



**SPECIAL REPORT TO PARLIAMENT**

**of the**

**Information Commissioner of Canada**

**Pursuant to Subsection 39(1) of the  
*Access to Information Act***

**Compliance with Response Deadlines**

**May 2000**

# TABLE OF CONTENT

<b>Commissioner's Forward</b>	<b>Tab</b> 1
<b>Executive Summary</b>	2

## Human Resources Development Canada (HRDC)

	<b>Page</b>
<b>A. REPORT — January 2000</b>	
<b>I. Glossary of Terms</b>	1
<b>II. Background</b>	3
<b>III. Grading Standard</b>	3
<b>IV. Statistical Information</b>	5
1. Requests	5
2. Complaints—Deemed Refusals	6
3. ATI Office— Staff	7
4. ATI Office— Budget	7
5. Allotted Times for Request Processing	7
<b>V. Sources of Delay</b>	7
1. Approval Delegation	7
2. Approval Process	8
3. Communications	8
4. Operational Areas (OPs)	9
5. ATI Office	9
<b>VI. Management Response to the Problem of Delay</b>	9
1. Delegation Order	10
2. Approval Process	10
3. Communications	10
4. Operational Areas (OPs)	10
5. ATI Office	11
<b>VII. Recommendations</b>	11
 <b>B. BASIS OF REPORT</b>	
<b>I. Interview with HRDC's ATIP Coordinator-December 10, 1999</b>	12
<b>II. HRDC—Pre-Interview Self-Audit Questionnaire</b>	13
<b>III. HRDC— Review Questionnaire</b>	14
Delegation of Authority	14
ATI Office	15
Requests	24
A. Offices of Primary Interest	25
B. Legal Services	26
C. Public Affairs / Communications	26
D. Minister's Office	26
E. Deputy Minister's Office	27

## **Human Resources Development Canada (HRDC)**

---

	<b>Page</b>
F. Other Areas	27
The OPI / PROGRAM	27
Fees	2
FTE/Operating Budgets	28
<b>IV. Other Information from HRDC</b>	<b>29</b>

## **Transports Canada (TC)**

---

	<b>Page</b>
<b>A. REPORT— January 2000</b>	
<b>I. Glossary of Terms</b>	31
<b>II. Background</b>	33
<b>III. Grading Standard</b>	33
<b>IV. Statistical Information</b>	35
1. Requests	35
2. Complaints—Deemed Refusals	37
3. ATI Office— Staff	37
4. ATI Office— Budget	37
5. Allotted Times for Request Processing	38
<b>V. Sources of Delay</b>	38
1. Approval Delegation	38
2. Approval Process	39
3. Communications	40
4. Operational Areas (OPIs)	41
5. ATI Office	41
<b>VI. Management Response to the Problem of Delay</b>	42
1. Operational Areas (OPIs)	42
2. Review of Delays	42
3. Information Access	43
<b>VII. Recommendations</b>	44
<b>B. BASIS OF REPORT</b>	
<b>I. Interview with TC's ATIP Coordinator—December 9, 1999</b>	45
<b>II. TC — Pre-Interview Self-Audit Questionnaire</b>	46
<b>III. TC — Review Questionnaire</b>	48
Delegation of Authority	48
ATI Office	49
Requests	50
A. Office of Primary Interest	52
B. Legal Services	52
C. Public Affairs / Communications	53

## **Transports Canada (TC)**

---

	<b>Page</b>
D. Minister's Office	53
E. Deputy Minister's Office	53
F. Other Areas	54
THE OPI / PROGRAM	54
Fees	56
FTE/Operating Budgets	57
<b>IV. Other Information from TC</b>	<b>57</b>

## **Citizenship and Immigration Canada (C&I)**

---

	<b>Page</b>
Summary	59
Recommendations	60
Status	60

## **Canada Customs and Revenue Agency (CCRA)**

---

	<b>Page</b>
Summary	69
Recommendations	69
Status	70

## **Department of Foreign Affairs and International Trade (DFAIT)**

---

	<b>Page</b>
Summary	75
Recommendations	75
Status	76

## **Department of National Defence (ND)**

---

	<b>Page</b>
Summary	85
Recommendations	86
Status	87

## **Health Canada (HC)**

---

	<b>Page</b>
Summary	93
Recommendations	93
Status	94

## **Privy Council Office (PCO)**

---

	<b>Page</b>
Summary	105
Recommendations	105
Status	106

**SPECIAL REPORT TO PARLIAMENT  
Of The  
Information Commissioner of Canada  
Pursuant to Subsection 39(1) of the  
Access to Information Act**

May 2000

Commissioner's Forward

Last year, 1999, this Information Commissioner made special reports to Parliament in the nature of "report cards" on the performance of six departments in meeting response deadlines under the **Access to Information Act**. All six departments received a failing grade because more than 20 percent of the access requests they received were not answered within statutory deadlines. (See page 3 for the grading scale). In fact, the actual non-compliance rates last year ranged from a high of 85.6 percent to a low of 34.9 percent.

This year's "report cards" are combined in one report. The first part of the report sets out the results of full reviews of the response-time performance in two new departments: Transport Canada (TC) and Human Resources Development Canada (HRDC). The second part, sets out the results of follow-up reviews of the six departments whose performance was reported last year. They are: Citizenship and Immigration Canada (CIC); the Department of Foreign Affairs and International Trade (DFAIT); Health Canada (HC); National Defence (ND); Privy Council Office (PCO) and Revenue Canada, now known as the Canada Customs and Revenue Agency (CCRA).

By contrast with last year's bleak results, this year there are several positive stories to report. Principal among them is the perfect score achieved by HRDC. During the review period every access request received by HRDC was answered within 30 days--no extensions were claimed. This show of respect for the rights of Canadians to timely responses, represents an outstanding feat of good leadership, good management and hard work. Kudos to HRDC are well-deserved and unreservedly given by this Commissioner.

And, too, among those departments whose performance last year scored "F", there were two which "pulled up their socks" in a remarkable fashion. This year both Health Canada and the Privy Council Office earned "A"s. In both cases less than five percent of the access requests they received were answered beyond legislated deadlines. They, too, put in the resources and effort urged upon them in last year's report and have earned the praise and gratitude of this Commissioner.

The other four departments which failed on their report cards last year (CIC, CCRA, DFAIT and ND) received "F"s again this year. But even in these cases, there is a bright side to the story. All are showing substantial improvement over previous years and all have put in place resources and processes which, in this Commissioner's view, will bring them into compliance by the end of fiscal year 2000/2001. This year, among the failing group, the non-compliance rate ranges from a high of 51.5 percent to a low of 23.4 percent.

Over the coming year, the Office of the Information Commissioner will make it a priority to assist Citizenship and Immigration Canada, Canada Customs and Revenue Agency, Foreign Affairs and International Trade and National Defence in achieving the goal of full compliance with response deadlines.

The bright spots in this year's report do not mean that the crisis of delay in the system is over. Government-wide, too many responses are late responses and there are too many complaints of delay. This fiscal year, some 50 percent of all complaints concerned delays. As well, the Information Commissioner only had the resources to conduct full reviews of two new departments this year. While one of those (HRDC) as previously mentioned, received an "A", the other (Transport Canada) received an "F". How many others deserve failing grades?

In this regard, the President of Treasury Board must fulfill her role to ensure that the Access Law is effectively and consistently administered across government. Treasury Board, as a priority, must begin collecting the appropriate statistics to enable Parliament and all Canadians to know which departments are failing in their duty to provide timely responses.

All of which to say that Parliament, too, needs to remain concerned and vigilant about the widespread problem of non-compliance with response deadlines under the **Access to Information Act**. Access, like justice, is denied when it is delayed. These report cards and report card updates are offered as tools to assist MPs and committees in their oversight work.

# EXECUTIVE SUMMARY

## I: NEW REPORT CARDS:

This fiscal year, 1999/2000, the Office of the Information Commissioner conducted performance reviews in two departments which had not previously been reviewed. They were Human Resources Development Canada and Transport Canada.

The same grading scale was used as in previous reviews of other departments, as follows:

<u>% of Deemed Refusals</u>	<u>Comment</u>	<u>Grade</u>
0-5 percent	Ideal compliance	A
5-10 percent	Substantial compliance	B
10-15 percent	Borderline compliance	C
15-20 percent	Below standard compliance	D
more than 20 percent	Red Albert	F

On this scale, HRDC scored "A" since zero percent of requests it received were answered beyond statutory deadlines. Transport Canada scored "F" since 30.6 percent of requests it received were not answered on time.

Transport Canada, by comparison with other departments of similar size, does not receive a large volume of access requests. It should be possible for the department to come into compliance by means of a re-engineering and streamlining of its delegations, procedures and practices. The delay problem at Transport Canada does not appear to be due to a lack of resources dedicated to the function.

## II: UPDATE OF 1998/1999 REPORT CARDS

### **Background**

Six departments were identified in the 1996/1997 Annual Report as departments with serious delay problems. The departments were Citizenship and Immigration Canada (CIC), Foreign Affairs and International Trade (DFAIT), Health Canada (HC), National Defence (ND), Privy Council Office (PCO) and Revenue Canada (now the Canada Customs and Revenue Agency) (CCRA). The 1997/1998 Annual Report identified the remedial initiatives that these departments were taking to reduce the delay problem.

In 1998/1999 Report Cards were issued on each of these departments. The Report Cards assessed or graded each department relative to their performance in meeting the statutory time requirements of the **Access to Information Act**. All of the departments received a failing grade. An "F" meant that 20 or more percent of requests were not answered within the time requirements of the Act. The actual percentages of requests not responded to within the Act's time requirements in the six departments ranged from 34.9 percent to 85.6 percent for the first eight months of fiscal year 1998/1999.

The departmental Report Cards also contained a number of recommendations for each of the six departments on methods to reduce the delay problem. In November 1999,

the Commissioner's Office reviewed the status of the recommendations with each of the six departments. Statistical information was also collected to report on the progress of reducing the number of requests not meeting the Act's time requirements. The statistical information dealt with the number of deemed refusal requests over the first eight months of fiscal year 1999/2000. A brief report was prepared for each department on the status of each recommendation with accompanying statistical information on the progress in reducing the number of deemed refusals.

## **Overview of Recommendations' Status**

Overall, departments have made progress in implementing the Report Card recommendations. Each department has taken a somewhat different approach to deal with the reduction of deemed refusal requests. It appears that the measures that were the most successful in contributing to the reduction of deemed refusal requests were:

- The development of an overall plan with milestones, targets, tasks, deliverables and responsibilities. The actual performance of those accountable for the various tasks can then be measured in quantitative and qualitative terms. This is particularly important because ATI Branches are dependent in many cases on the work of other parts of the organization.
- A fundamental review of the access to information process to eliminate duplication and tasks that do not add value to the process.
- The implementation and use of computer technology like the ATIP flow System. Without factual and accurate information, it is difficult for an ATI Coordinator to be proactive about potential deemed refusal problems. It is also difficult to measure planned versus actual performance of time taken to respond to access requests by OPIs and other parts of the organization involved in the access process.
- The reduction of approvals needed for decisions on access requests particularly when a communication function was previously involved in the approval chain.
- Additional resources to reduce the backlog of deemed refusal requests or to address an ATI Unit that was chronically underfunded relative to the increasing workload. Even though resources were increased in some ATI Units to deal with the backlog of requests, the additional resources are diverted to a certain extent to process the increased workload rather than deal with the deemed refusal situation as planned.

The above measures flow directly from recommendations in the Report Cards. In addition, all departments have made better use of extensions under the Act. Each of the six departments also received additional funding in 1999/2000 or is requesting additional funding in 2000/2001 to implement measures to deal with the deemed refusal problem.



## Recommendations for Implementation

There were a number of recommendations in the Report Cards (where the same recommendation was made for all six departments) that were generally not acted on by departments. The implementation of these recommendations is important because continuing rather than one time measures are needed to maintain the time requirements of the Act on an on-going basis. The recommendations are:

- 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.
- Performance contracts with operational managers should require compliance with internal and legislated response deadlines.
- ATI training should be mandatory for all new managers as part of their orientation and for all managers on a refresher basis.

## Observations

A number of departments felt that a qualitative aspect should be added to the Report Cards. The grading system in the current report cards is based only on the number of deemed refusals relative to the number of requests processed within the time requirements of the Act. The Office of the Information Commissioner will consider whether a qualitative as well as quantitative component to the future report cards would be of benefit in the review.

ATI Coordinators report that the Report Cards have been instrumental in changing the culture of delay in answering access requests. OPIs are more aware of the time requirements of the **Access to Information Act**. Each of the departments reported more actual or planned management and statistical information available to manage the access request process. The key component that was missing in a number of departments was routine, consistent reporting on information to OPIs and other parts of the organization on planned vs. actual time taken at each stage of the access process. Without this type of information it is difficult to identify potential problems with the Act's time requirements. The information also allows the ATI Coordinator to take a proactive approach to potential problems in meeting the Act's time requirements.

The Information Commissioner's Office does not have access to any overall statistical information on the extent of deemed refusals within the institutions covered by the **Access to Information Act**. At the present time the only information available is either complaints made to the Commissioner's Office on time delays or individual reporting by departments via the Report Cards. Treasury Board Secretariat is reviewing the information collected on the annual statistical report provided by departments to the Secretariat to determine if any changes will be made for the 2000/2001 reporting year. If changes are not made by the Secretariat, the Office of the Information Commissioner will consider direct collection of Annual Statistics on the deemed refusal situation along with other focused statistical information. The collection of the information would enhance reporting to Parliament and the public on the operation and "health" of the **Access to Information Act**.

The progress in reducing the number of deemed refusals in the six departments that received a Report Card in March 1999 has had an effect on reducing the number of deemed refusal complaints against those departments. The following table presents the number of deemed refusal complaints received by the Office of the Information Commissioner for the six departments. The reduction in the number of deemed refusal complaints shows a positive trend.

<b>Department</b>	<b>Complaints 1998/1999</b>	<b>Complaints Apr - Nov 1999</b>
Citizenship & Immigration	67	75
Foreign Affairs & International Trade	29	12
Health	309	3
National Defence	176	44
Privy Council Office	37	0
Revenue Canada (Canada Customs and Revenue Agency)	66	11

Of course, good intentions to reduce the problem of deemed refusals are not enough. The proof of the measures is in the actual results of the measures taken to alleviate the problem. The following tables contain statistical information on the results of measures taken by departments to reduce the number of deemed refusal requests.

#### **Percent of Access Requests in Deemed Refusal**

<b>Department</b>	<b>1997/98</b>	<b>1998/99</b>	<b>Apr-Nov 1999</b>
Citizenship & Immigration	82.9	38.6	23.4
Canada Customs & Revenue Agency	116.3*	93.6	51.5
Foreign Affairs and International Trade	84.2	36.1	27.6
Health	71.4	61.8	3.1
National Defence	95.3	54.7	38.9
Privy Council Office	50.9	47.1	3.6

\*Over 100 percent because of the number of requests remaining at the end of the year in deemed refusal plus the deemed refusal requests completed during the year totalled more than the number of requests received during the fiscal year.

The percentages in the above table may be slightly overstated for the two complete fiscal years if a request was in process for over a year and in a deemed refusal situation at the end of the reporting year.

The following table provides a comparison of the deemed refusal 1998 ratio in the 1999 Report Card for each department with the same period for 1999.

### **Deemed Refusal Percent for Eight Month Period**

<b>Department</b>	<b>Apr-Nov 1998</b>	<b>Apr-Nov 1999</b>
Citizenship & Immigration	48.9	23.4
Canada Customs & Revenue Agency	85.6	51.5
Foreign Affairs and International Trade	34.9	27.6
Health	51.2	3.1
National Defence	69.6	38.9
Privy Council Office	38.9	3.6

The trend in the six departments is clearly in the right direction. Of particular note are the exemplary results in Health Canada and the Privy Council Office.

In the Report Cards issued in April 1999, the Information Commissioner adopted a standard to measure a department's compliance with response deadlines: percentage of requests received which end as deemed refusals. The grading standard is:

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

If the six departments were graded for the same time period in 1999/2000 as in the 1999 Report Card, the following ratings would apply:

### **Report Card Grading Update**

<b>Department</b>	<b>Apr-Nov 1998</b>	<b>Apr-Nov 1999</b>
Citizenship & Immigration	F	F
Canada Customs & Revenue Agency	F	F
Foreign Affairs and International Trade	F	F
Health	F	A
National Defence	F	F
Privy Council Office	F	A

# Human Resources Development Canada (HRDC)

## A. REPORT—January 2000

### 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 being 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 year-end—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 coordination 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**

The Office of the Information Commissioner has received an increasing number of complaints about departments not meeting the statutory time requirements of the **Access to Information Act**. In the 1998/1999 fiscal year, HRDC ranked eleventh of the departments complained against for failure to meet the time requirements of the Act. When the Commissioner's Office receives an increasing number of deemed refusal complaints against a department, it is usually symptomatic of a greater response deadline problem within the department.

HRDC recognized and seriously addressed the delay problem in the department. A number of measures were introduced to reform the process for responding to access requests. In addition, the Deputy Minister introduced a "zero tolerance" policy for deemed refusals.

The department extended an invitation to the Office of the Information Commissioner to review the processes in place for ensuring that access requests were answered within the statutory time requirements of the **Access to Information Act**.

## **III. Grading Standard**

This report card contains the results of the Information Commissioner's review of HRDC's performance statistics to November 30, 1999.

