretary to the Cabinet or Director of a secretariat or section to whom the ATI Section has referred a request and associated records is responsible to determine whether or not to disclose the requested record. This decision can normally be made quickly based on the information provided by the officers within the secretariat or division, including the review by Legal Counsel. Exceptions to the general requirement for disclosure shall be made in accordance with the exemptions set forth in the Act.

f) Delegation of Responsibilities

The Deputy Head of PCO delegates to the ATI Coordinator his authority to release a document or to inform the individual that disclosure is refused, but the final decision rests with the Deputy Head. In the initial stages and until further notice, such authority to release or refuse access shall not be delegated to officials below the following levels:

- 1) DISCLOSURE (where no exemptions of any nature applies)
    - Assistant Secretaries to the Cabinet/ Directors (after review by Legal Counsel)
  - 2) MANDATORY EXEMPTIONS (under sections 13(1), 16(3), 19(1), 20(1) and 24(1) of the Act)
    - Deputy Secretary to the Cabinet (after review by the appropriate Assistant Secretary to the Cabinet and reference to Legal Counsel)
  - 3) DISCRETIONARY EXEMPTIONS (under sections 13(2), 14, 15(1), 16(1)(2), 17, 18, 19(2), 20(2), 20(5), 20(6), 21(1), 22, 23, 25, 26 and 27(1) of the Act)
    - Deputy Head of PCO (on recommendation of the Deputy Secretary to the Cabinet after review by appropriate Assistant Secretary to the Cabinet and Legal Counsel)
  - 4) EXCLUSION (under section 69 of the Act)
    - Deputy Head of the PCO (on the advice of Legal Counsel after review by the Deputy Secretary to the Cabinet and initial assessment by appropriate Assistant Secretary to the Cabinet/Director with primary interest in the subject area of the record).
- g) Provision of Access to or Informing of Refusal to Disclose a Record  
 On completion of the processing of a request through the appropriate management in PCO, the Access and Privacy Coordinator is the departmental official authorized on behalf of the Deputy Head of the PCO to provide access to the record or to inform the individual making the request that access has been refused.

[...]

8. Procedures

a) Processing of Requests

The various steps in the processing of a request include:

1) Applicant

- Submits request in writing. (Subsequent to receipt of request the applicant may be asked by the ATI Coordinator to provide additional information necessary to complete action on the request. The statutory time limit to respond to a request is 30 days from receipt of a complete request.)

2) ATI Section

- Receives request, opens record of action to list each activity related to the request;

- decides action required (may seek additional information from applicant);
- sends the request to the Records Management Office for a search for the appropriate records;
- if the Records Management Office files do not contain the records, the Records Manager will supervise a search of secretariat files within the Department;
- records Analyst reviews records, collects background information on previous requests for similar records, determines if record requested is publicly available;
- selects the appropriate secretariat in PCO to review the records selected and delivers records for review, including relevant sections of the Act and the Treasury Board Manual; and
- determines if notification of a third party is required in accordance with section 28(3) of the Act.

3) Secretariat or Section

- Reviews the record;
- consults as required with senior officials in other secretariats or departments;
- provides advice on subject matter of record to go to Assistant Secretary to the Cabinet if release is to be authorized, or to Legal Counsel if refusal to disclose is foreseen; and
- ensures action is taken within the secretariat in accordance with delegated authority to release or refuse access; the chain of responsibility for advice, review and final decision related to exemptions and exclusions under the Act is through the appropriate Assistant Secretary to the Cabinet, including advice of Legal Counsel, to the Deputy Secretary to the Cabinet and, in the case of discretionary exemptions and exclusions, finally to the Deputy Head.

4) ATI Section

- After decision to release or refuse disclosure is taken by appropriate officer, prepares correspondence to be sent to individual making the request;
- prepares records for release, including severing of exempted information;
- determines fees and costs based on search time and reproduction of records;
- arranges for translation if necessary;
- maintains a detailed record of action on all requests observing that any appeal process could relate to not only denial of request but also time taken to provide access, fees charged, and any other matter relating to requesting or obtaining access to a record; and
- provides reasonable facilities for the examination of records when a requester, who is given access to a record, chooses to examine the records in person; persons not authorized access to PCO offices will be met by appointment and escorted to an ATI examination location.

b) Channels of Communication

In view of the statutory time limits to process a request, 30 calendar days after receipt of a complete request, it is necessary to avoid all possible delays. Therefore, direct communication between the ATI Section and PCO secretariats and other offices is necessary and encouraged.

Situations which may require the attention of senior officials should be identified as early as possible in the process so as to produce a reply within the statutory time limits.



All written requests for access to records under the ATI Act received by any office of PCO from the general public should be sent immediately to:

Access and Privacy Coordinator  
Privy Council Office  
Room 400, Blackburn Building  
Ottawa, Ontario  
K1A OA3

Privy Council Office  
Departmental Policies and Procedures

A.1.2  
Revised October, 1993

## **THE INSPECTION AND OBTAINING OF COPIES OF DISCLOSABLE GOVERNMENT RECORDS REQUESTED BY THE PUBLIC**

### Introduction

1. In keeping with government policy that Canadians have a right of access to information in government records unless otherwise prescribed by law, officials may on occasion receive requests from the public to inspect and/or obtain copies of disclosable government records which are not classed as statutory instruments or do not fall within the purview of the Access to Information Act. In the case of statutory instruments and records disclosable under the Access to Information Act, special provisions exist to access records and there are fee schedules to obtain copies.