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. HRDC is assessed in this report card against the following grading standard:

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

On this grading scale, HRDC rates **A**<sup>1</sup>. Its performance is in ideal compliance. [This fiscal year to November 30, the new request to deemed-refusal ratio is 462:0=0.0%.]

**The Department is to be commended for its achievement. HRDC has attained a position where every request received in the 1999/2000 fiscal year up to November 30, 1999 was processed within the statutory time requirements of the Access to Information Act. The achievement deserves an A+!**

What follows in this report is:

- an analysis of the statistical data
- an explanation of the reasons for the performance record
- a description of the steps taken by management to improve performance
- a set of recommendations to assist the department.

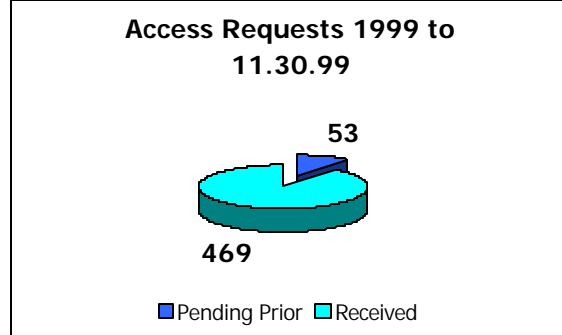
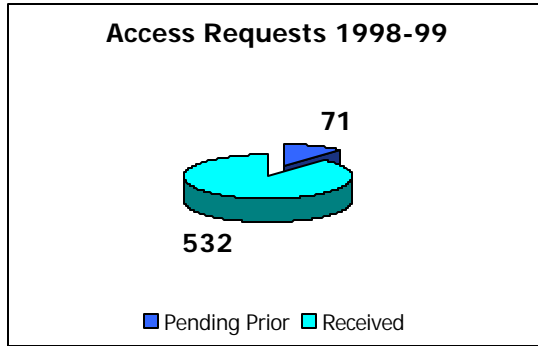
Attached to the report (Part B) are the various questionnaires and responses which formed the basis for the grading, observations and recommendations in this report card.

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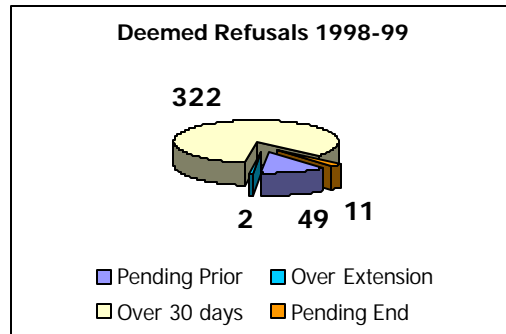
<sup>1</sup> This grade solely reflects on the department's performance in meeting response deadlines to November 30<sup>th</sup> 1999. It is not a measure of the department's performance in the application of exemptions. In general, HRDC applies the exemption provisions of the act professionally and with restraint.

## IV. Statistical Information

### 1. Requests



The charts above present a good visual picture of HRDC's backlog and the department's achievement in eliminating the deemed refusal backlog.



At the outset of the 1998/1999 fiscal year, HRDC's Access to Information Office had 71 unfinished requests—49 (69%) of which were already in a deemed-refusal situation. Considering the fact that 532 new requests were received in 1998/1999, the 49 (Pending Prior) deemed refusals amounted to 9.2% of the yearly intake and create an unnecessary burden on the department.

The 1999/2000 fiscal year showed significant improvement with 53 outstanding requests—11 (20.8%) — in a deemed-refusal situation. A total of 469 new requests were received between April 1, 1999 and November 30, 1999.

The time taken to complete all new requests received in the 1999/2000 year up to November 30, 1999 has improved remarkably compared with the previous year.



**Special Report to Parliament of the Information Commissioner of Canada**

- In 1998/1999, processing times for 322 requests completed beyond the 30-day statutory limit without an extension were:
  - 170 (52.8%) took an additional 1-30 days to complete
  - 88 (27.3%) took between 31 to 60 additional days
  - 24 (7.4%) took between 61 to 90 additional days
  - 40 (12.4%) were completed in over 90 additional days
- In 1999/2000 to November 30, 1999, there were no additional processing times for non-extended new requests. All requests were responded to within the statutory time requirements.

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

- For extensions taken and not met, the following time delays occurred.

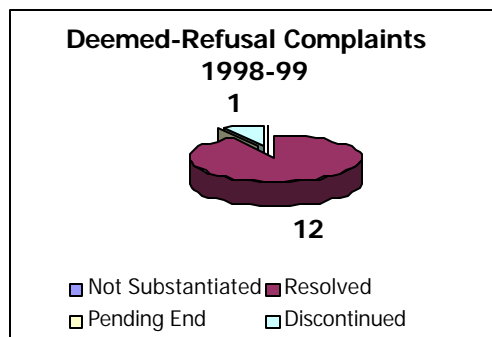
In 1998/1999, of the 4 time extensions, 2 (50%) exceeded the extension of time as follows:

- 1 (50.0%) took an additional 1-30 days
- 1 (50.0%) took between 31-60 additional days

- For the current fiscal year (to November 30, 1999) all extensions were completed within the statutory time requirement.

As of November 30, 1999, there were no unfinished new requests in a deemed-refusal situation. Therefore, a chart is not shown for deemed refusals from April 1, 1999 to November 30, 1999.

**2. Complaints—Deemed Refusals**



In 1998/1999, the Office of the Information Commissioner investigated 13 deemed-refusal complaints against HRDC. The Commissioner's Office upheld (resolved) 12 (92.3%) complaint cases dealing with deemed refusals.

In 1999/2000, the Commissioner's Office received and resolved one deemed refusal complaint for a 1998/1999 request. Therefore, a Chart for deemed refusal complaints for 1999/2000 is not provided.

### **3. ATI Office—Staff**

The processing of access requests is the responsibility of the ATI Coordinator, who is also responsible for processing requests under the *Privacy Act*. The staff of the ATIP office is comprised of the Coordinator and 14 employees—12 officer-level and 2 support staff.

### **4. ATI Office—Budget**

The ATI salary dollar budget for 1999/2000 is \$624,025 for 13.5 person years.

The ATI operating budget for 1999/2000 is \$65,000. The allocation for training is \$13,000. Budget information is not available for previous years because the ATI budget was part of the allocation of a Directorate.

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

The 30-day statutory time limit allows 20 days for processing (fewer days if holidays are involved). HRDC's current planned turnaround times are listed below. The chart allows 20 working days to respond to a request (without an extension).

<u>Area</u>	<u>Turn-around Time</u>
Operational units	8 days
ATI office (processing)	1 day
Minister's Office Advisory	3 days

## **V. Sources of Delay**

There appear to be a number of reasons for the delays in responding to access requests experienced at HRDC in the 1998/1999 fiscal year. Among the reasons were a diffused delegation authority to make decisions under the **Access to Information Act**, a lengthy approval process and delays by OPIs in searching for and retrieving records.

### **1. Approval Delegation**

The HRDC Delegation Order establishes the authority and process for making recommendations and decisions on access requests. The previous HRDC Order provided multi-levels of delegated authority. Generally, the delegated authority to make decisions under the **Access to Information Act** was

provided to the Deputy Minister, Associate Deputy Minister, Assistant Deputy Minister, Financial and Administrative Services, Director, Privacy and Security and Senior Administrators, Privacy and Security Directorate. There were certain exceptions to the above in the Delegation Order. The exceptions dealt with administrative decisions and some exemptions.

In our view, the Delegation Order diffused delegated authority and made it difficult to determine who in the Department had the “final” authority to make a decision under the Act. The Order resulted in a process that entailed multiple reviews and sign-off before a decision was made.

In December 1999, the Delegation Order was revised. The major change was that the Chief, ATI Office and ATI Officers were provided with delegated authority to make decisions. (Previously ATI Officers had some delegated authority while other delegated authority was restricted to the Director or Assistant Deputy Minister).

Although delegated authority is provided to the Chief, ATI and ATI Officers, the Delegation Order continues to provide delegated authority to a number of other departmental officials. In our view the delegation order does not clearly delineate where decision-making authority and accountability for administering the law is placed. There are too many levels with the same decision-making authority

## **2. Approval Process**

The approval process in 1998/1999 consisted of many different parts of the organization providing a “sign-off” as part of the approval process. These multiple sign-off clearly delayed the request response. The sign-off contributed to delays in responding to access requests in a timely manner.

The Executive Head of the Region had to provide concurrence with the proposed decisions on the access request. When the records were ready to be disclosed, the request file went back to the Head for sign-off. In addition, a sign-off was required from the Communications Head.

The previous Minister’s Office required a sign-off on all requests identified as sensitive before the records were released to the requester.

Because the process had a number of sign-off, it was difficult to ascertain if a sign-off meant an approval, a review, a concurrence, etc. for an action taken in the approval process.

## **3. Communications**

Communications provides media lines for sensitive access requests. When media lines were required, the Communications Head signed-off on the request file as part of the approval process. To complete the media lines, Communications would typically require sign-off of their own from other parts

of the department. These multiple sign-off contributed to the delays in the processing of the access requests.

#### **4. Operational Areas (OPIs)**

OPIs are required to search for and retrieve records to respond to access requests. The OPIs are required to provide records to the ATI Office within ten days of receipt of the notification of an access request (named a Call Access) from the ATI Office. In 1999/2000, the records were required in eight days.

In 1998/1999, OPIs were not providing records to the ATI Office within the required timeframe. There were a number of reasons for the delays in responding. There were protracted discussions on what might be exempt, what records might be response to the request, etc. between the OPIs and Officers of the ATI Office. The OPIs required a sign-off by the relevant Headquarters Assistant Deputy Minister before the records were sent to the ATI Office. This added another step to the process.

#### **5. ATI Office**

The Department needed factual management information to pinpoint precisely where delays were occurring in processing access requests. Specific management information was required to identify the nature and extent of the delay problem. This information was unavailable or partially available only through extensive manual efforts to compile the data.

### **VI. Management Response to the Problem of Delay**

There were a number of factors that acted as a wake-up call to HRDC concerning the extent of the delay problem in the department.

One factor was an access request that was 80 days late. The issue of the delay became an issue in Parliament. Another factor was the issuance of Report Cards by the Information Commissioner to six departments last year. The result of the report card review was that all six departments received a failing grade. The Report Cards focused public attention on the chronic time delays requesters were subject to when records were requested under the **Access to Information Act**. Rather than waiting for the results of a possible report card, HRDC decided to be proactive in resolving the problems that were causing deemed refusals.

HRDC has made remarkable progress in not only resolving but also eliminating its access request delay problems. The department has taken a zero tolerance approach to meeting the statutory time requirements of the **Access to Information Act**. The Deputy Minister made it clear to senior management in early April 1999 that future delays would not be tolerated. The Deputy Minister continues to focus on meeting the timelines established by the

department for responding to access requests at the weekly management meeting attended by all Assistant Deputy Ministers and Regional Heads.

## **1. Delegation Order**

The Delegation Order was revised to provide delegated authority to the Director, Chief (ATI Coordinator) and ATI Officers in the Information Management, Privacy and Security Branch to make decisions. The affect is to have decisions made by those in the department with the appropriate knowledge of the **Access to Information Act**, without a referral for approval to one or more higher levels of authority in the organization.

## **2. Approval Process**

The Department streamlined the approval process. The ATI Coordinator or ATI Officers make the decisions on the access request. The ATI Office provides the appropriate Assistant Deputy Minister with the request disclosure package for sensitive requests for information purposes and a 24-hour turn-around. For other requests, an email with the text of the access request is sent to the Assistant Deputy Minister for information purposes.

Communications is no longer part of the request approval process. Communications requirements are handled in a parallel and separate process.

The Minister's Office will be provided with a notification three days prior to the disclosure of the information for sensitive requests or sensitive records in a request. The notification is sent by email from the ATI Office. The notification is to inform the Minister's Office that documents will be released, what is considered sensitive about the documents and to provide a copy of the release package. For other requests, an email with the text of the access request is sent to the Minister's Office for information purposes.

## **3. Communications**

The department's communication's requirements are now completed in parallel with the OPI starting when the access request notification is received by the OPI. When the OPI returns the records to the ATI Office, media lines will generally be included with the records.

## **4. Operational Areas (OPIs)**

The ATI Office has established a different relationship with OPIs. The Office is now positioned as the part of the organization that manages and controls the access request process. Previously the access process was subject to numerous sign-off. Now the ATI Office acts as the decision-maker in and manager of the access process. The ATI Office provides follow-up with OPIs to ensure that the time requirements of the process are met.

The ATI Office has the strong support of the Deputy Minister and senior management in the department. For this reason, OPIs are following the advice of the ATI Office rather than prolonging discussions on what may or may not be exempt from disclosure under the Act.

## **5. ATI Office**

There have been a number of improvements in the ATI Office that contributed to the resolution of the delay problems in the department.

The acquisition of the ATI flow System allows the ATI Office to identify precisely where and when delays occurred in the processing of access requests. Equally important, OPIs and senior management are provided with feedback on their performance in relation to the processing timeline standards. The reports generated by the system allow the ATI Office to be proactive in monitoring timelines.

Procedures have changed to make sure that the ATI Office manages and controls the access process. The ATI Office sends a Call Access to the Assistant Deputy Minister (ADM) of the program area presumed to have the records. The Call Access is an electronic message sent as the notification by the ATI Office of an access request. A paper record does not follow the electronic message. The Call Access describes the requested information and provides the OPI with a due date to provide the records to the ATI Office. The Call Access also states that if the request is considered sensitive, the OPI should contact Communications to have media lines prepared and submitted with the records to the ATI Office.

Two days after the Call Access is sent out an Officer from the ATI Office will contact the ADM's Office. The contact is made to identify which OPI has the request, the name of the contact in the OPI, any preliminary sensitive issues and any preliminary administrative issues like a fee estimate or an extension.

The ATI Office believes these measures assist in providing ATI Office management control of the process in a proactive manner.

## **VII. Recommendations**

This review recommends the following:

- ❖ The coordinator is directly responsible for ensuring compliance with the **Access to Information Act**, and should continue to take a strong leadership role in establishing a culture of compliance throughout HRDC. Such a role requires the unwavering support and endorsement of the Minister and the Deputy Minister. The department should continue its exemplary "zero tolerance" policy for deemed refusals.
- ❖ The delegation order should be revised to clearly show (as indicated by the department) that the ATI Coordinator and Officers have delegated authority

without reference to other departmental officials for approval for decisions made under the **Access to Information Act**.

- ❖ The ATI Coordinator should maintain a close watch on the access request process to ensure that the provision of the disclosure package for information purposes does not become a “sign-off” in the process.
- ❖ The ATI Coordinator should continue to monitor the planned versus actual time standards of the department for responding to access requests to maintain the exemplary results of the fiscal year 1999/2000.
- ❖ Appraisals of operational managers should place emphasis on good performance in processing access requests.
- ❖ ATI training should be mandatory for all new managers as part of their orientation and for all managers on a refresher basis.

## **B. BASIS OF REPORT**

### **I. Interview with HRDC’s ATIP Coordinator—December 10, 1999**

On December 10, 1999, HRDC’s ATIP Coordinator was interviewed for the purpose of this Report Card.

## II. HRDC—Pre-Interview Self-Audit Questionnaire

<b>Questionnaire for Statistical Analysis Purposes in relation to official requests made under the Access to Information Act</b>			
<b>Part A: Requests carried over from the prior fiscal period.</b>		<b>Dec. 1/98 to March 31/99</b>	<b>April 1/99 to Nov. 30/99</b>
<b>1.</b>	Number of requests carried over:	71	53
<b>2.</b>	Requests carried over from the prior fiscal — in a deemed refusal situation on the first day of the new fiscal:	49	11
<b>Part B: New Requests — Exclude requests included in Part A.</b>		<b>Dec. 1/98 to March 31/99</b>	<b>April 1/99 to Nov. 30/99</b>
<b>3.</b>	Number of requests received during the fiscal period:	532	462
<b>4.A</b>	How many were processed <i>within</i> the 30-day statutory time limit?	152	374
<b>4.B</b>	How many were processed beyond the 30-day statutory time limit <i>where no extension was claimed?</i>	322	0
<b>4.C</b>	How long after the statutory time limit did it take to respond <i>where no extension was claimed?</i>		
	1-30 days:	170	0
	31-60 days:	88	0
	61-90 days:	24	0
	Over 91 days:	40	0
<b>5.</b>	How many were extended pursuant to section 9?	6	25
<b>6.A</b>	How many were processed <i>within</i> the extended time limit?	4	25
<b>6.B</b>	How many exceeded the extended time limit?	2	0
<b>6.C</b>	How long after the expiry of the extended deadline did it take to respond?		
	1-30 days:	1	0
	31-60 days:	1	0
	61-90 days:	0	0
	Over 91 days:	0	0
<b>7.</b>	As of November 30, 1999, how many requests are in a deemed refusal situation?		0





## DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

Delegation of Authority  
*Access to Information Act*

I, the undersigned, Minister of Human Resources Development, hereby designate pursuant to Section 73 of the *Access to Information Act*, those officers and employees of the Department of Human Resources Development occupying, on an acting basis or otherwise, the positions identified within the attached schedule, to perform the powers, duties or functions that are mine under the Act, as specified therein.

(Jane Stewart) Minister

Made in Ottawa, this \_\_\_\_ day of \_\_\_\_\_ 1999

**Note: Since the designation order schedule is very detailed, allowing designation over sections of the Act to a number of positions, it has not been reproduced for inclusion in this report. The order includes identification of individuals who approve decisions under the sections of the Access to Information Act including the ATI Chief and Officers.**

2. **Are the ATI roles and responsibilities for those with delegated authority clearly defined?**  
 yes;  no  
Note: Officers' job descriptions were included with the Questionnaire.
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.)**  
ATI Officers exercise the delegation without any other approval process.