### Scope

2. This policy and procedure shall only be used in situations when the access policy and fee schedules related to the Statutory Instruments Act and Access to Information Act do not apply. It is not applicable to records which are published and copies are offered for sale.

### Policy

3. Requests for government records which would normally be made available to the public will continue to be accepted and processed outside the formal Access to Information program.
4. A public request to inspect and/or obtain a copy of a disclosable government record shall be acceded to when the office of primary interest (OPI), which will normally be the authority originating the record, has determined that it is a disclosable record under the law. The OPI should consult with the Access to Information and Privacy Coordinator in making this determination to ensure a uniform policy in the application of right of access to government records and in the charging of fees for reproduction of records.
5. When it is decided to make copies of records available as a service to the public, it is necessary to decide whether or not reproduction costs should be charged. This will be a matter of judgement by the OPI on a case-by-case basis depending upon the number of pages the record contains and the expected frequency of requests for copies of the same record. In some cases it would not be appropriate to impose any

fee for reproduction; in other cases, reproduction costs for records such as manuals and large working documents would be appropriate to offset the expenses involved, as well as to discourage frivolous requests for multiple copies. Advice on this question is available from the Access to Information and Privacy Coordinator.

Procedure

6. The following authorities are involved in processing a request in accordance with this policy:
  - a. The Office of Primary Interest (OPI)
    - the final decision authority in the applicant's request
  - b. Administration Division
    - provides costing advice
  - c. Finance Division
    - provides invoice, receipt and deposit of money services
  - d. Access to Information and Privacy Coordinator
    - provides timely advice on access to information and privacy, and
    - monitors the decisions on granting of access and charging of fees.
7. When the OPI receives a request from the public to inspect and/or obtain a copy of a government record, the office which has proprietary interest in the record shall determine if the record is disclosable. The Access to Information and Privacy Coordinator should be informed of the specifics of the request so that timely advice on what might be disclosable is available.
8. If it is determined that the record is disclosable, the record may be inspected.
9. If the applicant requests a copy, the applicant should be informed by the OPI that a copy is available without charge or will be provided on payment of a fee to cover reproduction costs.
10. When it is decided to charge a copying fee, a record will not be released prior to receipt of fees.
11. The OPI shall obtain costing advice from the Administration Division. The applicant will then be informed by the OPI of the cost to the government institution of copying the record. The applicant will state his intention to pay fees and will be informed by the OPI that he will receive an invoice in written form. The invoice shall be prepared by the Finance Division on request by the OPI.
12. Payment of the fee may be made in a form chosen by the applicant. Cheques and money orders are payable to the Receiver General for Canada. Fees received shall be forwarded immediately to the Finance Division which is responsible for the receipt and deposit of money. The Finance Division will inform the OPI upon receipt of payment of the fee, at which time the OPI may release the record.
13. Should the applicant wish to borrow a copy of the record to arrange for reproduction at his own expense, appropriate loan measures may be taken which shall include

agreement over the applicants signature that the material will be returned by a specific date.

14. The Access to Information and Privacy Coordinator shall be informed by the OPI of the particulars of each request under this policy and procedure as soon as possible when the request is received from the public.

## Sending Records and Documents to PCO Files

### **Who Sends Them?**

*The originator* of a document or a record is responsible to ensure that it is forwarded to PCO Files.

### **Where Should They be Sent?**

*Information and Records Management (I&RM)*, Room 606, PSB, or electronically through the PCO\_File GroupWise address. Electronic documents will be deleted from GroupWise once they are printed and filed.

### **What Should be Sent?**

*Any record* in any medium that:

- is created, collected or received in the initiation, conduct or completion of a PCO activity;
- contributes to the evolution of legislation or policy development;
- requires administrative action, or requests an opinion on an activity of interest to PCO;
- involves financial or legal matters or has policy, program or procedure implications;
- records how or why decisions and actions were taken;
- provides information needed to account for activities to Parliament.

For Example:

- PCO final briefings, reports, studies, surveys, and similarly received or collected material;
- all originals of signed and dated letters and memoranda that meet the criteria described above;
- substantive versions of a document when it clearly demonstrates the document's evolution, the decision making process, or the development of policy and legislation (Information and Records Management can help with determining what is "substantive" - see the name and number listed below).

### **What Should Not be Sent?**

*Any transitory document* or other material which does not fall under the PCO records collection policy.

For Example:

- handwritten notes and notebooks (see note below);
- working drafts of memoranda, letters and reports (see note below);
- unsigned and undated documents (see note below);
- chronological files ("chrons");
- loose press clippings; flyers, brochures, catalogues, user manuals (e.g. software packages);
- communications of a personal nature;

- telephone message slips; facsimile cover sheets;
- diskettes; copies of documents (CC's) with "PCO Files" already indicated on the distribution list;
- draft copies (white copies) of Cabinet Documents such as MC's, CR's, RD's and cabinet minutes;
- publications with an ISBN (e.g. books) should be sent to the Information and Research Centre.

**Note:** Exceptions to the examples listed above should be considered. Please keep in mind the points under the heading What Should be Sent.

### ***When Should They be Sent?***

*As soon as possible* after creation or receipt.

### ***Why Should They be Sent?***

PCO's official records are managed and protected to: allow prompt and easy retrieval for PCO employees; ensure compliance with information law and policy; and ensure the preservation of the corporate memory of PCO for future generations of Canadians.

***Questions? Call Susan Derby at 957-5703.***

Information and Records Management, Information Services, Corporate Services, PCO

August 4, 1998

February 1998

## **PCO RECORDS: WHAT SHOULD/SHOULD NOT BE KEPT AS PART OF THE OFFICIAL MEMORY**

By law, government records cannot be destroyed without the consent of the National Archivist. Institutions obtain consent for the disposal of their **official** records according to plans developed in cooperation with the National Archives. An exception is the destruction of **transitory records**. The National Archivist has granted authority in advance for the destruction of records that are transitory in nature. A description of official and transitory records follows:

### ***Official Records***

Official corporate or institutional records contain information under the control of PCO, regardless of physical form or medium, created, collected or received in the initiation, conduct or completion of a PCO activity.

Official records of PCO contribute to the evolution of legislation or policy development and include substantive drafts, and documents which comment on activities underway, require administrative action, or request an opinion on an activity of interest to PCO.

Because it is often difficult to determine what must be retained, a check list can help you decide if the information should be kept. Ask yourself:

Does it involve financial or legal matters or have policy, program or procedure implications?

Does it provide a record of how or why decisions and actions were taken?  
Does it provide information needed to account for activities to Parliament?

If the answer to any of these questions is yes, retain it and make sure a copy is sent to the Central Records Office.

### ***Transitory Records***

Transitory records are those records, in any media, that are required for a limited time to ensure the completion of a routine action or the preparation of a subsequent record.

Examples of transitory documents are telephone message slips, copies used for information or convenience only, and working drafts of letters, memos and reports where you've jotted down your thoughts for your own personal reference before producing a version that goes to someone else. Such documents may be disposed of at the discretion of the institution.

Electronic transitory information may include messages for casual communication purposes, non-substantive draft versions of documents, information intended solely for reference or exhibit, information not intended for communication to others, and electronic documents recorded and stored on electronic media where a duplicate is maintained in hard copy files.

The E-Mail and Electronic Document Policy (I.S.5) is currently available on the Communicator, and other policies including the Records Management Policy can be consulted in the Departmental Policies and Procedures manual.

If you require any further information please contact **Information and Records Management** 957-5122 or electronically through **PCO\_FILE**.  
February 1998

### **DO'S AND DON'TS—E-MAIL AND ELECTRONIC DOCUMENTS**

The *National Archives Act*, the *Access to Information and Privacy Acts* and policies on Government Security and the Management of Government Information Holdings provide the legislative framework for the management of information in government. In accordance with the provisions of these acts and policies, the following useful list of "Do's" and "Don'ts" is provided as a quick reference and guide on the handling of Electronic Mail and Electronic Documents.

**DO** remember that the Access to Information and Privacy Legislation covers **all** information under the control of the Privy Council Office (with the exclusion of Cabinet confidences), regardless of media, format, or storage location. Note that Cabinet confidences are classified information and should be treated accordingly.

**DO** send to the corporate memory (PCO\_File) a copy of all official E-Mail messages and electronic documents which:

contribute to the evolution of legislation or policy development; NB: This includes substantive drafts; and are required to support or document the delivery of programs, to carry out operations, to make decisions, or to account for our activities.

**DO** use diskettes or a secure fax for the transmission of Classified or Protected electronic documents outside of the PCO Network and ensure they are adequately protected.

**DO** ensure that all E-Mail messages are informative, courteous, and concise, reflecting the same tone and manner used in traditional correspondence.

**DO** talk to the following individuals if you have questions:

ATIP:	Ciineas Boyle	957-5210
Security:	Jean Pierre Coté	957-5044
Information and Records Management	Wendy Saunders	957-5362

**DO NOT** use the GroupWise E-Mail package for the transmission of Cabinet Documents. These include Memoranda to Cabinet, Aide-memoires and decks, Records of Cabinet Decisions, Committee Reports, Cabinet and Cabinet Committee Agendas and Minutes.

**DO NOT** use E-Mail to send Classified or Protected E-Mail and attachments outside CABNET. GroupWise encryption is automatically removed when E-mail leaves the PCO and there is no protection or privacy.

**DO NOT** use E-Mail for personal messages such as rental notices, items for sale, etc.

**DO NOT** use E-Mail for mass mailings/announcements - use the Communicator instead.

**DO NOT** retain, in electronic files or send to the corporate memory (**PCO\_File**), **transitory** messages or documents (for example, those arranging lunch with a colleague or phone message notifications).