### ATI Office:

1. **To which unit/division (and management level) of the institution does the ATI Coordinator report?**  
**a) For operational purposes:**  
The ATI Coordinator reports to the Director of Information Management, Privacy and Security Directorate
- b) For administrative purposes:**  
The ATI Coordinator reports to the Director of Information Management, Privacy and Security Directorate



**B: Support:**

**Classification**

**Full or part time**

CR-04

full-time

CR-03

full time

- 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

**Note: Procedural information provided with the Questionnaire is reproduced below for processing sensitive access requests, service standards and the index of the ATI Departmental Manual.**

**ACCESS TO INFORMATION  
SENSITIVE CASES PROCEDURES**

Sensitive cases are those which could have a negative impact on the Department or any of its officials, including the Minister. Specific procedures for processing these requests have been developed to ensure that senior management of HRDC and the Minister are informed and prepared (e.g., media lines, QP cards) to answer questions raised by the media or in the House.

- Request is received in Information Management, Privacy and Security Directorate (IMPS). Program/Region and/or IMPS determine if request is sensitive. Normally, sensitivity is determined upon receipt of the request; however, in some cases, determination can only be made once documents are received and reviewed.
- An email is sent to the program/region Executive Head asking that the requested documents be provided. This email provides the full text of the request, the source, the name of the responsible officer in IMPS and the BF date for the program/region to forward the documents to IMPS. Copies of the email are sent to the ATIP contact in the program/region, Communications, BCPA, the Deputy Minister's Office, the Minister's Office.
- Upon receipt of the requested information, IMPS reviews the documentation along with proposed recommendations by the program/region area and applies exemptions/exclusions, when applicable. The program/region, in conjunction with Communications, provides media lines.
- IMPS assembles the package and obtain sign-off from the Executive Head of the program/region.

**Special Report to Parliament of the Information Commissioner of Canada**

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- An ATIP Release Advisory Note is hand-delivered at least three days prior to release to the Executive Assistant of the Minister. Media lines are attached to the Advisory Note along with the documents to be released. The Advisory Note and media lines are also sent via email to the following individuals:

Executive Head of Program/Region (ADM or Director General)  
ATIP Contact in the Program or Region  
Communications  
BCPA  
Minister's Office  
Deputy Minister's Office  
Spokesperson for the request (identified by the Program or Region)  
ADM, Financial and Administrative Services

- If the ADM's sign-off has not been provided by the requested date, the documents will be released to meet the legislated 30-day time limit.
- In cases of subsequent release of documents, an email to the aforementioned will be sent prior to communication with media lines attached.

**NOTE : For all other Access to Information requests (non-sensitive), an email including the text of the request, the source and the expected date of release will be sent to the Executive Assistant of the Minister, Legislative Assistant, Press Secretary, Departmental Assistant, Communications, Executive Head of the program/region and the ATIP contact. Should the MO wish to see the release package on a particular request, arrangements will be made to either provide a copy of the material or make the documents available for consultation.**

*August 31, 1999*

## **Service Standards: Privacy, Access to Information and Human Rights**

### **Foreword**

The Department ensures compliance not only with the letter of the privacy, access to information and human rights legislation, but also with the spirit of these acts.

This short guide to Service Standards was prepared for employees responsible for Privacy, Access to Information and Human Rights. Its objective is to promote quality of service as well as the core operating values of the Department - **respect, professionalism, open-mindedness and teamwork**. This guide encourages employees to adopt a professional attitude toward their responsibilities, and provides them with tools and work processes that will assist in standardizing internal procedures, and improving the time frames for processing the numerous requests for information that the Department receives each year.

### **Adopt a proactive attitude**

#### **Establish initial contact**

In most cases, when a new request is received, an official file is opened, an acknowledgement of receipt is sent to the originator and an electronic message is sent to the senior head of the program that is likely to have the documents requested.

Once the electronic message is sent, it is recommended that, within the following two days, initial contact, either by telephone or in person, be established with the program responsible for the request. In addition to fostering communications and cooperation between you and the program, this procedure will enable you to:

- save time by immediately being informed of the name of the person who will be responsible for providing the documents;
- familiarize yourself with the request and ensure that your interpretation of it is clear;
- verify that the request was sent to the relevant program or region, and ensure that all parties likely to possess the information have been consulted;
- explain the time frames that are allocated to program officials, namely eight (8) working days to send you eight (8) working days to

## **Special Report to Parliament of the Information Commissioner of Canada**

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- the documents, as you need review the material, one (1) day to have the documents approved by the Assistant Deputy Minister responsible for the program (for sensitive cases), three (3) days to advise the Minister's Office of the release, for a total 20 working days (30 calendar days) prescribed by the legislation to respond to a request;
- encourage program officials to prepare a cost estimate, if appropriate, before the 30-day period prescribed by the legislation expires;
- take an initial look at the sensitivity of the request:
  - explain to program officials the procedure to follow in processing sensitive requests;
  - encourage them to start working with Communications as early as possible to prepare media lines.

### **Go to the source**

In the interest of maintaining good relationships, do not hesitate to go the source to obtain the documents or ask questions. Take advantage of this opportunity to introduce yourself and meet the officers responsible for the programs as you will probably need to deal with them again. Generally speaking, program officials are more inclined to respond to your requests if they have had the opportunity to meet you.

### **Offer your services**

In most cases, program officials, both at National Headquarters and in the regions, are quite prepared to cooperate with you. However, they are not experts in privacy and access to information issues, and very often they do not understand all of the stakes involved. To facilitate this cooperation, be proactive... It is your responsibility to convey the importance of the legislation and suggest information and training sessions to them.

### **Follow-up**

As recommended above, you have established initial contact with the program a few days after sending the electronic message to avoid undue delays in processing the request, thereby ensuring from the beginning that the process is well underway. However, since then you have not received any news from the program and you are still waiting for the requested documents...

Two (2) days before the deadline set for receipt of the documents, consult your contact to find out whether the deadline will be met, thus ensuring that the work has indeed started. Take this opportunity to point out that, according to our service standards, the Director will need to intervene should the documents not be received within eight (8) working days.

Inform your manager of any impediments and /or problems encountered.

### ***After eight days...***

If you have not received anything eight (8) days after the first message was sent, an electronic message should be sent by the Director of Information Management, Privacy and Security to the senior head of the program or region responsible. Following this message, if you still have not received any news from the program, a phone call should be made by the Financial and Administrative Services Assistant Deputy Minister to the senior head of the program or region responsible. After these follow-ups, the Deputy Minister should be informed of all outstanding requests.

### **Be courteous**

Keep the originator of the request informed of the status of his/her request

The legislation provides for a 30-day period for responding to a request for information and, except for some very specific cases, this deadline can not be extended. However, it may happen that, for administrative reasons and in spite of all your efforts, the deadline can not be met.

When such a situation arises, it is recommended that a courtesy letter be sent or a telephone call made to the originator of the request, informing him/her that you are dealing with the request, that the delay is not intentional, and that a more definitive answer will follow shortly thereafter. In many cases, the originator will appreciate this follow-up, and this courtesy on your part will help to establish a relationship of trust with the originator, which could avoid a complaint to the Commissioners regarding delays.

### **Thank the people providing the information**

Whenever the opportunity arises, or when you have appreciated the cooperation received from a particular program or officer, send them a short note by electronic mail to express your gratitude. Also remember to thank managers for the good work performed by their staff.

### **Teamwork**

We are a team. We are all working toward the same goal and the same objectives. Although the workload is distributed equitably, it may happen that some of you find that you have deadlines that are more difficult to meet. Your colleagues, both in your section and in the regions, can help you:

- do not hesitate to ask for and offer your assistance;



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## **Special Report to Parliament of the Information Commissioner of Canada**

- work toward maintaining good relationships with your colleagues;
- share your experiences and knowledge with them;
- consult them for their opinion;
- follow-up with your colleagues in the regions regarding requests that are sent to them;
- keep them informed by letting them know when one of their requests is completed or is the subject of a complaint to the Commissioner.

### **Consult the programs**

You are the experts in privacy, access to information and human rights matters. However, most of you are not aware of the details or sensitive issues regarding the various programs in the Department. It is, therefore, essential that you work with program officials in order to perform your duties. It is up to them, as the specialists in their field, to determine the sensitivity of the information and the effect that releasing it could have. You need them and they need you:

- work together;
- consult them for explanations and details regarding their programs and areas of expertise;
- encourage them to be very specific in their recommendations and justifications for exempting or excluding information under the legislation so that you are better aware of the stakes involved in the case, have solid arguments in hand and are well prepared for an investigation.

### **Consult Legal Services**

When in doubt, either in resolving a complaint made to one of the Commissioners, or simply in interpreting a section of the legislation, feel free to consult Legal Services, either by telephone or electronic mail, for a legal opinion. Share this information with your colleagues.

### **Consult the Privacy/Information Commissioners**

When in doubt in interpreting a section of the legislation, or simply to get a second opinion, feel free to consult the Offices of the Privacy/Information Commissioners.

## **Encourage continuous learning**

The Information Management, Privacy and Security Directorate supports the Department's mission to offer its employees opportunities for continuous learning in order to develop their skills, motivate them and give them confidence in their success:

- do not hesitate to take advantage of this opportunity that your employer is offering you to develop your skills and acquire new knowledge;
- develop new means of sharing your experiences with your colleagues;
- set up information and training sessions to promote privacy, access to information and human rights;
- attend information sessions, or discussions with other departments and with the Offices of the Commissioners.

## **Be creative... Innovate!**

Although the nature of your work does not allow for a great deal of creativity, it is still possible to be innovative and develop new ways of working that will help to eliminate barriers and, consequently, improve service to clients.

For example, Human Resources Development Canada was the first department to propose receiving requests for information under the *Access to Information Act* via the Internet.

## **Use your resources**

The "ATIP flow" system

The "ATIP flow" system in which your requests are entered and updated is an indispensable work tool that everyone should use. Your cooperation is essential for the system to perform efficiently:

- Adopt a positive attitude toward this work tool.
- Ensure that you enter all the "ACTIONS" regarding processing of your files. If your colleagues are called upon to take over one of your files in your absence, the system must provide them with all the details that they will require in order to help you. Moreover, this information could be used to compile various reports that are useful to management, and it may assist you in resolving complaints.
- Point out any changes and/or additions required to adapt the system to the needs of the unit.

## Conclusion

This short Service Standards guide gives you all the tools and work processes you need to promote the Department's core values and improve the quality of service to clients.

## 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, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.  
Practice is also to remove the name of requestor in all internal correspondence including with the program or MO.
- 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 to enable an experienced employee of the institution with a reasonable effort to identify the record? (Please provide any other guidelines you follow in this regard.)**  
 Always, \_\_\_ almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.
- 11. When extensions are necessary, are notices sent to the requester within 30 days?**  
 Always, \_\_\_ almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.  
Percentage of requests: \_100%
- 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?**  
 Always, \_\_\_ almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.  
Percentage of requests: \_100%
- 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**  
\_\_\_ Always, \_\_\_ almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.  
Since HRDC responds within the legislative timeframe, this situation does not arise.
- 2) Of an expected date for the final response**  
\_\_\_ Always, \_\_\_ almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.  
Since HRDC responds within the legislative timeframe, this situation does not arise.

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

Always,  almost always,  sometimes,  rarely,  never.

Since HRDC responds within the legislative timeframe, this situation does not arise.

**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? (Please provide any written guidelines you follow in this regard.)**

Always,  almost always,  sometimes,  rarely,  never.

Refer to Timeline Table -TAB K (Note: Details not included with the Report Card.)

**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:  100%

**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.

Our policy is to complete the processing of a request within the legislated timeframe and sometimes partial releases are made. Given that consultations may have an impact on documents not subject to the consultation, a single release is made to ensure consistency.

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

has not been assigned?:  yes;  no

will not be processed within the 30 days?:  yes;  no

is nearing the end of the extension date?:  yes;  no

is past the extension date?:  yes;  no

is almost one year old?:  yes;  no

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

This office uses the ATIP flow tracking system

## A. Offices of Primary Interest

**1. Are OPIs ATI responsibilities clearly defined? (Please provide any written documentation.)**

Always;  almost always;  sometimes;  rarely;  never

Percentage of requests:  %

2. **What is the expected turnaround time for requests submitted to this area? (Provide any written documentation.)**  
N/A.
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.)**  
N/A

#### **B. Legal Services:**

1. **Are ATI requests submitted to this area for review/approval/sign-off?**  
\_\_\_ Always; \_\_\_ almost always; \_\_\_ sometimes; \_\_\_ rarely; X never
2. **What is the expected turnaround time for requests submitted to this area? (Please provide any written documentation.)**  
N/A
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.)**  
N/A

#### **C. Public Affairs /Communications:**

1. **ATI requests are submitted to this area for preparation of media lines.**  
\_\_\_ Always; \_\_\_ almost always; x sometimes; \_\_\_ rarely; \_\_\_ never  
Percentage of requests: \_\_\_%  
For sensitive requests only.
2. **What is the expected turnaround time for requests submitted to this area? (Provide any written documentation.)**  
8 Days.  
When Communications is the OPI and is asked to provide documents in response to a request, the turnaround is the same as the other OPIs.
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.)**  
The OPIs are sent reminders by email from the Director, IMPS. The ADM, Financial and Administrative Services, may be asked to get involved if the OPI is not complying. Ultimately, action could be taken by the DM.

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

1. **Are ATI requests submitted to this area for review/approval/sign-off?**  
\_\_\_ Always; \_\_\_ almost always; \_\_\_ sometimes; \_\_\_ rarely; x never  
Percentage of requests: \_\_\_%

**Special Report to Parliament of the Information Commissioner of Canada**

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For sensitive requests, the MO is provided with a copy of the release package.

2. **What is the expected turnaround time for requests submitted to this area? (Please provide any written documentation.)**  
N/A
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.)**  
There is no MO sign-off. Documents are released on the expected date.

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

1. **Are ATI requests submitted to this area for review/approval/sign-off?**  
\_\_\_ Always; \_\_\_ almost always; \_\_\_ sometimes; \_\_\_ rarely; \_x\_ never  
Percentage of requests: \_\_\_%
2. **What is the expected turnaround time for requests submitted to this area? (Please provide any written documentation.)**  
N/A.
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.)**  
The DMO is informed of sensitive requests only, 3 days prior to release. No copy is provided. No approval or sign-off is obtained from this office.

**F. Other Areas:**

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

**THE OPI / PROGRAM**

1. **Are ATI requests submitted to this area for review/approval/sign-off?**  
\_\_\_ Always; \_\_\_ almost always; \_x\_ sometimes; \_\_\_ rarely; \_\_\_ never  
Percentage of requests: \_\_\_%  
A sign-off from the ADM of the OPI is obtained prior to releasing the information (sensitive cases only). 100% of sensitive cases get signed-off by OPI (ADM). No sign-off is obtained for non-sensitive requests. - Refer to Tab N (Note: Details not included with the Report Card.)
2. **What is the expected turnaround time for requests submitted to this area? (Please provide any written documentation.)**  
\_1\_ Day - (24 hours).

**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.)**

If the turnaround date is not met, the Director, IMPS will contact the ADM to obtain sign-off and return the documents ASAP. If not returned in time to meet the legislated timeframe, another copy will be made and sent to the MO along with the Advisory Note. The documents are released even in cases where sign-off from ADM has not been obtained.

**Fees:**

**1. Do you have a fee policy? (If yes, please provide a copy.)**

yes;  no

Refer to Fee Policy (Note: Details not included with the Report Card.)

**FTE/Operating Budgets:**

**1. Which division/unit is responsible for budget allocations for the ATI office?**

The Information Management, Privacy and Security Directorate is responsible for ATI office budget allocation.

**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?**

1999/2000 : 624 025 \$;	number of person years: 13,5
1998/1999 : _____;	number of person years: ____
1997/1998 : _____;	number of person years: ____

**4. What is/was the operating budget for the ATI office for the fiscal periods shown below?**

1999/2000: \$ 65,000  
1998/1999: \$  
1997/1998: \$

**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?**

1999/2000: approx. \$ 13,000  
1998/1999: \$  
1997/1998: \$

Prior to fiscal year 1999/2000, the ATIP office did not have its own RC. The ATIP budget was included in the whole directorate. Therefore, it is not possible to give figures for the previous fiscal years.

## **IV. Other Information From HRDC**

### **The “Open Government Initiative”**

Individuals can now use the Internet to file a formal Access to Information request for information held by Human Resources Development Canada. The application form is found on our Web site at:

**[www.hrdc-drhc.gc.ca/fas-sfa/access/access.shtml](http://www.hrdc-drhc.gc.ca/fas-sfa/access/access.shtml)**





# Transport Canada (TC)

## A. REPORT—January 2000

### 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 being 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,
- (d) consultations are necessary to comply with the request that cannot reasonably be completed within the original time limit, or
- (e) 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 year-end—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 Office of the Information Commissioner has received complaints about Transport Canada (TC) and its inability to meet the statutory time requirements of the **Access to Information Act**. The department has been one of a number of institutions subject to review because of evidence of chronic difficulty in meeting response deadlines. When the Commissioner's Office receives a high number of deemed refusal complaints about a department, it may be symptomatic of a greater response deadline problem within the department. For these reasons, TC was selected as one of the departments to review to determine to what extent TC is complying with the statutory time requirements of the **Access to Information Act**.