Finally, please review your In and Out boxes regularly and clear your "trash" each day. The Helpline (957-4357) can advise on the best practices for maintaining your E-Mail folders and boxes, and for automatically eliminating trash.

## ATIP DOs AND DON'Ts

### DO

1. Be careful what you write:
  - eschew personal remarks and unnecessary opinion
  - write as if for page 1 of the Globe
2. Consult ATIP or Counsel on any sensitive matters. We're here to help.
3. Practice good records management:
  - keep your files in order so you can retrieve records in a timely fashion
  - purge unnecessary drafts (those not used to further policy development)
4. Send us all records as soon as possible. Remember once an Access request is received, all relevant drafts and transitory records must become part of the file and cannot be destroyed.

5. Remember the powers of the Information/Privacy Commissioner and the Federal Court (subpoena, right to enter premises, speak to anyone, see/take any document (excluding Cabinet confidences), etc.)
6. Remember Access is a right granted by Parliament. We must act, and be seen to act, in compliance with legislation and the spirit thereof, and always in a reasonable manner and in good faith.
7. Remember that all our files and processing memos are open to scrutiny (excluding Cabinet confidences).
8. Take it very seriously. We are acting on behalf of the Prime Minister and the Clerk of the Privy Council, and two Acts of Parliament.

#### **DON'T**

1. Don't delay on files.
2. Don't overlook e-mail, yellow stickies, notebooks, etc. All are records.
3. Don't overlook marginalia. Marginalia becomes part of the record.
4. Don't forget communications inserts - these must be completed.

C. Boyle  
Access to Information and Privacy  
September 13, 1996

## **ACCESS TO INFORMATION**

### **MAJOR POINTS TO REMEMBER**

1. There is a right of access to all records under the control of the PCO, except for Cabinet confidences (for 20 years) and published material
  - exceptions to this right must be limited and specific
  - time limits apply (30 days plus limited extensions)
2. The *Access to Information Act* is to supplement other modes of access.
3. Applicants have a right of complaint to the Information Commissioner, then Federal Court (Trial Division, Appeal), then the Supreme Court of Canada, if standing is granted. A PCO Access case recently was the first Access case to reach the Supreme Court.
4. Some exemptions are mandatory (information must be protected), i.e.:
  - s.13 information received in confidence from another government (unless consent is received)
  - s.19 personal information about an identifiable individual (unless consent is received)
  - s.20 third party information (financial, commercial, scientific or technical information about a third party)
5. Some exemptions are discretionary (a reasonable expectation of probable harm must be demonstrated), i.e.:
  - s.14 conduct of federal-provincial affairs
  - s.15 conduct of international affairs or defence

- s.16 conduct of law enforcement
- s.17 security of an individual
- s.18 economic interest of Canada
- s.21 advice or recommendations
- s.23 legal advice
- s.26 information to be published

6. Section 25 states one must sever protected information and disclose the rest.
7. Authority to invoke exemptions is delegated by the Prime Minister to the Clerk via a Delegation Order.
8. During investigations by the Information Commissioner, investigators may come on-site and review all relevant documents (except Cabinet confidences) and interview anyone they wish.
9. Interesting requests received to date:
  - Transition briefing books for the Prime Minister and Minister Massé
  - Appointment diary of the Deputy Clerk Security and Intelligence, and Counsel
  - Access office tracking sheets showing processing of Access files, including where delays occurred
  - All unity records for January-March 1996
  - Unity polls
  - October Crisis, 1970
  - Expenses of several Royal Commissions (while these commissions do not come under the *Access to Information Act* per se, their bills are paid by PCO Financial Services Division, and, therefore records exist in the PCO).

C. Boyle  
 Access to Information and Privacy  
 September 13, 1996

**The following is the Table of Contents for supplementary information included in PCO's resource package. The information listed has not been reproduced for inclusion in this review.**

#### RESOURCE PACKAGE CONTENTS

- Interdepartmental Consultations
- Exclusions
  - Cabinet confidences
  - Quick Reference Chart - Exclusions
- Exemptions
  - General Principles
  - Injury and Class Test
  - Discretionary Exemptions
  - Mandatory Exemptions
  - Quick Reference Chart - Exemptions
- Severability Principle



Section 14  
 Section 15  
 Section 19  
 Section 20  
 Section 21

Review of Decisions under the Act  
 Investigations by the Information Commissioner  
 Review by the Federal Court of Canada