## III. Grading Standard

This report card contains the results of the Information Commissioner's review of TC's performance statistics to November 30, 1999.

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. TC is assessed in this report card against the following grading standard:

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

On this grading scale, TC rates **F**<sup>2</sup>. Its performance is unacceptable. [This fiscal year to November 30, 1999 the new request to deemed-refusal ratio is 232:71=30.6%.]

<sup>2</sup> This grade solely reflects on the department's performance in meeting response deadlines to November 30<sup>th</sup> 1999. It is not a measure of the department's performance in the application of exemptions. In general, TC applies the exemption provisions of the act professionally and with restraint.

## **Special Report to Parliament of the Information Commissioner of Canada**

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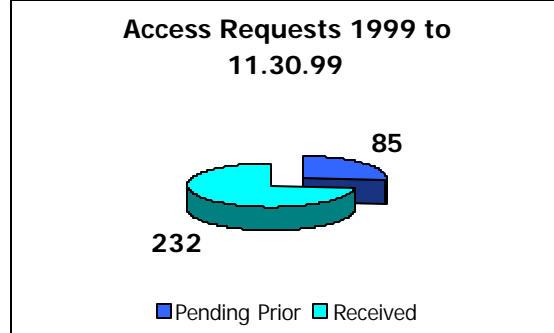
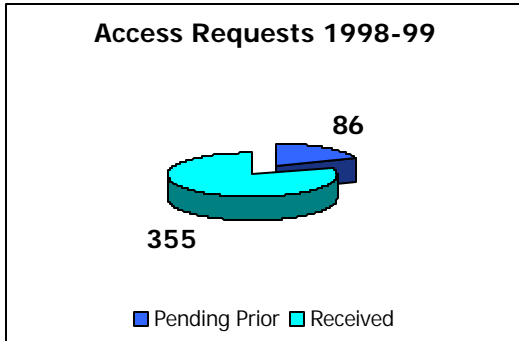
What follows in this report is:

- 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
- a set of recommendations to assist the department.

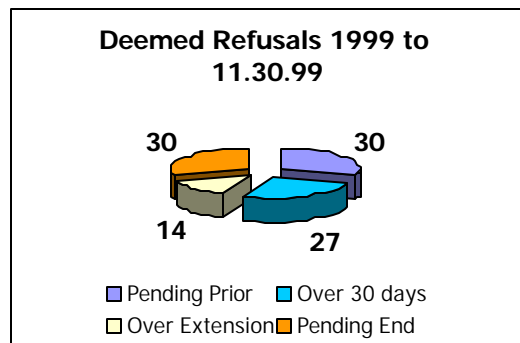
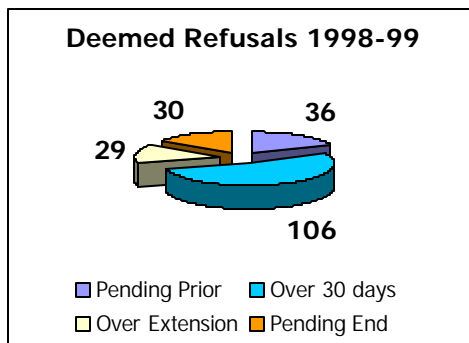
Attached to the report (Part B) are the various questionnaires and responses which formed the basis for the grading, observations and recommendations in this report card.

## IV. Statistical Information

### 1. Requests



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



At the outset of the 1998/1999 fiscal year, TC's Access to Information Office had 86 unfinished requests—36 (41.9%) were already in a deemed-refusal situation. The 1999/2000 fiscal year shows some minor improvement with 85 outstanding requests—30 (35.3%) in a deemed-refusal situation.

Considering the fact that 355 new requests were received in the 1998/1999 fiscal period and that 232 new requests were received in 1999/2000 to November 30, these (Pending Prior) deemed refusals amount to 10.1% and 12.9% respectively 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 also shows problems in meeting the time requirements of the Act.

- In 1998/1999, processing times for 106 requests completed beyond the 30-day statutory limit without an extension were:

## **Special Report to Parliament of the Information Commissioner of Canada**

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- 53 (50.0%) took an additional 1-30 days to complete
  - 22 (20.8%) took between 31 to 60 additional days
  - 6 (5.6%) took between 61 to 90 additional days
  - 25 (23.6%) were completed in over 90 additional days
- In 1999/2000 to November 30, 1999, additional processing times for 27 non-extended new requests were:
    - 22 (17.2%) took an additional 1-30 days
    - 2 (13.9%) took between 31 to 60 additional days
    - 2 (21.2%) took between 31 to 90 additional days
    - 1 (47.7%) were completed in over 90 additional days

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

- For extensions taken and not met, the following time delays occurred.

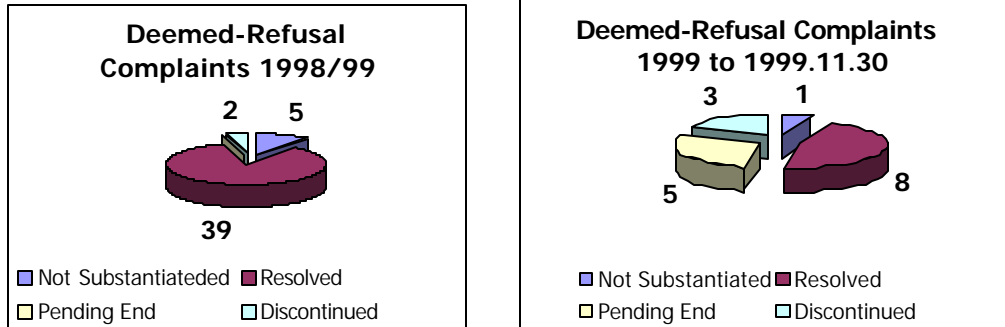
In 1998/1999, of the 50 time extensions, 29 (58%) exceeded the extension of time as follows:

  - 12 (41.4%) took an additional 1-30 days
  - 6 (20.7%) took between 31-60 additional days
  - 4 (13.8%) took between 61-90 additional days
  - 7 (24.1%) were completed in over 90 additional days
- For completed requests this fiscal year, 14 (34.1%) exceeded the extension of time as follows:
  - 8 (57.2%) took an additional 1-30 days
  - 1 (7.1%) took between 31-60 additional days
  - 4 (28.6%) took between 61-90 additional days
  - 1 (7.1%) were completed in over 90 additional days

As of November 30, 1999, 30 (12.9%) unfinished new requests were in a deemed-refusal situation. The duration for these outstanding requests is not known.

Of note, TC is reducing the time taken to respond to delayed requests.

## 2. Complaints—Deemed Refusals



In 1998/1999, the Office of the Information Commissioner received 46 deemed-refusal complaints against TC - 39 (84.8%) were upheld (resolved).

In 1999/2000 as of November 30, 1999, the Information Commissioner's Office received 17 deemed refusal complaints. Of the 12 completed complaints, eight (66.7%) were upheld (resolved).

## 3. ATI Office—Staff

The processing of access requests is the responsibility of the ATI Office under the direction of the ATI Coordinator. The Office is also responsible for processing requests under the *Privacy Act*. The staff of the ATI Office is comprised of 8 employees—6 officer-level and 2 support staff. In 1999/2000 to November 30, 1999, consultants were hired for the equivalent of 60 weeks to review records. The Office also had one employee loaned to the ATI Office for part of the year.

## 4. ATI Office—Budget

The ATI salary dollar budget for 1999/2000 is \$455,000 for 9.4 person years. The 1998/1999 budget was \$342,000 for 7.5 person years. The 1997/1998 budget was \$267,000 for 6.5 person years.

The ATI operating budget for 1999/2000 is \$40,000. For previous years, the 1998/1999 budget was \$130,000 and the budget for 1997/1998 is unavailable. The training budget for 1999/2000 is approximately \$6,000, while the training allocation for 1998/1999 was \$10,600 and for 1997/1998 the allocation was \$15,700.



## 5. Allotted Times for Request Processing

The 30-day statutory time limit allows 20 days for processing. TC's current planned turnaround times are listed below. The TC chart allows 20 working days to respond to a request (without an extension).

<u>Area</u>	<u>Turn-around Time</u>
ATI office (receipt)	1 day
Operational units	7 days
ATI office (processing)	4 days
Communications	1 day-30 to 40% of requests
ADM/RDG Sign-off	2 days
Delegated Approval	4 days
ATI office	1 day – sending out the final response

\*The delegated authority for approval is the Director General, Executive Services or the Deputy Minister (30-40% of requests). If the approval package is reviewed by the Minister's Office, the time is included in the 4 days allocated to delegated approval.

## V. Sources of Delay

There appear to be a number of reasons for the delay problem at TC. The reasons include insufficient delegation authority to make decisions under the **Access to Information Act**, a lengthy approval process and delays by OPIs in searching for and retrieving records.

### 1. Approval Delegation

The TC Delegation Order establishes the authority and process for making recommendations and decisions on access requests. In our view, the Delegation Order does not provide sufficient delegated authority. The result is a cumbersome approval and processing system that needs to be streamlined.

All requests received each week are circulated on a weekly summary list to various parts of the department that may have an interest in access requests. The summary list is circulated to both the Deputy Minister's Office and the Minister's Office. The Minister's Office will indicate which access requests are to be provided to the Office prior to release.

The Deputy Minister will also indicate which requests will be answered by her in the exercise of her delegated authority. The requests checked on the summary list by the Deputy Minister will include any checked on the list by the Minister's Office. The result is that approximately thirty to 40% of requests end up with the Deputy Minister as the decision-maker.

The Delegation Order provides the Director General of Executive Services and the Deputy Minister with decision-making authority under the Act. (The Director General reports to the Assistant Deputy Minister of Corporate Services (ADM) who also has delegated authority under the Act. In practice the ADM's delegation is exercised only when the Director General is on vacation or unavailable.) If the Deputy Minister has not checked the request on the weekly summary list, then the decision under the Act will be made by the Director General. The only exception is when a Program Group ADM does not concur with the recommendation of the ATI Coordinator on what will be disclosed to the requester. In that case, the decision will revert to the Deputy Minister.

The ATI Coordinator has delegated authority for administrative decisions under the Act, but otherwise makes recommendations to the delegated decision-maker.

The ATI Coordinator and ATI Officers are the staff in institutions who have expert knowledge of the **Access to Information Act**. Consultation must take place with program staff and others involved in the process as part of the process for responding to access requests. Our view is that the consultations should take complete, the Delegation Order should delegate decision-making to those individuals with expert knowledge of the Act. The more removed the decision-making becomes from the ATI Coordinator through additional steps in the approval process, the more likely that the department will have problems responding to access requests on time.

## **2. Approval Process**

After receiving records from the OPI, the ATI Office reviews the records to make recommendations on what records are exempt under the **Access to Information Act**. The recommendations of the ATI Coordinator are contained in an ATI Briefing Note. The Briefing Note along with a Sign-off Sheet and Document List are sent to the Assistant Deputy Minister (ADM) or the Regional Director General (RDG) of the Program Group who provided the records. The ADM or RDG will either concur with the ATI Coordinator's recommendation or raise an issue on the Sign-off Sheet.

If the request was one that the Deputy Minister checked on the weekly summary of requests, the Briefing Note, a Sign-off Sheet and the requested records are sent to the Deputy Minister's Office via the ATI Office for a decision.

When the ADM/RDG concurs with the recommendation of the ATI Coordinator, the Briefing Note, Sign-off Sheet and the requested records are sent via the ATI Office to the Director General of Executive Services for a decision.

If the ADM/RDG does not concur with the recommendation of the ATI Coordinator, the Briefing Note, Sign-off Sheet and the requested records are sent via the ATI Office to the Deputy Minister's Office for a decision.

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**Special Report to Parliament of the Information Commissioner of Canada**

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Although various words like review and concur are used to describe steps in the approval process, the affect of multiple “check points” prior to the release of records is to create an institutional culture of “play it safe”. The addition of many steps to “sign-off” contributes to delays in the process.

Transport Canada has a processing model that allots days available to each part of the department involved in processing an access request. Of the 20 days available in the model, 4 days are allocated to approval, 2 days are allocated to ADM/RPG concurrence and 1 day is allocated to Communications (30-/40% of files). The total of 7 days represents 35% of the time available to process an access request. This allocation of time for review, concurrence and/or approval appears in our view to be excessive.

The following tables present statistics on the allocated versus actual time in working days for four stages of processing a request (the ATIP Office time was not calculated). The data presented below is for all access requests received and completed in the time period.

**Average for All Files**

<b>Allocated Time (Days) For 270 Requests</b>	<b>Actual Days April 1/98 - March 31/99</b>	<b>Actual Days April 1/99 - November 30/99</b>
Retrieval - 7	8.05	5.99
ADM/RDG Review - 2	2.18	2.19
Communications Review - 1	2.38	1.0
Approval - 4	2.74	3.62

**Average for Deemed Refusal Requests**

<b>Allocated Time (Days) For 135 Request</b>	<b>Actual Days April 1/98 - March 31/99</b>	<b>Actual Days April 1/99 - November 30/99</b>
Retrieval - 7	9.77	6.3
ADM/RDG Review - 2	2.34	3.14
Communications Review - 1	2.53	1.0
Approval - 4	3.36	6.57

### **3. Communications**

Communications provides media lines for some 30-40% of access request files. When media lines are required, the complete request file is provided to Communications. Where there is a need for media lines, Communication should not constitute a step in the approval process for an access request. Other departments have found that communications requirements can be managed in parallel with the request handling process rather than as another layer in the process.

## **4. Operational Areas (OPIs)**

OPIs are required to search for and retrieve records to respond to access requests. The OPIs are required to provide records to the ATI Office within seven days of receipt of the request from the ATI Office.

OPIs are providing records to the ATI Office within the seven-day timeline. Although OPIs know the status of request files as the file is processed, there is no overall reporting to senior management or to OPIs to measure their performance against the time standards set out by TC for processing an request.

OPIs expect strong support from the ATI Office in training to understand precisely what their responsibilities are under the **Access to Information Act**, particularly with respect to timelines and extensions. In addition, the OPIs need procedural and instructional information on how to carry out tasks assigned to them as part of the process for responding to access requests.

## **5. ATI Office**

The ATI Office recently acquired the ATI flow System to manage the access request caseload. The System provides a number of reports to manage and report on the access request caseload.

The department needs factual management information to pinpoint precisely where delays are occurring in processing access requests. Specific management information is required to identify the nature and extent of the delay problem. Once the causes of the time delays are identified, a plan can be developed to bring the department into compliance with the statutory time requirements of the Act (and the timelines developed by TC to process a request).

The Tables presented under the Approvals Process illustrate the average number of days taken to complete the processing of access requests. Information is not available to determine the amount of time taken by the ATI Office in the process. It is therefore impossible to determine if delays in the process occur in the ATI Office.

In March 1999, the ATI Coordinator was asked to review the problem of delays in responding to access requests in the department. While many noteworthy activities have or will take place to reduce the number of deemed refusal requests, the efforts are seriously hampered by the lack of an overall plan. A Plan can only be developed based on factual information concerning the cause(s) of the delays. Once the causes of the delays are identified, planning can begin on the overall measures needed to bring the department into compliance with the Act's statutory time requirements.

## VI. Management Response to the Problem of Delay

TC has started to address its access to information delay problems. During the past two years the prime focus has been on improving the quality and consistency of ATI advice given to departmental employees and secondly to restructure and streamline the ATI process in order to reduce the response time to requesters.

The department has increased staff resources over the past three fiscal years. Additional funds were also made available to support training needs and to purchase ATIP flow software to track access requests. A large ATI awareness effort across the department is in process and will be completed this fiscal year. The awareness efforts have resulted in OPIs providing records within the timeframe allowed approximately 65% of the time, an increase from 55% in 1998/1999.

The department has increased its efforts to provide informal access. There are a number of measures under investigation to post further information to the TC Internet site.

### 1. Operational Areas (OPIs)

Two years ago the responsibilities of OPIs were changed. Up until that time the OPIs were required to search for and locate records. The OPIs were then required to review the records and recommend what information might be exempt in the records.

The present procedure is to have the OPIs search for and retrieve records and then forward the records to the ATI Office. The ATI Office then reviews the records to determine what information is exempt under the **Access to Information Act**. The OPIs can still indicate from their knowledge of the records if there are any issues in their view to deal with as reflected in possible exemptions. The actual review of the records is by an ATI Officer who has the technical knowledge of the **Access to Information Act**. The ATI Coordinator believes this change in procedure has resulted in faster and more consistent decision-making.

### 2. Review of Delays

In March 1999, the ATI Coordinator was asked to review the problem of delays in responding to access requests and provide measures to resolve the problem of deemed refusals. The department has undertaken a number of projects, including:

- Pilot Project for Electronic Records: The project is to develop a system to index electronic records when the records are created to establish a virtual filing system and to develop a consistent approach to records indexing.

- OPI Performance Feedback: Two Regions are receiving information on their performance relative to the time standards established by the ATI Office for responding to access requests. The ATI Coordinator expects to extend the reporting to each Group at the Group level in January 2000.
- Training and Briefings on the Act: The ATI Coordinator is conducting training sessions for Transport Canada employees and briefings for all Transport Canada management staff. By the end of the 1999/2000 fiscal year, all management staff will be briefed and approximately 1,000 employees (of 4,800) will receive training. This includes both headquarters and regional employees. The sessions with management staff provide them with a better understanding of the ATI process, emphasize the importance of their role in the process and serve to enlist their support. An ATI module has been added to the department's employee orientation sessions for new employees.
- Resources: The staffing resources of the ATI Office were increased in 1999/2000 with the addition of one FTE, one loaned staff person for part of the year and sixty weeks (as of November 30, 1999) of contractor assistance.