Glossary of ATI Terms

## Requests:

9. **The Treasury Board Guidelines include that a copy of every access request—personal identifiers removed—should be submitted to the Coordination of Access to Information Requests (CAIR) System, Public Works & Government Services Canada within 24 hours of receipt. Is this being done? (Please provide any other guidelines you follow in this regard.)**  
 \_\_\_ Always, \_\_\_ almost always, X\* sometimes, \_\_\_ rarely, \_\_\_ never.  
 \*CAIR system is at times inaccessible. We try to upload weekly.
10. **If a request is clarified or modified, does the ATI office confirm, in writing, its understanding of the revised request—when the original wording of a request does not provide sufficient detail—with reasonable effort—to enable an experienced employee of the institution to identify the record? (Please provide any other guidelines you follow in this regard.)**  
 X Always, \_\_\_ almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.
11. **When extensions are necessary, are notices sent to the requester within 30 days?**  
 X Always, \_\_\_ almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.
12. **When notice is sent under subsection 9 (1), extending the time limit for more than thirty days, how often is a copy of the notice sent to the Office of the Information Commissioner?**  
 X Always, \_\_\_ almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.
13. **Following an extension, if it is unlikely that the extended date will be met, does the ATI office contact the requester to indicate:**
- 1) **the response will be late**  
 X Always, \_\_\_ almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.

**2) of an expected date for the final response**

Always,  almost always,  sometimes,  rarely,  never.

**3) of the right to complain to the Information Commissioner**

Always,  almost always,  sometimes,  rarely,  never.

**14. If a request is almost one year old, does the ATI office notify the requester about section 31, and the one-year limitation on the right to complain—from the time the request is made? (Provide any written guidelines you follow in this regard.)**

Always,  almost always,  sometimes,  rarely,  never.

**15.a) Are third-party notices sent as soon as the need for such notice is identified?**

Always,  almost always,  sometimes,  rarely,  never.

**b) Is the third-party timing process (as set out in section 28) observed?**

Always,  almost always,  sometimes,  rarely,  never.

Percentage of requests: \_\_\_\_%

**16. If consultations are necessary, are these sent out as soon as the need has been identified?**

Always,  almost always,  sometimes,  rarely,  never.

**17. Does the ATI office provide a partial release of the request for portions that are not involved in the necessary third-party (or other) consultations?**

Always,  almost always,  sometimes,  rarely,  never.

Depends on the nature of the file.

**18. Is there a tracking process in place to alert the ATI office if a request:**

- has not been assigned?: X yes;  no
- will not be processed within the 30 days?: X yes;  no
- is nearing the end of the extension date?: X yes;  no
- is past the extension date?: X yes;  no
- is almost one year old?: X yes;  no

**Please describe the nature of the tracking process and provide related documentation.**

- weekly reviews of Situation Report
- bi-weekly reviews with officers of all files

## Offices of Primary Interest

### 1. Are OPIs ATI responsibilities clearly defined?

X yes; \_\_\_ no

Please provide any written documentation.

#### **ROLES AND RESPONSIBILITIES OF THE OFFICE OF PRIMARY INTEREST**

The *Access to Information Act* places responsibility on all players in the process. This document provides a summary of the roles and responsibilities of PCO Secretariats. Documentation outlining various responsibilities in more detail is available. This summary has been divided by key phases of the access process.

#### ***Records Search***

- 1) It is crucial that Secretariat officials conduct a thorough, meaningful search of all existing information holdings of the office, for example: electronic mail; electronic files; paper files (draft and final versions); and officials' notes. The Act does not require that records be created in response to a request.
- 2) If the Secretariat is aware that other offices in the PCO should be searched, this advice should be passed on to the ATIP desk officer as soon as possible.
- 3) Each request provides an applicant with five free hours of search time. If a lengthy search is required within the Secretariat, please provide an accurate time estimate to the ATIP office. This, along with any estimates provided by other Secretariats, will form the basis of a fee estimate to an applicant. As with any aspect of processing, an applicant has the right to complain about a fee estimate. Therefore, the estimate must be accurate. If you are unsure how to accurately estimate a search, please contact the ATIP office for guidelines.
- 4) Relevant documentation is often, unsigned, undated or its place in the chronology of the file is unknown to anyone but the officials most acquainted with the subject matter. In some cases, the Secretariat may be called upon to assist in establishing the position of undated or otherwise ambiguous material in the relevant records package. Please do not provide electronic files in place of any signed dated version of the same record.
- 5) Any guidance or insight which can be provided by the OPI at the time the records are forwarded to the ATIP office would be greatly appreciated. This may take the form of a short commentary on some of the sensitive issues raised in the records, potential exemptions or background on Cabinet material.
- 6) The Secretariat must comply with any time frames indicated in the memorandum directing a records search.

#### ***Review of the Relevant Records***

- 1) While the ATI office can provide guidance on the general applicability of the legislation to various types of information, the subject matter expertise resides with the Secretariat. Consequently, the ATIP office relies on this expertise to identify sensitive information. Once sensitive information has been identified, the ATIP office can assist in interpreting the Act and explaining the applicability of a given section to a specific type of information.

Supplementary information on often-used exemptions and exclusions are available from the ATIP office. Various supplementary information may already be enclosed in the green access file depending on the issues raised in the course of the ATIP office's preliminary assessment.

The OPI must consider the "principle of severability" when identifying information for exemption. Section 25 (Severability) of the Act provides that a government institution shall disclose any part of a record that does not contain information which may be exempted if it can be reasonably severed from any part that does not contain exempted information. Supplementary information has been prepared and is available from the ATIP office.

Section 14 (Federal-provincial affairs) warrants special mention as it is often invoked by the PCO but is also an exemption which has been at the heart of much debate. While PCO Secretariats are expected to possess the expertise to identify information which may be injurious to the conduct of federal-provincial relations, it may be advisable to consult with officials of Intergovernmental Affairs if there is any doubt as to the applicability of section 14. These consultations may be handled informally between the OPI and IGA or formally by having the ATIP office forward the material to IGA.

#### Consultations:

- 2) The ATIP office relies on the advice of the OPI in cases where interdepartmental or other external consultations may be required, especially in situations where the interest of another institution may be less than obvious. Please see the information sheet outlining those exemptions which require consultation with institutions possessing proprietary interest or greater expertise in the subject matter.

Protecting certain types of confidential information obtained from third parties, is a legislative requirement. If the OPI is aware that information in records relating to third parties is confidential, it should be clearly identified and assessed in terms of section 20 (Third party information) of the Act. If you believe that the records contain confidential third party information, supplementary information on section 20 is available.

#### Cabinet confidences:

- 3) The ATIP office has extensive experience in identifying potential Cabinet confidences, however, background on various documents which is often known only by the Secretariat, can be invaluable in helping to establish the origin and intent of document which may have been used by Cabinet. If a file contains Cabinet material which has not been identified, you are asked to alert the ATIP office immediately. Supplementary information on Cabinet confidences is available.

#### Team Meetings:

As part of the efforts to expedite requests, more routine files will be the subject of team meetings. The Secretariat is responsible for conducting any necessary research prior to the meeting, establishing a position on disclosure/non-disclosure of the information and finally, must make every effort to attend the team meeting which is scheduled three working days after the file has been received by the OPI.

### ***Final sign-off***

1) Following completion of all interdepartmental and internal consultations, the file is returned to the OPI for final review and authorization of full or partial disclosure. The OPI must be familiar with and fully support the disclosure/non-disclosure recommendations. The OPI should also ensure that advice received from all quarters has been incorporated in the file.

2) Various disclosure/non-disclosure recommendations will result in different sign-off scenarios:

In the case of full disclosure or mandatory exemptions, the access file will be accompanied by a memorandum seeking the signed authorization of the OPI desk officer and Assistant Secretary on the Record of Decision (RD). An RD is a document which outlines the exemptions applied and contains the signatures of those authorized to review and/or authorize exemptions and/or exclusions. A schedule will be attached to the RD listing the page numbers on which exemptions are located.

Any file qualifying for full disclosure or which contains mandatory exemptions only will no longer be reviewed by PCO Counsel or by the Deputy Clerk. The ATIP Coordinator will sign the information memorandum addressed to the PMO for these types of files.

The responsibility for reviewing and confirming any discretionary exemptions claimed on a file rests with the desk officer and the Assistant Secretary of the OPI, however, the authority to invoke these exemptions resides with the Deputy Clerk. The reviewing officer and the Assistant Secretary will sign the RD confirming the disposition of the file and a schedule will be attached to the RD. The Assistant Secretary must also sign the memorandum to the Deputy Clerk seeking authorization for discretionary exemptions. The Deputy Clerk will also sign the RD authorizing the exemptions as well as the information memorandum to the PMO.

Any Cabinet confidences are confirmed and authorized by the Assistant Secretary, Legislation and House Planning/Counsel. A more detailed schedule is prepared in the case of Cabinet confidences. The Deputy Clerk will review any Cabinet confidences and will sign the information memorandum for the Chief of Staff, PMO.

3) Regardless of the disclosure/non-disclosure recommendations, each file must be assessed by the OPI for any communications implications. A green communications insert will be provided in each file and it must be completed by the OPI desk officer. If there are communications concerns, the OPI is responsible for alerting the appropriate portfolio officer in the Communications and Consultations Secretariat and for clearly indicating any instructions to the Access Office (i.e. provide Communications with an opportunity to review the disclosed records package prior to disclosure).

- 4) All deadlines specified in the sign-off memoranda must be respected.
- 5) If necessary, the desk officer from the OPI must be available to answer any questions which may be raised during Counsel's review of discretionary exemptions or in the event of a complaint.

[GREEN FORM]

### COMMUNICATIONS FORM

to be completed by the Office of Primary Interest (OPI)

OPI Reviewing Officer: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Are there communications implications related to the disclosure of information in this file?

YES

NO

If **YES**, the OPI Reviewing Officer must contact the communications analyst for this file (either PCO Communications or Intergovernmental Affairs Communications, or both) to discuss the possible preparation of Questions and Answers or media lines.

Name of communications analyst: \_\_\_\_\_

Date contacted: \_\_\_\_\_

**2. Do OPIs generally observe time limits for responding to the ATI office?**

\_\_\_ Always, \_\_\_ almost always, X sometimes, \_\_\_ rarely, \_\_\_ never.