### **3. Informal Access**

During the last two fiscal years, the department has promoted informal access to its information. The number of informal access requests processed by the ATI Office has increased significantly. In 1997/1998 seven requests were treated informally. In 1998/1999, the number of requests rose to 65. In 1999/2000 to November 30, 1999, 47 requests were handled informally. The numbers reflect only those requests where the ATI Office was the point of contact.

In addition, the ATI Office has identified categories of information requested frequently under the **Access to Information Act** and has targeted the information for informal disclosure. As a result, this information - in the past obtained through a request under the Act - is now routinely available from Program officials.

## **VII. Recommendations**

This review recommends the following:

- ❖ The ATI Coordinator is directly responsible for ensuring compliance with the **Access to Information Act**, and should take a strong leadership role in establishing a culture of compliance throughout TC. Such a role requires the unwavering support and endorsement of the Minister and the Deputy Minister.
- ❖ It is unusual for Deputy Ministers to reserve to themselves the authority to answer access requests – especially in one third or more of cases. This aspect of the delegation order and practice should be reviewed.
- ❖ The ATI Coordinator and the Deputy Minister 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.
- ❖ Allotted turnaround times should be revised, 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 incorporated into the process. This might help those not familiar with the request process to understand the tight timelines.
- ❖ 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.
- ❖ TC should approach the time delay problem by establishing an overall plan to manage the tasks necessary to come into substantial compliance with the Act's deadlines. The plan should identify the sources of the delays and include targets, tasks, deliverables, milestones and responsibilities to achieve substantial compliance.
- ❖ TC should come into substantial compliance with the Act's deadlines no later than March 31 of 2001.
- ❖ The ATI Office should provide routine reporting that allows an assessment of whether OPIs and other parts of the department accountable for meeting time requirements for processing access requests are meeting their obligations. The reporting should include the ATI Office.

- ❖ ATI training should be mandatory for all new managers as part of their orientation and for all managers on a refresher basis once the current 1999/2000 training program is completed.

## **B. BASIS OF REPORT**

### **I. Interview with TC's ATIP Coordinator—December 9, 1999**

On December 9, 1999, TC's ATIP Coordinator was interviewed for the purpose of this Report Card.



## II. TC—Pre-Interview Self-Audit Questionnaire

<b>Questionnaire for Statistical Analysis Purposes in relation to official requests made under the Access to Information Act</b>			
<b>Part A: Requests carried over from the prior fiscal period.</b>		<b>Dec. 1/98 - March 31/99</b>	<b>April 1/99 - Nov. 30/99</b>
<b>1.</b>	Number of requests carried over:	86	85
<b>2.</b>	Requests carried over from the prior fiscal — in a deemed refusal situation on the first day of the new fiscal:	36	30
<b>Part B: New Requests — Exclude requests included in Part A.</b>		<b>Dec. 1/98 - March 31/99</b>	<b>April 1/99 - Nov. 30/99</b>
<b>3.</b>	Number of requests received during the fiscal period:	355	232
<b>4.A</b>	How many were processed <i>within</i> the 30-day statutory time limit?	114	64
<b>4.B</b>	How many were processed beyond the 30-day statutory time limit <i>where no extension was claimed?</i>	106	27
<b>4.C</b>	How long after the statutory time limit did it take to respond <i>where no extension was claimed?</i>		
	1-30 days:	53	22
	31-60 days:	22	2
	61-90 days:	6	2
	Over 91 days:	25	1
<b>5.</b>	How many were extended pursuant to section 9?	50	41
<b>6.A</b>	How many were processed <i>within</i> the extended time limit?	21	27
<b>6.B</b>	How many exceeded the extended time limit?	29	14
<b>6.C</b>	How long after the expiry of the extended deadline did it take to respond?		
	1-30 days:	12	8
	31-60 days:	6	1
	61-90 days:	4	4
	Over 91 days:	7	1
<b>7.</b>	As of November 30, 1999, how many requests are in a deemed refusal situation?		30

<b>Part C: Contributing Factors</b>	
<b>8.</b>	<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:</b>
	<b>Thank you for completing this questionnaire</b>

### III. TC—Review Questionnaire (December 1999)

#### Review Questionnaire—December, 1999

##### 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:**

Minister of Transport  
Ottawa, Canada K1A 0N5

ORDER UNDER SECTION 73  
**ACCESS TO INFORMATION ACT**

Designating Officers Authorized to Exercise  
Ministerial Duties, Powers and Functions

Pursuant to the authority conferred upon me by Section 73 of the **Access to Information Act**, I hereby designate the persons exercising the functions or positions listed in the schedule hereto attached and their respective successors, including in their absence, a person or officer designated in writing as having authority to act in the place of the holder of any such functions or positions, to exercise those of my powers, duties or functions as the head of a government institution under the Act, that are set out in the schedule in respect of each position or function.

No authority is granted hereby to any designate, to reverse, in any matter, a decision taken in that matter by myself

DAVID M. COLLENETTE

**Note: Since the designation order schedule is very detailed, allowing designation over specific sections of the Act to a number of positions, it has not been reproduced for inclusion in this report. The order includes identification of individuals who recommend and those who approve decisions under the sections of the Access to Information Act.**

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?**  
Yes. However, it should be noted that in practice, the approval of exemptions is rarely ever done by the ADM Corporate Services.

**Or, in practice, does the approval process require the approval or concurrence of officials who are not holders of delegated authority? (Explain.)**

Our ATIP process also includes a step for concurrence by the ADM or RDG whose area provided the records. This concurrence is sought prior to the approval of the exemptions.

**ATI Office:**

- 1. To which unit/division (and management level) of the institution does the ATI Coordinator report?**  
**a) For operational purposes:**  
To Executive Services which is a Directorate within the Corporate Services Group.  
**b) For administrative purposes:**  
To Executive Services which is a Directorate within the Corporate Services Group.
- 2. Who (name and title) completes the coordinator's annual performance appraisal?**  
William J. McCullough, Director General of Executive Services
- 3. Does the ATI Coordinator have a clear mandate? (Provide all documentation which sets out the coordinator's goals, objectives, duties, responsibilities and authorization.)**  
 X  yes; \_\_\_ no
- 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.**  
Yes.
- 5. Does the ATI Coordinator have authority/control over ATI activities throughout the institution (i.e. headquarters, regions, etc.)?**  
Functional authority for all ATIP matters rests with the ATI Coordinator. Only the ATI office makes recommendations to the delegated authority on application of exemptions.
- 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, and full or part-time status.**

The following includes all of ATIP:

**A: Officer Level:**

**FY 1998/1999**

1 X PM-04, 9 years experience  
1 X PM-04, 3 years experience  
1 X PM-04, 2 years experience  
  
1 X PM-03, 1 year experience  
  
1 X PM-03, 1.5 years experience

**FY 1999/2000**

1 X PM-04, 10years experience  
1 X PM-04, 4 years experience  
1 X PM-04, 3 years experience left  
Oct 1999 replaced by:  
1 X PM-04, 10 years experience  
started Nov. 1999  
1 X PM-03, 2 years experience,  
became a PM-04 Sept. 1999  
1 X PM-04, 9 years experience  
1 X PM-03, 2.5 years experience  
became a PM-04 in Sept. 1999

**B: Support:**

**FY 1998/1999**

1 X CR-04, 3 years experience

**FY 1999/2000**

1 X CR-04, new to ATIP  
1 X A/PM-02, new to ATIP

**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.)**

yes;  no

A guide designed to assist individuals involved in the processing of requests was created in the Spring of 1999, replacing previous guidelines dating from 1997.

**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? (Provide any other guidelines you follow in this regard.)**

Always,  almost always,  sometimes,  rarely,  never.

Download to the CAIR system is done every week.

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.)**  
 Always,  almost always,  sometimes,  rarely,  never.
11. **When extensions are necessary, are notices sent to the requester within 30 days?**  
 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?**  
 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**  
 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: 20%
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.

**Special Report to Parliament of the Information Commissioner of Canada**

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Very often. Particularly when a significant number of records are involved.

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

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

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

ATIP flow, a product of MPRSYS.

**A. Offices of Primary Interest**

**1. Are OPIs ATI responsibilities clearly defined? Please provide any written documentation.**

yes;  no

Note: See response to question 8 under ATI Office.

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

Always,  almost always,  sometimes,  rarely,  never.

Last FY OPIs provided the records within the timeframe allowed approximately 55% of the time.

This FY to date, OPIs provided the records within the timeframe allowed approximately 65% of the time.

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

The Liaison Officer reminds the OPI of the due date.

**Processing—Other Areas:**

**B. Legal Services:**

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

Always;  almost always;  sometimes;  rarely;  never

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

N/A

**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.)**

N/A

**C. 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: 30 to 40%.
- 2. What is the expected turnaround time for requests submitted to this area? (Provide any written documentation.)**  
24 hours.
- 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.)**  
The office is contacted and reminded of the due date.

**D. Minister's Office:**

- 1. Are ATI requests submitted to this area for review/approval/sign-off?**  
\_\_\_ Always; \_\_\_ almost always; \_\_\_ sometimes; \_\_\_ rarely; \_\_\_ never  
For information, after the approval of exemptions  
Percentage of requests: 20 to 30%.
- 2. What is the expected turnaround time for requests submitted to this area? (Please provide any written documentation.)**  
There is no time allocated in our process for this phase. Whatever time is taken by the Minister's Office to examine release packages is done as part of the Deputy Minister's 4 days to approve a file.
- 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.)**  
The office is contacted and reminded of the due date.

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

- 1. Are ATI requests submitted to this area for review/approval/sign-off?**  
\_\_\_ Always; \_\_\_ almost always; \_\_\_ sometimes \_\_\_ rarely; \_\_\_ never  
Some requests are sent there for approval of exemptions.  
Percentage of requests: 30 to 40%
- 2. What is the expected turnaround time for requests submitted to this area? (Please provide any written documentation.)**  
4 working 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.)**  
The office is contacted and reminded of the due date.



**F. Other Areas:**

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

The ADM or RDG of the area having provided the records gives his/her concurrence to the ATIP recommendations prior to the approval of the exemptions.

**THE OPI / PROGRAM**

- 1. Are ATI requests submitted to this area for review/approval/sign-off?**  
 X  Always; \_\_\_ almost always; \_\_\_ sometimes; \_\_\_ rarely; \_\_\_ never
  
- 2. What is the expected turnaround time for requests submitted to this area? (Provide any written documentation.)**  
2 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.)**  
The office is contacted and reminded of the due date.

Note: Sample copies of the forms used to obtain concurrence and approval of the recommendations of the ATI Coordinator are presented below. In this example, the Deputy Minister is the delegated authority.

**ATIP Briefing Note**

**File: CCM+:**  
**Request Received: Statutory Deadline:**  
**Requester:**  
**Records Provided By:**

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**Subject:**

**Background**

Story / Issues  
Details about complaint(s), if any  
Commitment dates  
Interim or final release

**Consultations**

Who we consulted, what did they say, did we agree

**Recommendation**

It is recommended that full disclosure of the records take place.  
or  
It is recommended that exemptions be applied as described in the attached document list.  
or  
Describe as relates to other unusual scenario.

<b>Section</b>	<b>Description</b>

ATIP Advisor: NAME, Tel. number  
Date:

**DOCUMENT LIST**

File: ATIP Advisor: Name,

Program/Region: Name of group having provided the records

Pg. No.	Type of Document	Subject	Date (DJ/MM/YA)	Exempt	Comments

**SIGN-OFF SHEET FOR ACCESS TO INFORMATION REQUESTS**

Attachment to Briefing Note of (date)

File Number:

Recommended by:	
Linda Savoie, ATIP Coordinator      Date	Date
I concur with the recommendations as they relate to Regional records:	
RDG (Indicate which Region)Date	Date
Release of the documents is / is not likely to raise public or media interest.	
Regional Communications (indicate Region) Date	Date
Recommendations as to exemptions approved by:	
M. Bloodworth, Deputy Minister      Date	Date

**Fees:**

**1. Do you have a fee policy? (If yes, please provide a copy.)**

yes;  no

The department applies the fee policy proposed by the Treasury Board Guidelines.

**FTE/Operating Budgets:**

- 1. Which division/unit is responsible for budget allocations for the ATI unit?**  
There is no specific pre-determined budget dedicated to ATIP. Corporate Services allocates a budget to Executive Services and ATIP submits its requirements to that Directorate.
- 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?**

1999/2000: \$ 455,000	number of person years: 9.4
1998/1999: \$ 342,000	number of person years: 7.5
1997/1998: \$ 276,000	number of person years: 6.5
- 4. What is/was the operating budget for the ATI office for the fiscal periods shown below?**

1999/2000: \$ 40,000 to date
1998/1999: \$ 130,000
1997/1998: \$ unavailable
- 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?**

1999/2000: \$ 6,000 approx.
1998/1999: \$ 10,600
1997/1998: \$ 15,700

**IV. Other Information From TC**

**Other information of significance:**

As partly appears from the data provided on ATIP office employees and ATIP budget, the resources allocated to the ATIP office have increased in every one of the last 3 Fiscal Years.

**Fiscal Year 1998/1999** was a year of particularly high turnover in the ATIP office. A new Coordinator arrived days before the FY began and 2 of 5 ATI Advisors in the office were replaced. As a result, the focus for this FY was on training of the Advisors and on quality and consistency in our processing. Timeliness was not addressed as forcefully. Nonetheless, efforts at streamlining our process began, a consultation process with all the departmental ATIP liaisons was organized and new technology was purchased to ensure Transport would have the tools to improve its on-time performance.

**Special Report to Parliament of the Information Commissioner of Canada**

---

**Fiscal Year 1999/2000** is showing significant improvement in every area of ATIP processing. To date, we have an increase in our on-time performance of over 10% overall and we expect this progress to continue.

Again resources were increased from the previous FY and a large awareness effort across the department began. It is expected that by the end of the fiscal year, every management group in Transport Canada will have received an ATI briefing. Already, the benefit of having a better understanding of this legislation across the department has appeared. OPIs are providing records on time much more often and some Regional Directors General have made ATIP performance a part of their accountability accords with the Deputy.

# Citizenship and Immigration Canada (C&I)

## Summary

C&I made progress over the first eight months of the fiscal year in reducing the number of requests that are processed within the timelines required by the **Access to Information Act**. The Department has an objective of completing 70% of access requests within the timelines of the Act in 1999/2000 and then coming into substantial compliance with the Act's time requirements in 2000/2001 (see recommendations 10 and 15 that provide differing dates for substantial compliance).

In the 1999, Report Card C&I received a grade of F with a 48.9% request to deemed-refusal ratio for requests received from April 1, 1998 to November 30, 1998.

For the complete 1998/1999 fiscal year, the ratio was down to 38.6% (2477 requests received as a ratio of 779 and 31 requests answered beyond the Act's time requirements and 147 requests carried over to the next year in a deemed refusal situation). For requests received from April 1, 1999 to November 30, 1999 the ratio improved to 23.4% (3260: 388, 54, 321). In addition, the length of time taken to process "deemed refusal" requests was reduced substantially this fiscal year as shown on the following table.

<b>Time taken after the statutory time limit to respond where no extension was taken</b>	<b>April 1998- Mar 1999</b>	<b>April 1999 - Nov 1999</b>
1-30 days	555	270
31-60 days	126	60
61-90 days	40	40
Over 91 days	58	18

The Department has obtained additional resources and is implementing the ATIP flow System. While progress in complying with the Act's time requirements is evident, there are a number of measures that should be in place to assist in achieving substantial compliance.

The Department has allocated additional resources to the ATI Branch. But for the past two years the number of access requests has increased substantially. The trend of an increasing number of access requests is evident. Even though resources have increased, the additional resources are diverted to a certain extent to process the increased workload rather than deal with the deemed refusal situation as planned. Unless the resource requirements are addressed or further improvements can be made to the access process, it will be difficult to achieve substantial compliance with the Act's time requirements.

To support continued progress C&I requires the development of an overall plan with milestones, targets, tasks, deliverables and responsibilities. The actual performance of those accountable for the various tasks can then be measured in quantitative and qualitative terms. This is particularly important because the ATI Branch is dependent in many cases on the work of other parts of the organization. The increasing volume of access requests would also be factored into the plan.

While certain statistical and management information is available, further reporting is required when the ATI flow System is fully operational. There is a need to distribute information to OPIs and other parts of the organization on planned vs. actual time taken at each stage of the access process. Without this type of information it is difficult to identify potential problems with the Act's time requirements. The information will also allow the ATI Branch to take a proactive approach to potential problems in meeting the Act's time requirements.

## **Recommendations**

- C&I should continue to devote the resources and effort necessary to meet the time requirements of the **Access to Information Act**.
- An overall plan should be developed to come into substantial compliance, by March 31, 2001, with the time requirements of the Act including milestones, targets, tasks, deliverables and responsibilities.
- C&I should distribute information to OPIs and other parts of the organization on time taken at each stage of the access process and how this accords with benchmark turnaround times.
- ATI training should be mandatory for all new managers as part of their orientation and for all managers on a refresher basis.
- Performance contracts with operational managers should require compliance with internal and legislated response deadlines.
- Continued improvement in performance is unlikely without more upper management participation and leadership. The Deputy Minister must take a hands-on role by receiving weekly reports showing the cases in deemed refusal, where the delays are occurring and what remedial action is being taken or proposed. The Deputy Minister should directly oversee a plan under which C&I will come into substantial compliance with the deadlines.
- Procedures for OPIs and obtaining information from missions abroad should be examined. If feasible, areas that receive large numbers of access requests should be trained to identify records that would justify a valid extension. An email or fax, even subject to unstable technology, can be faster than the diplomatic mail service. This early contact can trigger the ATI office to send the appropriate notice on time.

## **Status**

The March 1999 Report Card made the following recommendations. The status of each recommendation is described below the recommendation.

1. The coordinator is directly responsible for ensuring compliance with the **Access to Information Act**, and should take a strong leadership role in establishing a culture of compliance throughout C&I. Such a role requires the unwavering support and endorsement of the Minister and the Deputy Minister.

Response: In June 1999, the Senior Management Committee was presented with a presentation on the Report Card. Both the Deputy and Associate Deputy Minister attended the meeting. The purpose of the presentation was to discuss the time requirements of the **Access to Information Act** relative to C&I and to obtain commitments to reduce the deemed refusal situation in the Department.

## **Special Report to Parliament of the Information Commissioner of Canada**

---

The Director General receives weekly reports on the status of access requests. She also receives a monthly statistical report and narrative report on the status of requests. The monthly report is discussed with the Director General's Assistant Deputy Minister.

A semi-annual report is planned for the Departmental Management Committee. The report will provide information on the deemed refusal situation on a year to date basis.

In 1999/2000, five additional FTE's were provided to the ATI Branch.

2. 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.

Response: The coordinator has delegated authority under the Act to make all decisions.

3. C&I 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.

Response: C&I has increased the number of extensions taken. As of October 30, 1999, 677 extensions were taken for fiscal year 1999/2000 (351 if counting only closed files). For the same period in the previous fiscal year, 14 extensions were taken.

C&I is still reviewing the situation with extensions for overseas files on a mission by mission basis.

4. 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.

Response: The email to the OPI states the date that the records are required in the ATI Branch. One person in the ATI Branch follows up with the OPI one day prior to the due date if necessary.

Once the ATI flow System is completely implemented, C&I will provide information to OPIs on their performance relative to the timeline requirements of the Act.

C&I is developing an overall chart on expected turn around times will be is made available as part of the access process. At this time, OPIs are expected to search for and provide records within ten working days unless an extension is necessary. The Chart is included at the end of this report.

5. OPI-specific training (and information packages), with a focus on timelines and other considerations, should be developed, and training sessions given.



**Special Report to Parliament of the Information Commissioner of Canada**

---

Response: There were a number of training activities including a half-day training session for all ATIP Coordinators from OPIs at National Headquarters. The next step is to develop a training plan for C&I that identifies priorities, resources and timelines. The target for completion of the plan is January 2000.

6. 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.

Response: Clarification of requests is now done in writing.

7. 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.

Response: The ATI flow System will be used for the purpose of tracking timelines. C&I expects to have this component fully operational by the April 1, 2000.

8. 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.

Response: The requirement to notify requesters of their right to complain will be implemented in December 1999.

9. Performance contracts with operational managers should contain consequences for poor performance in processing access requests.

Response: C&I does not plan to pursue this recommendation, because in their view the compliance situation continues to improve substantially.

10. Come into substantial compliance with the Act's deadlines no later than March 31 of 2000.

Response: A 125% increase in access requests this fiscal year has made it difficult to come into substantial compliance (5-10% deemed refusals) this year. The rate of deemed refusals has fallen substantially and between April and November 17, 1999 had fallen to 25.4%. C&I set a target of 30% deemed refusals for 1999/2000.

11. Where possible, the ATI office should provide partial response releases for portions of records not involved in 3rd party or other consultations.

Response: The recommendation has been implemented.

12. Approach the overall delay problem by establishing milestones to reach pre-set targets for improved performance (i.e. move to a project management mode).

Response: An action plan to respond to the Report Card was prepared in May 1999 and implementation is in progress. While the workload is under constant monitoring, an

## **Special Report to Parliament of the Information Commissioner of Canada**

---

overall plan on the reduction of deemed refusals is not in place. Elements of the plan would include overall and individual OPI targets, timeframes, actuals and details of the planned and actual measures to be taken to deduce the deemed refusals. A further element of the plan would be the planned versus the actual time taken to respond to access requests in each stage of the access process.

13. ATI training should be mandatory for all new managers as part of their orientation and for all managers on a refresher basis.

The Department does not have a mandatory training course for managers. There are however six training courses for officers and managers that have an ATI module.

14. 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.

Response: An information sheet is being developed (see response to recommendation 4).

15. Continued improvement in performance is unlikely without more upper management participation and leadership. The Deputy Minister must take a hands-on role by receiving weekly reports showing the cases in deemed refusal, where the delays are occurring and what remedial action is being taken or proposed. The Deputy Minister should take personal responsibility for approving a plan under which C&I will come into substantial compliance with the deadlines no later than March 31 of 2001.

Response: There are a number of reports that are provided to the ADM, Corporate Services. A list of steps and timelines for implementing certain recommendations in the Report Card is available for 1999/2000. Further planning information is required for 2000/2001 if the Department plans to become substantially in compliance with the Act by March 31, 2001. There is no documentation to determine if a plan was approved by the Deputy Minister.

16. The delegation order now in force (since December 20, 1995) empowers the Deputy Minister and Director General, Ministerial and Executive Services to exercise all of the powers of the Minister under the Act. The coordinator has delegated authority to make most decisions-with the exception of subsections 20(6) and 52(3). Senior Administrators, Public Rights have authority for: 7 to 12(3)(b), 13(2), 19(2), 20(2) & (3), 20(5), 25, 27(1) to 29(1), 37(4) to 44(2), and not for: 13(1), 14 to 19(1), 20(1), 20(6) to 24(1), 26, 32 to 37(1)(b), 52(2) to 71(2). This delegation order does not, however, make it clear who has the responsibility for decision-making under the Act. In practice, in all but the most straightforward cases, the delegation is not exercised without concurrence from the Minister and/or Deputy Minister. Unless C&I comes to rely on its coordinator to exercise the delegation without the need for such careful senior level scrutiny, meeting response deadlines will continue to be an elusive goal.

Response: The delegation of authority is fully exercised by the Access Director. The Delegation is under review for the approval of the new Minister. It will propose to provide more delegated authority to the Public Rights Officers in the Division.

17. Every effort should be made to implement the proposed database as soon as possible. The ATIP flow (or similar) system will likely result in better workflow processing and

**Special Report to Parliament of the Information Commissioner of Canada**

---

work sharing. The 4-5 electronic systems in other departmental locations should also be upgraded.

Response: The ATIP flow System was implemented, although some implementation problems remain. Some Regions are reviewing their need for a similar tracking system. C&I has approved funding for Quebec Region's project to install ATIP flow. BC Region is doing initial research on whether to switch from its own system to ATIP flow.

18. Once the new system is in place, the coordinator should make use of the reporting capacity. Statistical and timeline-monitoring reports can help identify problematic areas.

Response: A number of reports are issued, but further reporting requirements must be identified. The further reporting requirements will include measuring the OPIs planned versus actual time for responding to access requests.

19. Remove media relations from the approval chain and deal with that office in parallel.

Response: Media Relations is not part of the approval process. When Media Relations needs to be informed of an access request, a special package is prepared. This is done in parallel with the processing of the access request. Media Relations is involved in 5-10% of the requests.

20. Informal follow-up actions should be replaced with written procedures, and repercussions for missed deadlines.

Response: There are procedures in place for the International Region. This Region accounts for 75% of the requests received by C&I. Plans are to move to instituting formal follow-up procedures with other Regions in January 2000.

21. Procedures for OPIs and obtaining information from missions abroad should be examined. If feasible, areas that receive large numbers of access requests should be trained to identify records that would justify a valid extension. An email or fax, even subject to unstable technology, can be faster than the diplomatic mail service. This early contact can trigger the ATI office to send the appropriate notice on time.

Response: This recommendation is under review in the context of recommendation 3.

22. Although complete, C&I's Access to Information and Privacy (ATIP) Training Guide might be too cumbersome. A smaller, access-specific guide-prepared with a how-to-move-requests objective-could create greater awareness of duties and responsibilities in responding to requests.

Response: An outline of a Guide was developed. It is anticipated that the Guide will be available before the end of this fiscal year as part of Training Centre programs.

23. The coordinator should use the ATIP flow system's reporting capabilities to monitor OPI turnaround times. Problematic areas should be reported to Senior Management.

Response: Monitoring of OPI turnaround times is planned. See the response to recommendation 4.

24. Other Comments appended by C&I.

**General Comments:**

C&I is facing a substantial challenge resulting from the need to develop and implement measures having a medium to long-term impact on the deemed-refusal situation, while simultaneously processing 125% more requests than in 1998/1999 (and 200% more requests than 2 years ago).

Choices have been made to achieve a balance between the two imperatives, and C&I's results (24.5% deemed refusals compared to 48.5% last year at this time) speak for themselves, given major operational pressures like Operation Parasol (Kosovo) and the B.C. Marine arrivals. These have necessitated major reallocations on C&I's operational resources between January and October 1999, with a resulting impact throughout the department in Canada and overseas.

**Resources:** The Department has allocated 5 FTEs on a temporary basis to the ATI unit for 1999/2000, some of which has been used to add 2 new staff members. The remainder of the funding, because of the lack of office space, has been used to conclude professional service contracts to process requests. In addition, an RFP is under development to secure long-term resources for various functions related to ATIP.

**Training:** C&I does not have a cumbersome and hierarchical approvals process, since the only files highlighted (for information, not approval) to senior management and the MO are the very sensitive ones and are very limited in number. That being said, C&I fully agrees that training continues to be a priority for the next 2 years at least.

**Use of extensions for files overseas:** following that first meeting with the OIC, C&I wrote to the OIC on June 8 proposing the use of extensions under paragraph 9(1)(b) for files overseas. The OIC responded that it is not convinced that this is legally possible but was open to discuss the issue after C&I consults Justice (ILAP) on the issue. In the response of July 12, C&I agreed to consult Justice to get an opinion, and agreed to investigate "increased use of technology for file transfer where infrastructure permits" and committed to "share the results of our research". To-date, only preliminary work has been done in this regard.

**Action Plan:** C&I's view is that they developed an Action Plan in May 1999 in response to the OIC's Report Card. Actions taken to date have been in accordance with this plan. C&I have now launched its Operational Planning and Budgeting exercise for 2000/2001. The Access to Information Division's final work plan for 2000/2001 will be developed in February 2000 and the range of actions planned will reflect budgetary levels approved for Executive Services Branch.

A copy of the statistical questionnaire is presented on the following page.

**Special Report to Parliament of the Information Commissioner of Canada**

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**CIC Processing Times under the Access to Information Act**

Step #	Description	Days to Complete	
		Records in Canada	Records Overseas
1	Receipt and recording of request	2	2
2	Request sent to OPI	2	2
3	Feedback from OPI on extension to be sought or receipt of documents	10	15
4	Reminders to OPIs	(2)	(2)
5	Files transmitted from overseas	0	7 to 20
6	Review files and prepare exclusions & exemptions (includes consults with Legal Services)	13	13
7	Preparation of media lines and information for MO/DMO/ADM	(2)	(2)
8	Final approval of package by Senior Public Rights Officer/signoff of exemptions by ATIP Coordinator	2	2
9	Release of Records to Requester	1	1
Total Days required:		30	42 to 55

Note: Numbers in parentheses reflect parallel processes.

**Special Report to Parliament of the Information Commissioner of Canada**

<b>Questionnaire for Statistical Analysis Purposes in relation to official requests made under the Access to Information Act</b>				
<b>Part A: Requests carried over from the prior fiscal period.</b>		<b>April 1/97 - March 31/98</b>	<b>April 1/98 - March 31/99</b>	<b>April 1/99 - Nov. 30/99</b>
<b>1.</b>	Number of requests carried over:	346	247	317
<b>2.</b>	Requests carried over from the prior fiscal — in a deemed refusal situation on the first day of the new fiscal:	253	115	147
<b>Part B: New Requests — Exclude requests included in Part A.</b>		<b>April 1/97 - March 31/98</b>	<b>April 1/98 - March 31/99</b>	<b>April 1/99 - Nov. 30/99</b>
<b>3.</b>	Number of requests received during the fiscal period:	1,643	2,477	3,260
<b>4.A</b>	How many were processed <i>within</i> the 30-day statutory time limit?	474	1,349	1,659
<b>4.B</b>	How many were processed beyond the 30-day statutory time limit <i>where no extension was claimed?</i>	1,248	779	388
<b>4.C</b>	How long after the statutory time limit did it take to respond <i>where no extension was claimed?</i>			
	1-30 days:	-	555	270
	31-60 days:	439	126	60
	61-90 days:	600	40	40
	Over 91 days:	209	58	18
<b>5.</b>	How many were extended pursuant to section 9?	1	60	677
<b>6.A</b>	How many were processed <i>within</i> the extended time limit?	-	5	356
<b>6.B</b>	How many exceeded the extended time limit?	-	31	54
<b>6.C</b>	How long after the expiry of the extended deadline did it take to respond?			
	1-30 days:	-	13	39
	31-60 days:	-	6	10
	61-90 days:	-	4	3
	Over 91 days:	-	8	2
<b>7.</b>	As of November 30, 1999, how many requests are in a deemed refusal situation?			<b>321</b>



# Canada Customs and Revenue Agency (CCRA)

## Summary

The Customs and Revenue Agency has made remarkable progress in reducing the number of deemed refusal complaints. The Agency has taken a fundamental and structured approach to the review of the process for responding to access requests. Although the results are evident, further steps are necessary to eliminate the deemed refusal problem. The OPIs in the Agency are generally meeting the time standard set by the ATI Office (eight days). In the Coordinator's view, the ATI Office is not meeting its time standards because of a staffing shortage and the backlog from the previous year. The staffing shortage is in the process of being rectified.

In the 1999, Report Card the Customs and Revenue Agency Canada received a grade of F with an 85.6% request to deemed-refusal ratio for requests received from April 1, 1998 to November 30, 1998. This was amongst the highest level of non-compliance among the six Departments that received Report Cards.

For the complete 1998/1999 fiscal year, the ratio was 93.6% (482 requests received as a ratio of 397, 2 requests answered beyond the Act's time requirements and 52 requests carried over to the next year in a deemed refusal situation). For requests received from April 1, 1999 to November 30, 1999 the ratio improved to 51.5% (375: 142, 1, 50). In addition, the length of time taken to process "deemed refusal" requests was reduced substantially this fiscal year as shown on the following table.

<b>Time taken after the statutory time limit to respond where no extension was taken</b>	<b>April 1998 - Mar 1999</b>	<b>April 1999 - Nov 1999</b>
1-30 days	103	71
31-60 days	85	27
61-90 days	77	24
Over 91 days	125	21

## Recommendations

- The Customs and Revenue Agency should continue to devote the resources and effort necessary to meet the time requirements of the **Access to Information Act**.
- The Agency should identify and implement additional measures needed to come into substantial compliance with the time requirements of the **Access to Information Act** by December 30, 2000.
- The Agency should develop and circulate to operational managers information reports on the planned versus actual performance of those parts of the organization with responsibilities in the access to information process.
- 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
- ATI training should be mandatory for all new managers as part of their orientation and for all managers on a refresher basis.



- Performance contracts with operational managers should require compliance with internal and legislated response deadlines.

## **Status**

The March 1999 Report Card made the following recommendations. The status of each recommendation is described below the recommendation.

1. The coordinator is directly responsible for ensuring compliance with the **Access to Information 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.

Response: In a general introduction the ATI Director, in is new to the position, reviewed the changing status of the Department to an Agency as of November 1999. Both of these circumstances present the Director with an opportunity to be creative in seeking further improvements to the access process and planning.

The support of the Minister and Deputy Minister (now the Commissioner of the Agency) are evidenced by:

- a letter sent by the Commissioner to all Senior Management in June 1999 establishing an eight day period of time to locate, retrieve and provide records to the ATI Office for access requests
  - the Minister requested a copy of the two week outstanding request report on a routine basis
  - the revision of the delegation of the authority for decision making under the **Access to Information Act** to provide the Director, ATI with all decision-making authority
  - the Commissioner sent a progress report to the Information Commissioner in October to report on the progress to reduce the deemed refusals as of September 30, 1999.
2. 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.

Response: The ATI Director has been delegated all decision making authority under the **Access to Information Act**. Managers reporting to the Director have also been delegated certain decision-making authority under the Act.

## **Special Report to Parliament of the Information Commissioner of Canada**

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3. RC 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.

Response: The current process is set up to require OPIs to provide records to the ATI Office within eight days of the receipt of the request by the OPI. The OPI will notify the ATI Office within the eight-day time period if there is a situation that might require an extension under section 9 of the Act. In addition, ATI Officers will follow-up with the OPI during the eight day period to pre-empt any delay in providing the records to the ATI Office, unless an extension under section 9 is required.

4. 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.

Response: Turnaround times (calendar days) have been established for the processing of a request at each of the five stages, as follows:

Initial preparation – 4 days  
Search, locate and provide records to ATI Office – 8 days  
Record analysis – 10 days  
Record preparation – 6 days  
Approval – 2 days

A report prepared to assess the situation as of September 30, 1999 showed that the average actual days for each of the stages above were close to the targets. A report in the form of a letter was provided to the Information Commissioner.

At the end of October, the average OPI turnaround time was 8.8 days.