Percentage of requests: \_\_\_%

**3. What action is taken when an OPI is late in providing records? (Provide any written documentation.)**

- Reminders with escalating cc's to Assistant Secretaries
- Email follow-up, telephone follow-ups
- Lists of overdue requests

MEMORANDUM FOR .....

c.c. Elisabeth Nadeau  
Deputy Secretary

**Re: ATIP File no.  
2nd REMINDER NOTICE**

I would like to bring to your attention the above outstanding ATIP file for which we await a response from your area of responsibility. This file was sent to your office on ..... for the purpose of .....

For your reference, the file concerned a request for ... [brief summary]

The Access to Information and Privacy legislation requires us to respond to requests within strict time limits, normally thirty days. This time limit is for completion of all steps in the process.

Upon receipt of this notice, we would very much appreciate a report on the current status of this file.

Please call ... [desk officer] ... at 957-[xxxx], or me at 957-5210, to discuss this matter.  
Ciúineas Boyle

## Processing—Other Areas:

### A. Legal Services:

1. **Are ATI requests submitted to this area for review/approval/sign-off?**  
\_\_\_ Always; \_\_\_ almost always; X sometimes; \_\_\_ rarely; \_\_\_ never  
Percentage of requests: \_\_\_%  
\* s.69 sign-off, also files with s.23 exemptions.
2. **What is the expected turnaround time for requests submitted to this area? (Please provide any written documentation.)**  
\_\_\_\_\_ days
3. **What action is taken when this area does not meet the turnaround date? If a follow-up is sent, indicate how many additional days are given for an expected response. (Please provide any written documentation.)**
  - Follow-ups, as per above.
  - Weekly meetings with Assistant Secretary, Legislation, House Planning & Counsel.

### B. Public Affairs /Communications:

1. **Are ATI requests submitted to this area for review/approval/sign-off?**  
\_\_\_ Always; \_\_\_ almost always; X sometimes; \_\_\_ rarely; \_\_\_ never  
Percentage of requests: \_\_\_%  
Only if Communications is the OPI.
2. **What is the expected turnaround time for requests submitted to this area? (Provide any written documentation.)**  
\_\_\_ days.
3. **What action is taken when this area does not meet the turnaround date? If a follow-up is sent, indicate how many additional days are**

**given for an expected response. (Please provide any written documentation.)**

\* 2 part Green Communications Sheet. Communications advised of disclosed records as they are disclosed (departmental spokesman)  
[Green sheet is reproduced in this report under the OPI section.]

**C. Minister's Office:**

1. **Are ATI requests submitted to this area for review/approval/sign-off?**

\_\_\_ Always; \_\_\_ almost always; \_\_\_ sometimes; X rarely; \_\_\_ never  
Percentage of requests: \_\_\_%  
e.g. P.M.'s expenses.

2. **What is the expected turnaround time for requests submitted to this area?**

**(Please provide any written documentation.)**  
2-3 days.

3. **What action is taken when this area does not meet the turnaround date? If a follow-up is sent, indicate how many additional days are given for an expected response. (Provide any written documentation.)**

Follow-up, as per above.

**D. Deputy Minister's Office:**

1. **Are ATI requests submitted to this area for review/approval/sign-off?**

\_\_\_ Always; \_\_\_ almost always; \_\_\_ sometimes; \_\_\_ rarely; \_\_\_ never  
Percentage of requests: \_\_\_%  
Only severed memos to and from Clerk.

2. **What is the expected turnaround time for requests submitted to this area? (Please provide any written documentation.)**

2-3 days.

3. **What action is taken when this area does not meet the turnaround date? If a follow-up is sent, indicate how many additional days are given for an expected response. (Please provide any written documentation.)**

Follow-up as per above. Telephone calls to EA to Clerk.



**E. Other areas:**

**If other areas are included in the processing/approval process of access requests, which ones? And provide the following information for each:**

**Associate Secretary and Deputy Clerk (Delegated Authority):**

- 1. Are ATI requests submitted to this area for review/approval/sign-off?** \_\_\_ always; X almost always; \_\_\_ sometimes; \_\_\_ rarely; \_\_\_ never  
Percentage of requests: \_\_\_\_\_%  
\* Discretionary exemptions  
\* Files of full disclosure and/or mandatory exemptions and total exclusions do not go to Associate Secretary - are signed off at Assistant Secretary level.
- 2. What is the expected turnaround time for requests submitted to this area? (Provide any written documentation.)**  
3 days.
- 3. What action is taken when this area does not meet the turnaround date? If a follow-up is sent, indicate how many additional days are given for an expected response. (Please provide any written documentation.)**  
\_\_\_ days.

**Fees:**

- 1. Do you have a fee policy? (If yes, please provide a copy.)**  
\_\_\_ yes; \_\_\_ no  
ATIP Regulations, TBS policy.

**FTE/Operating Budgets:**

- 1. Which division/unit is responsible for budget allocations for the ATI office?**  
Corporate Services Branch.
- 2. Are ATI activities (i.e. FTE allocations) included in the strategic planning of the institution?**  
Yes.

3. **What is/was the salary dollar budget for the ATI office for the fiscal periods shown below?**  
 1998/1999: \$ 596,490 + or -; number of person years 12  
 1997/1998: \$ 596,400; number of person years 12  
 1996/1997: \$ 595,600; number of person years 12
4. **What is/was the operating budget for the ATI office for the fiscal periods shown below?**  
 1998/1999: \$ 9K  
 1997/1998: \$ 9K  
 1996/1997: \$ 9K
5. **If possible, please provide a breakdown of how much of the operating budget for the ATI office was used or set aside for training and/or training materials (manuals, information sheets, directives, etc) for the fiscal periods shown below?**  
 1998/1999: \$ \_\_\_\_\_)  
 1997/1998: \$ \_\_\_\_\_) Departmental training budget  
 1996/1997: \$ \_\_\_\_\_)  
 PM-5 for 6 months in FY 97-98 to prepare training materials (K. McKinnon)

#### IV. PCO'S CORRESPONDENCE

In a letter addressed to the Honourable John M. Reid, P.C., dated October 30, 1998, Ms. Jocelyne Bourgon, Clerk of the Privy Council and Secretary to the Cabinet, said the following:

Thank you for your letter of October 6, 1998, regarding the issue of delays in responding to access requests in the Privy Council Office. I have also received your follow-up letter, dated October 20, informing me that you had written to the Secretary of the Treasury Board on the broader issue of government compliance with the Access to Information Act. I appreciated very much receiving a copy of this correspondence.

This is obviously a serious issue. Your concerns with regard to delays are understandable and, indeed, shared by myself as well as my colleagues. This is why, as you have yourself pointed out in your letter of October 6, the Privy Council Office has reviewed its internal administrative process and taken a number of measures to improve the situation. I would note, in particular, that the approval process has been simplified and streamlined. Unfortunately, there are still cases that give rise to delay complaints, but we are working hard to improve response time. In this regard, you can be assured that PCO takes its responsibilities very seriously and that concerted efforts will continue to be deployed by all concerned to ensure compliance with the *Access to Information Act*.

As you are probably aware, our respective staffs have had a number of discussions and meetings with a view to sharing ideas and keeping you abreast of developments. I sincerely hope that this constructive relationship will continue and look forward to the opportunity of meeting with you in the near future.

In a letter addressed to the Honourable John M. Reid, P.C., dated November 30, 1998, Mr. Ronald Bilodeau, Associate Secretary to the Cabinet and Deputy Clerk of the Privy Council, said the following:

The Clerk of the Privy Council has asked me to write you with regard to a speech you delivered at the November 17th meeting of Access to Information Coordinators, wherein you commented on the performance of specific departments in carrying out their Access responsibilities.

We must admit to being rather surprised at the comments concerning the Privy Council Office.

We had shared with your predecessor, Mr. Grace, the work we had done last year to streamline our Access to Information procedures, which we implemented April 1, 1998, with the support of your office. Our understanding is that your staff would be invited to review with us our progress near the end of this year, or at the beginning of the new year. Indeed, Mr. Grace duly noted this in last year's report: "A serious change of attitude and process, such as described above, is an enormously positive signal. The commissioner will watch the results of the PCO experiment and work cooperatively and constructively with PCO in its effort to make the Prime Minister's department the exemplar it should be of how to administer the *Access to Information Act*."

In the interval between that report and your speech to the Access Coordinators, I must ask what transpired to cause your office to take such a pessimistic view of the level of our effort and commitment to the *Access to Information Act*?

Permit me to assure you that we are making every effort, from extensive training, to reviewing and streamlining our procedures, to intensive file follow-up, to fulfil our Access responsibilities. I attach, for your information, a summary table outlining the steps taken to improve our record in meeting Access deadlines. You will note an improvement in this matter and a commitment to further improvement.

We hope this information will be helpful to you and we look forward to discussing these issues further.

**Table of Steps Taken to Improve  
Response Time in Meeting Access Deadlines  
in the Privy Council Office  
(November 30, 1998)**

**Awareness and Training:**

- Training material, quick-reference guide, produced and made available to all employees through PCO's internal bulletin board.
- 25 briefing sessions given to staff across the organization since April.
- Greater access awareness throughout PCO—Senior Management advised automatically of delay cases.

**Approval Process:**—(It should be noted that the reporting level of the Access Coordinator continues to be at two levels below Deputy Head, as recommended by your office):

- Cabinet confidence procedures streamlined, re-examined, amended.

- New simplified procedures; e.g.:
  - a) Counsel reviews only for s.69 and s.23; and
  - b) where information is all to be disclosed, Assistant Secretary signs: no requirement for further signatures)
- Steps eliminated from sign-off procedure; e.g.: Counsel no longer signs, except for s.69 issues.
- Fast tracking process introduced; e.g.: Meetings are held to resolve differences, instead of sequential review, on certain files.

**Monitoring:**

- Weekly update at Senior Management meeting chaired by the Clerk.
- Improvement of statistics concerning delay, from roughly 75% late last year to approximately 42% late this year with our commitment to removing delays.

**Resources:**

- Additional resource provided to Counsel for processing.