5. OPI-specific training (and information packages), with a focus on timelines and other considerations, should be developed, and training sessions given.

General training has been provided. OPIs were informed by the Deputy Minister of the requirement to locate and provide records to the ATI Office within eight days.

The ATI Director plans to develop a training module, but there is nothing specific yet.

The following training was provided or is planned:

- three day session in Montreal, October 1999
- training for departmental officials in Regina and Saskatoon , October 1999
- one day orientation session for the Office of Conflict Management for Reviewers, December 1999
- ATIP training for human resource employees in the Pacific Region, December 1999

**Special Report to Parliament of the Information Commissioner of Canada**

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6. 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.

Response: The current practice with a request that needs clarification or modification is to telephone the requester. If the conversation results in a “new” request, the requester is asked to submit a new request in writing. If the conversation results in a modified or clarified request, the change is confirmed with the requester in the response letter to the access request. The response letter will note the date of the telephone conversation and the modification to the request.

7. 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.

Response: Officers keep the requester informed and a note is added to the file describing each contact with the requester.

8. 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.

Response: Managers are aware that requesters should be notified if the situation occurs but there is no written policy.

9. Performance contracts with operational managers should contain consequences for poor performance in processing access requests.

Response: As noted in the letter to the Information Commissioner, meeting the OPI eight day period for locating and providing records is part of the Accountability Contract between each Senior Manager and the Commissioner.

10. Come into substantial compliance with the Act’s deadlines no later than March 31 of 2000.

Response: The target is to have 90% of requests received in 1999/2000 responded to in compliance with the time requirements of the Act.

11. Where possible, the ATI office should provide partial response releases for portions of records not involved in 3rd party or other consultations.

Response: The practice is to provide partial release of records where possible and this situation happens only occasionally.

12. Approach the overall delay problem by establishing milestones to reach pre-set targets for improved performance (i.e. move to a project management mode).

Response: The milestones and associated days are described under recommendation 4.

**Special Report to Parliament of the Information Commissioner of Canada**

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13. 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.

Response: Currently there is no mandatory training for new managers or refresher courses for managers.

The HR function is being revamped at the Agency and the ATI Director believes an opportunity may exist for this type of training.

A copy of the statistical questionnaire is presented on the following page.

**Special Report to Parliament of the Information Commissioner of Canada**

<b>Questionnaire for Statistical Analysis Purposes in relation to official requests made under the Access to Information Act</b>				
<b>Part A: Requests carried over from the prior fiscal period.</b>		<b>April 1/97 - March 31/98</b>	<b>April 1/98 - March 31/99</b>	<b>April 1/99 - Nov. 30/99</b>
<b>1.</b>	Number of requests carried over:	329	276	94
<b>2.</b>	Requests carried over from the prior fiscal — in a deemed refusal situation on the first day of the new fiscal:	288	219	52
<b>Part B: New Requests — Exclude requests included in Part A.</b>		<b>April 1/97 - March 31/98</b>	<b>April 1/98 - March 31/99</b>	<b>April 1/99 - Nov. 30/99</b>
<b>3.</b>	Number of requests received during the fiscal period:	527	482	375
<b>4.A</b>	How many were processed <i>within</i> the 30- day statutory time limit?	54	81	119
<b>4.B</b>	How many were processed beyond the 30- day statutory time limit <i>where no extension was claimed?</i>	473	397	142
<b>4.C</b>	How long after the statutory time limit did it take to respond <i>where no extension was claimed?</i>			
	1-30 days:	45	103	71
	31-60 days:	76	85	27
	61-90 days:	--	77	24
	Over 91 days:	352	125	21
<b>5.</b>	How many were extended pursuant to section 9?	--	2	7
<b>6.A</b>	How many were processed <i>within</i> the extended time limit?	--	0	6
<b>6.B</b>	How many exceeded the extended time limit?	--	2	1
<b>6.C</b>	How long after the expiry of the extended deadline did it take to respond?			
	1-30 days:	--	--	1
	31-60 days:	--	2	--
	61-90 days:	--	--	--
	Over 91 days:	--	--	--
<b>7.</b>	As of November 30, 1999, how many requests are in a deemed refusal situation?			<b>50</b>

# Department of Foreign Affairs and International Trade (DFAIT)

## Summary

It is evident from correspondence at the senior level of DFAIT that the deemed refusal problem is recognized and that the Deputy Ministers are supportive of taking measures to reduce the number of access requests that are processed outside of the time requirements of the **Access to Information Act**. The ATI Director has taken the approach of making systemic changes to the process this fiscal year and then requesting additional resources for processing next fiscal year. Divisions in DFAIT have provided funding for OPI staff to process access requests during this fiscal year.

In the 1999 Report Card, DFAIT received a grade of F with a 34.9% request to deemed-refusal ratio for requests received from April 1, 1998 to November 30, 1998. This was by far the lowest level of non-compliance among the six Departments that received Report Cards.

For the complete 1998/1999 fiscal year, the ratio was 36.1% (380 requests received as a ratio of 79 and 19 requests answered beyond the Act's time requirements and 39 requests carried over to the next year in a deemed refusal situation). For requests received from April 1, 1999 to November 30, 1999 the ratio improved to 27.6% (359: 62, 6, 31).

To support continued progress DFAIT requires the development of an overall plan with milestones, targets, tasks, deliverables and responsibilities in more detail than a Business Plan. The actual performance of those accountable for the various tasks can then be measured in quantitative and qualitative terms. In particular, there should be routine reporting on OPI compliance with the time standards set by the ATI Office.

Although the ATI Director is of the view that the tasking letter is clear and authoritative, it still appears to present too many details in the text. The letter should be written in plain language and present the timelines as deadlines for an action to be completed.

## Recommendations

- DFAIT should continue to devote the resources and effort necessary to meet the time requirements of the **Access to Information Act**.
- DFAIT should develop and implement an overall plan with milestones, targets, tasks, deliverables and responsibilities to come into substantial compliance with response deadlines by December 30, 2000.
- The department should provide reporting that allows an assessment of whether those accountable for tasks in the access to information process are meeting the time requirements allocated to the task.
- 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.
- Performance contracts with operational managers should require compliance with internal and legislated response deadlines.

- ATI training should be mandatory for all new managers as part of their orientation and for all managers on a refresher basis.
- The delegation order now in force (since March 11, 1998) empowers the Deputy Minister of Foreign Affairs, the Deputy Minister of International Trade, the Director General, Executive Services Bureau and the Access Coordinator to exercise all of the powers of the Minister under the Act. It does not, however, make it clear who has the responsibility for decision-making under the Act. In practice, in all but the most straightforward cases, the responsibility seems to be a collective one. It should be made explicit where the responsibility for decision-making under the Act lies.

## **Status**

The March 1999 Report Card made the following recommendations. The status of each recommendation is described below the recommendation.

1. The coordinator is directly responsible for ensuring compliance with the **Access to Information Act**, and should take a strong leadership role in establishing a culture of compliance throughout DFAIT. Such a role requires the unwavering support and endorsement of the Minister and the Deputy Minister.

Response: In 1999/2000 the Department focused on systemic changes to access to information. This included updated training, manuals and the tasking letter and changes to the request processing procedure. As part of the business planning process currently taking place, the ATI Branch will request resources.

The ATI Director's view is that " significant progress has been made as a result of the clear communication from Deputies to all staff reinforcing their obligations under the Act and the expectations of the Deputies for full participation and cooperation at all levels of the Department to ensure that the Act is administered effectively. Routine contact is made with the offices of the Ministers and the Deputies for matters requiring their attention. The recent process improvements, policy concerns and business planning issues of the access unit have been the subject of discussion at the Executive Committee level, 3 times in the past year."

2. 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.

Response: The Director General, who has delegated authority also (in addition to the ATI Director), has requested that any delays considered problematic be brought to his attention. He then personally intervenes at the appropriate level to ensure that attention is paid to the time requirements of the Act. The ATI Director stated that the type of direction from the Minister as described in the recommendation is not considered necessary at this time.

**Special Report to Parliament of the Information Commissioner of Canada**

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3. DFAIT 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.

Response: Section 9 is invoked wherever possible and OPIs have been sensitized by new tasking letters, as well as training. Statistics reflect an increase in the use of Section 9. In 1998/1999 there were 86 extensions taken with 6 finalized beyond the due date. From April to November 1999, 81 extensions were taken where 6 were finalized beyond the extension period.

4. 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.

Response: In the ATI Director's view the tasking letter sent to OPIs now has an authoritative tone and is specific about timing requirements.

5. OPI-specific training (and information packages), with a focus on timelines and other considerations, should be developed, and training sessions given.

Response: The focus of the past year was to improve the training materials available to the Department as well as increased involvement with the Canadian Foreign Service Institute. Access to Information modules are now part of the training requirements for all new Foreign Service officers and newly appointed Directors. Heads of Mission (HOM) also receive a briefing on Access issues at their orientation sessions each summer, and at regional gathering of HOM in various parts of the world. This year representations on these issues are being made at sessions to HOM in Africa, Europe, Northern Asia and Latin America to ensure a heightened sensitivity for staff outside Canada as well as within.

The 3-year Business Plan for the access division this year requests funding to allow for the development of an Intranet website which would provide policy guidance and training materials for staff. This will enhance access to advice for staff currently posted abroad. Revamped ATI training is provided for all employees who attend the DFAIT Training Institute for Officers who will be sent abroad. In addition, the ATI Director speaks to newly appointed Directors who meet once a year.

6. 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.

Response: This procedure is now followed. Previously it was not done systematically.



**Special Report to Parliament of the Information Commissioner of Canada**

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7. 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.

Response: In these cases the ATI Office is in regular contact with the requester and the information is provided. A notation made on the file of the new due date via ATI flow.

8. 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.

Response: The requester will be informed of their right to complain.

9. Performance contracts with operational managers should contain consequences for poor performance in processing access requests.

Response: There has been some general discussion of the recommendation with staff from Human Resources but nothing specific has happened or is planned.

10. Come into substantial compliance with the Act's deadlines no later than March 31 of 2000.

Response: The Director stated that "the Department has focused on ensuring that systemic and attitudinal changes were made to ensure that all staff contributed to the obligations required by the Act. This has been fully supported and directed by the Deputies and Executive Committee. Compliance with the Act has been identified by the ADM as the #1 priority of the 2000/2001 Public Diplomacy Business Plan. In spite of a more than 40% increase in requests over last year, the processing improvements and significant streamlining introduced this year have ensured that the 'deemed refusal' rate has not had a corresponding increase."

"With stabilization of processing and streamlining completed, the additional resources necessary to accomplish further improvements have been identified. The 2000/2001 Business Plan has identified clear targets for improvements, assessed resources required and specified the requirements of the Access to Information unit as the #1 priority of the Public Diplomacy group of Branches. Approximately \$180,000 additional resources have been dedicated for the remainder of this FY and new incremental resources for the unit requested through the Business Plan for next FY."

11. Where possible, the ATI office should provide partial response releases for portions of records not involved in 3rd party or other consultations.

The ATI Branch does provide partial responses when appropriate. Some problems with ATI flow System input make calculation of the number of partial releases unreliable.

12. Approach the overall delay problem by establishing milestones to reach pre-set targets for improved performance (i.e. move to a project management mode).

Response: A number of projects have been undertaken to make systemic improvements to the processing of access requests. At the present time there is no overall plan with milestones, activities, objectives, resources and timeframes. (The ATI Director states that

**Special Report to Parliament of the Information Commissioner of Canada**

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the 2000/2001 Business Plan will identify clear objectives, resource needs, pressures and timeframes).

13. ATI training should be mandatory for all new managers as part of their orientation and for all managers on a refresher basis.

Response: ATI training is provided to all officers who will be posted abroad (also see recommendation 5).

14. 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.

Response: The tasking letter to the OPI is clear on the number of days allowed for the search and provision of records.

15. The delegation order now in force (since March 11, 1998) empowers the Deputy Minister of Foreign Affairs, the Deputy Minister of International Trade, the Director General, Executive Services Bureau and the Access Coordinator to exercise all of the powers of the Minister under the Act. It does not, however, make it clear who has the responsibility for decision-making under the Act. In practice, in all but the most straightforward cases, the responsibility seems to be a collective one. It should be made explicit where the responsibility for decision-making under the Act lies.

Response: The ATI Director believes that the delegation order clearly provides her with the authority to make all decisions under the Act.

16. Correspondence from the coordinator to OPIs should be rewritten in a more authoritative voice. The OPI involvement in the access request process is an obligation, not an option and communications should not give the impression that compliance is discretionary.

Response: The tasking letter has been redesigned and is authoritative in tone and direct on the number of days to complete the task.

17. Covering memoranda to OPIs should require that the ATI office be contacted as early in the review as possible if conditions exist (such as large volume of records or need for consultations) which would allow the coordinator to claim a time extension.

Response: The redesigned tasking memo is clear on this requirement.

18. The coordinator should use the ATIP flow system's reporting capabilities to monitor OPI turnaround times. Problematic areas should be reported to Senior Management.

Response: The ATIP flow System was implemented on April 1, 1999. The ATI Branch is still working on the customization required. Weekly reports outlining progress on files are circulated to Senior Management and the two Minister's Offices. OPIs do not receive copies of the status reports.

19. Procedures for obtaining information from missions abroad should be examined. If feasible, areas that receive large numbers of access requests should be trained to

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## **Special Report to Parliament of the Information Commissioner of Canada**

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identify records that would justify a valid extension. An email or fax, even subject to unstable technology, can be faster than the diplomatic mail service.

Response: Most of the records requested now are held at headquarters. In cases where records must be obtained from Posts abroad, various means of transmittal are used depending on the security classification of the records. Obtaining records from missions abroad does not constitute a major problem.

20. Remove media relations from the approval chain and deal with that office in parallel.

Response: Incoming requests are reviewed to identify any potentially sensitive releases. These requests are then reviewed at the end of the process. The review is to determine if the anticipated sensitivity still merits referral to the Media Relations Office to ensure that the appropriate media lines are in place. No vetting takes place at this step. In some cases, the Access Unit simply identifies to the Media Office that the release package already contains appropriate Q&A's as part of the release.

Review of files by the Media Relations Office is requested in less than 20% of all request files. The Media Relations Office does not vet releases.

### **Other Comments**

The Coordinator provided the following comments concerning the reasons for delay as outlined on pages 11 - 13 of the Report Card:

### **Ministers' Offices**

The access process has changed. On receipt of an access request, the Ministers' Offices and Communications are provided with information on the subject matter of the request. A weekly report is also produced on the status of access requests. The Ministers' Offices can indicate the requests that will be reviewed and/or Communications can indicate which requests will require a media assessment. This procedure has significantly reduced the number of requests that are routed past the Ministers' Offices and/or Communications.

### **Communications Assessments**

The communications requirements are now handled by the Press Office (rather than the Corporate Communications Bureau). The Press Office is used to working with tight timeframes and understands the need for timely action. If some additional time is necessary, the Press Office will work in parallel with the OPI. Only a few requests go through this streamlined process.

### **Operational Areas (OPIs)**

There has been an acknowledgement that the OPIs have no choice but to respond within the required timeframes. Because an OPI may be working on the public issue at the

same time that an access request is in process, OPIs have hired ATI Officers to search for and prepare records from within their budget. There are currently three officers in OPIs.

### **ATI course material at the DFAIT Training Institute has been redesigned.**

The experience of DND has had an impact on the priority of access requests relative to time frames. The amendments in section 67.1 have also brought attention to the **Access to Information Act** and its requirements.

The requirement to obtain records from a mission abroad in response to an access request is now an unusual occurrence. Therefore, there is little impact on responding to access requests within the required timeframes.

### **Other comments directly from the Director as part of the review of the draft report:**

"While not contributing to the delay of responding to access requests, the ATI Branch has a number of other responsibilities that require staff time.

Due to the international role of the Department, it faces some challenges in the administration of the ATIP legislation related to its obligations to protect the interests of foreign governments and international organizations by ensuring the confidentiality of their information. Significant damage could result if haste replaced thorough and careful review as well as full consultation. The Canadian legislation, designed for domestic circumstances, must be applied judiciously to retain the trust of other governments and organizations with which Canada deals.

Other government departments also hold records and information received in confidence from foreign governments and international organizations. These see advice from DFAIT in determining the extent to which disclosure would be injurious to the conduct of Canada's international affairs. These consultations can be lengthy and complex and impose an additional burden on the Department to fulfill these obligations. The ATIP office is responsible for consultations with foreign governments and international organizations through foreign missions resident in Canada.

In 1998/1999, the Department received 263 consultations from other government departments for release of information. Included in this statistic are a number of requests for consultation with foreign Governments for release of information and requests from foreign Governments for the declassification of information by the Canadian Government.

This year, to date, the ATIP unit has processed 225 consultations. This demand must be managed in concert with the increasing pressure in the unit from new requests.

### **The Department also has placed emphasis and dedicated resources in two additional areas to enhance access to information by the public:**

The ATIP office is responsible for screening departmental records prior to transfer to the National Archives. This program allows the department to release records from

## **Special Report to Parliament of the Information Commissioner of Canada**

transferred files each year in order to facilitate research access to greater volumes of information concerning Canada's conduct of international relations. This year the office will screen some 1000 files for this purpose.

A Historical Section within the Communication Branch dedicates resources to an informal access program for academics. This unit provides an avenue for academics and serious researchers who seek access to records held by the Department in order to carry out their work. With the assistance of departmental divisions, as well as hired consultants, access to records held by the Department is expedited. This work is complementary to the work of the ATIP unit."

The ATI Director also provided the following material that is in the report file:

- Memorandum to DFAIT's Executive Committee outlining the role of Ministers' Offices in the approval process.
- Letter to the Information Commissioner on the consultations process workload.
- Tasking letter to OPIs.
- Response letter to requesters.

A copy of the statistical questionnaire is presented on the following page.

**Special Report to Parliament of the Information Commissioner of Canada**

<b>Questionnaire for Statistical Analysis Purposes in relation to official requests made under the Access to Information Act</b>				
<b>Part A: Requests carried over from the prior fiscal period.</b>		<b>April 1/97- March 31/98</b>	<b>April 1/98 - March 31/99</b>	<b>April 1/99 - Nov. 30/99</b>
<b>1.</b>	Number of requests carried over:	112	103	100
<b>2.</b>	Requests carried over from the prior fiscal — in a deemed refusal situation on the first day of the new fiscal:	99	95	95
<b>Part B: New Requests — Exclude requests included in Part A.</b>		<b>April 1/97 - March 31/98</b>	<b>April 1/98 - March 31/99</b>	<b>April 1/99 - Nov. 30/99</b>
<b>3.</b>	Number of requests received during the fiscal period:	316	380	359
<b>4.A</b>	How many were processed <i>within</i> the 30-day statutory time limit?	122	163	129
<b>4.B</b>	How many were processed beyond the 30-day statutory time limit <i>where no extension was claimed?</i>	115	79	62
<b>4.C</b>	How long after the statutory time limit did it take to respond <i>where no extension was claimed?</i>			
	1-30 days:	46	38	54
	31-60 days:	17	25	4
	61-90 days:	13	4	3
	Over 91 days:	39	12	1
<b>5.</b>	How many were extended pursuant to section 9?	79	86	81
<b>6.A</b>	How many were processed <i>within</i> the extended time limit?	24	24	39
<b>6.B</b>	How many exceeded the extended time limit?	55	19	6
<b>6.C</b>	How long after the expiry of the extended deadline did it take to respond?			
	1-30 days:	4	7	4
	31-60 days:	8	4	2
	61-90 days:	12	3	0
	Over 91 days:	31	5	0
<b>7.</b>	As of November 30, 1999, how many requests are in a deemed refusal situation?			<b>6</b>



# Department of National Defence (ND)

## Summary

The Department has made progress in meeting the time requirements of the **Access to Information Act**.

In the 1999, Report Card the Department received a grade of F with a 69.6% request to deemed-refusal ratio for requests received from April 1, 1998 to November 30, 1998. For the complete 1998/1999 fiscal year, the ratio was 54.7% (1030 requests received as a ratio of 322 and 44 requests answered beyond the Act's time requirements and 197 requests carried over to the next year in a deemed refusal situation). For requests received from April 1, 1999 to November 30, 1999 the ratio improved to 38.9% (705: 179, 41, 54). In addition, the length of time taken to process "deemed refusal" requests is being reduced this fiscal year as shown on the following table.

<b>Time taken after the statutory time limit to respond where no extension was taken</b>	<b>April 1998 - Mar 1999</b>	<b>April 1999 - Nov 1999</b>
1-30 days	110	126
31-60 days	68	36
61-90 days	56	12
Over 91 days	238	164

While improvement is moving in the right direction, the Department should take further steps to come into substantial compliance with the Act's time requirements.

Recommendations in a July 1999 review of the management of **Access to Information Act** functions by Consulting and Audit Canada (C&A) made many of the same recommendations made in the March 1999 Report Card. While some of the Report Card and C&A recommendations have been implemented, there is a serious lack of an overall plan to deal in a comprehensive way with the time delay situation. The plan needs to address milestones, targets, tasks, deliverables and responsibilities. The actual performance of those accountable for the various tasks can then be measured in quantitative and qualitative terms. This is particularly important because the status of the Report Card and C&A recommendations point to an ATI Office in general agreement with much of what must be done but very slow to proceed with the tasks identified.

While certain statistical and management information is available, further reporting is required from the ATIP flow System. There is a need to distribute information to OPIs and other parts of the organization on planned vs. actual time taken at each stage of the access process. This same information is needed by senior management to make informed decisions about responsibilities for delays in responding to access requests. Without this type of information it is difficult to identify potential problems with the Act's time requirements. The information will also allow the ATI Office to take a proactive approach to potential problems in meeting the Act's time requirements. In addition, OPIs and other parts of ND involved in the access to information process can have performance standards measured against actual turnaround times.



Both the Report Card and the report by C&A recommended more training for OPIs. There needs to be a more directed training program for OPIs, including training on the time requirements and training on making recommendations on the disclosure or non-disclosure of information under the Act. As well, procedures for the ATI Office and OPIs need updating. The Department agrees with the need for these measures, but has not developed an overall plan for implementation.

## **Recommendations**

- National Defence should continue to devote the resources and effort necessary to meet the time requirements of the **Access to Information Act**.
- The department should identify and implement additional measures needed to come into substantial compliance with the **Access to Information Act** by December 31, 2000.
- The department should develop and circulate information reports on the planned versus actual performance of those parts of the organization with responsibilities in the access to information process.
- National Defence should develop a plan to provide training to OPIs and update the Access to Information procedures for OPIs and the ATI Office.
- 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.
- 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.
- 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 require compliance with internal and legislated response deadlines.
- ATI training should be mandatory for all new managers as part of their orientation and for all managers on a refresher basis.
- The delegation order now in force (since April 5, 1995) empowers the Access coordinator, or in her absence the person holding the position of Staff Officer, DAIP 3-6 and the Assistant Deputy Minister (Finance and Corporate Services) to exercise all of the powers and perform the duties and function of the Minister under the Access to Information and Privacy Acts. It does not, however, make it clear who has the responsibility for decision-making under the Act. In practice, in all but the most straightforward cases, the responsibility seems to be a collective one. It should be made explicit where the responsibility for decision-making under the Act lies. Moreover, the delegated decider must be directed to exercise the delegation in accordance with the Act.
- Once the new tracking system is in place, the coordinator should make use of the reporting capacity. Statistical and timeline-monitoring reports can help identify problematic areas.

- Cyclical, newsworthy issues may cause significant surges in the number and complexity of requests received by ND's ATI office. ND's priorities during military situations are, understandably, "The Safety of CF personnel and the integrity of military operations." However, access to information requirements cannot be ignored or set aside at any time. Therefore, consideration should be given to setting up an additional ATIP team, which can be trained to deal with major issue surges. During periods of normal workflow, this team can deal with broad scope requests and/or assist with training.

## **Status**

The March 1999 Report Card made the following recommendations. The status of each recommendation is described below the recommendation.

1. The coordinator is directly responsible for ensuring compliance with the **Access to Information Act**, and should take a strong leadership role in establishing a culture of compliance throughout ND. Such a role requires the unwavering support and endorsement of the Minister and the Deputy Minister.

Response: Letters were sent by the Minister to the Deputy Minister (DM) and the Chief of Defence Staff (CDF) (April 1999) in which he clearly stated his support of the Act and defines his expectation that all departmental officials adhere to the time requirements of the **Access to Information Act**. The ATI Coordinator stated that the DM and CDF have frequently outlined to senior managers the importance of compliance with the Act.

A Weekly Performance and Status Report on access requests is prepared by the ATI Coordinator. The report is provided to the ADM (Fin CS). A summary report is then prepared by the ADM for the Deputy Minister with copies to Group Principals that shows the number of deemed refusals and the status of active access requests. An action report is also prepared and distributed to senior management. The report identifies current and outstanding actions associated with the processing of access requests.

The ATI Office will be reorganized once the ATI Coordinator's position is filled. The planned reorganization will refine the ATI team-based approach. As part of the reorganization, the ATI office process will be re-examined to identify potential improvements. The ATI Office base funding was also increased by 26% from 1997/1998 to 1998/1999.

2. 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.

Response: The delegation has not been changed since 1995, but will be reviewed once the Coordinator's position is permanently filled. The ATI Coordinator's view is that the intention is to delegate more responsibility to senior ATI staff officers.

## **Special Report to Parliament of the Information Commissioner of Canada**

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3. ND 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.

Response: The Department is looking at further ways to increase the use of extensions under the Act. In 1998/1999, there were 238 extensions under the Act. In 1999/2000 up to November 30th there were 164 extensions. The ATI Office is also conducting training sessions for OPIs. The training sessions stress the reasons for extensions and the requirement that the ATI Office be contacted immediately by the OPI to initiate the extension.

4. 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.

Response: The turnaround times have been tightened but there is still room for improvement. For example, the ATI Office recently removed itself from the process at stages where the Office acted only as a conduit for the transfer of the files between certain offices. The ATI Office acquired ATI flow in September and is investigating better tracking of files, particularly with the OPIs. Also, each Group has a designated person who is responsible for tracking requests within their organization. This individual can also monitor the Group's performance with the ATI timelines.

5. OPI-specific training (and information packages), with a focus on timelines and other considerations, should be developed, and training sessions given.

Response: The ATI Office conducts training (see recommendation 3). The training to date is conducted at the request of OPIs. In 2000, the Office plans to be proactive by sending a call-letter to senior management.

The training package includes major components of the Act, timelines, exemptions, the severance process and the right to complain. As of November 30<sup>th</sup>, 845 individuals were briefed and 58 individuals trained.

6. If a request is clarified or modified, the ATI office 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.

Response: While this is happening to a greater extent, more OPI training is needed and the requirement needs to be clearly stated in the ATI procedures.

**Special Report to Parliament of the Information Commissioner of Canada**

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7. 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.

Response: While the procedure is followed to a great extent, there is still room for improvement. The planned reorganization and the review of the ATI Office procedures should improve and standardize performance.

8. 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.

Response: This procedure has not been implemented however it will be looked at during the ATI Office reorganization.

9. Performance contracts with operational managers should contain consequences for poor performance in processing access requests.

Response: This recommendation has not been implemented.

10. Come into substantial compliance with the Act's deadlines no later than March 31 of 2000.

Response: The Department is headed in the right direction, but the year-end results are unknown.

11. Where possible, the ATI office should provide partial response releases for portions of records not involved in 3rd party or other consultations.

Response: The ATI office provides partial responses where possible. For example, a request involving 500 pages would typically not have a partial release for two pages.

12. Approach the overall delay problem by establishing milestones to reach pre-set targets for improved performance (i.e. move to a project management mode).

Response: The Department does not have a written plan yet. Progress has been made in reducing the number of deemed refusals. In the Coordinator's view, delays are not linked to one specific area.

13. ATI training should be mandatory for all new managers as part of their orientation and for all managers on a refresher basis.

Response: The ATI Office provides training, although the training is not to all new managers.

14. 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.

Response: The ATI Office does not produce a flowchart, but in the coordinator's view timelines are clearly indicated. The tasking memo to OPIs states that the records must

**Special Report to Parliament of the Information Commissioner of Canada**

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be provided to the ATI office within 14 calendar days. In the Coordinator's view ATI Officers know that records must be reviewed quickly. Public Affairs Officers know that a 48-hour turnaround time is required. Records are then forwarded to the SA/ADM who normally returns the records within 48 hours.

15. The delegation order now in force (since April 5, 1995) empowers the Access coordinator, or in her absence the person holding the position of Staff Officer, DAIP 3-6 and the Assistant Deputy Minister (Finance and Corporate Services) to exercise all of the powers and perform the duties and function so the Minister under the Access to Information and Privacy Acts. It does not, however, make it clear who has the responsibility for decision-making under the Act. In practice, in all but the most straightforward cases, the responsibility seems to be a collective one. It should be made explicit where the responsibility for decision-making under the Act lies. Moreover, the delegated decider must be directed to exercise the delegation in accordance with the Act.

Response: The delegation order was last changed in 1995 although the process has changed to improve timelines. For example, the Deputy Minister is no longer part of the process. In addition, the files are not signed-off directly by the ATI Coordinator as previously done.

16. Once the new tracking system is in place, the coordinator should make use of the reporting capacity. Statistical and timeline-monitoring reports can help identify problematic areas.

Response: The ATI flow System is still being implemented and it is the intention of the ATI Office to monitor timelines once the system is fully operational.

17. Cyclical, newsworthy issues can cause significant surges in the number and complexity of requests received by ND's ATI office. ND's priorities during military situations are, understandably, "The Safety of CF personnel and the integrity of military operations." However, access to information requirements cannot be dismissed. Therefore, consideration should be given to setting up an additional ATI team, which can be trained to deal with major issue surges. Hiring consultants for this purpose is impractical because the expertise simply is not available. During periods of normal workflow, this team can deal with broad scope requests and/or assist with training.

Response: This recommendation is being considered as part of the review of the ATI organization.

18. When extensions are necessary, 10 to 20% of notices are not being sent within the initial 30 days. The ATI office should strive to provide all extension notices within the specified time limit. Copies of all such notices must be sent to the Office of the Information Commissioner.

Response: There may still be a few notices not provided within the required timeframe, but a number is not available. The Coordinator stated that the Department is committed to improving its performance.

## **Special Report to Parliament of the Information Commissioner of Canada**

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19. 3rd party notices should be routinely sent as soon as the need arises. The 3rd party time set out in section 28, currently not observed in 10 to 30% of all cases, should be remedied. Strict guidelines should be written and followed.

Response: The Coordinator believes that the situation has improved, but is unable to provide a number. The Coordinator stated that the Department is committed to improving its performance.

20. Remove Public Affairs, ADM's Liaison Officer, DM's office and Minister's office from the approval chain and deal with them in parallel.

Response: The process has changed somewhat as described under recommendation 15.

21. Remove all steps in the approval chain that do not add value to the response. The practice of holding-up responses until the Minister's communications needs have been served, should cease.

Response: The process has changed somewhat as described under recommendation 15. The Coordinator stated that the Department was well aware of the Minister's direction in his letter of April 1999.

### **Other Comments by the Coordinator:**

The Department has made substantial progress with informal access and the publication of access request disclosures on its Internet site. There have been 412 informal requests handled in this manner to November 30<sup>th</sup> of this fiscal year.

The number of requests has increased 19.7% this year compared to the previous year adding to the workload. The number of pages released has increased by 110% this year compared to the previous year.

The Department is also examining proactive approaches to the disclosure of information to increase public access to the information. For example, reports of the Chief of Review Services are being reviewed for potential release and if releasable, are available on the Departmental Internet site.

A copy of the statistical questionnaire is presented on the following page.

**Special Report to Parliament of the Information Commissioner of Canada**

<b>Questionnaire for Statistical Analysis Purposes in relation to official requests made under the Access to Information Act</b>				
<b>Part A: Requests carried over from the prior fiscal period.</b>		<b>April 1/97 - March 31/98</b>	<b>April 1/98 - March 31/99</b>	<b>April 1/99 - Nov. 30/99</b>
<b>1.</b>	Number of requests carried over:	251	245	390
<b>2.</b>	Requests carried over from the prior fiscal — in a deemed refusal situation on the first day of the new fiscal:	220	146	197
<b>Part B: New Requests — Exclude requests included in Part A.</b>		<b>April 1/97 - March 31/98</b>	<b>April 1/98 - March 31/99</b>	<b>April 1/99 - Nov. 30/99</b>
<b>3.</b>	Number of requests received during the fiscal period:	847	1,030	705
<b>4.A</b>	How many were processed <i>within</i> the 30-day statutory time limit?	254	240	212
<b>4.B</b>	How many were processed beyond the 30-day statutory time limit <i>where no extension was claimed?</i>	372	322	179
<b>4.C</b>	How long after the statutory time limit did it take to respond <i>where no extension was claimed?</i>			
	1-30 days:	136	110	126
	31-60 days:	76	68	36
	61-90 days:	--	56	12
	Over 91 days:	160	88	5
<b>5.</b>	How many were extended pursuant to section 9?	206	238	164
<b>6.A</b>	How many were processed <i>within</i> the extended time limit?	58	56	59
<b>6.B</b>	How many exceeded the extended time limit?	146	44	41
<b>6.C</b>	How long after the expiry of the extended deadline did it take to respond?			
	1-30 days:	42	19	30
	31-60 days:	27	14	7
	61-90 days:	11	7	2
	Over 91 days:	64	4	2
<b>7.</b>	As of November 30, 1999, how many requests are in a deemed refusal situation?			<b>54</b>

# Health Canada (HC)

## Summary

The problem of not processing access requests within the time requirements of the **Access to Information Act** has been with HC since 1996. A number of projects were initiated over the years to reduce the backlog of deemed refusal requests. But the backlog continued to grow reaching a peak of some 390 requests in mid-1998. The deemed refusal situation was dramatically turned around over the past year. At the time of the Report Card, 154 requests were identified in a deemed refusal status. As of November 14, 1999 three requests remain. In addition, substantially all requests received since April 1, 1999, have been processed within the time requirements of the **Access to Information Act**.

The Department continues to maintain a separate, program based ATI Unit in the Therapeutics Products Program (TPP).

The success of the efforts to reduce the number of requests that were not processed within the time requirements of the **Access to Information Act** appears to be the result of a combination of factors. The Department provided additional funding for resources to deal with processing the backlog of requests. Funding was also provided for resources to make improvements to the access to information process including procedure manuals and OPI training. The ATIP flow System was implemented. The system provides the HC Coordinator, program areas including TPP and senior management with information and reports that clearly show the status of access requests against planned timelines. The HC Coordinator has developed a clear processing model with timelines for OPIs and other parts of the organization involved in the processing of access requests.

In the 1999 Report Card Health Canada received a grade of F with a 51.2% request to deemed-refusal ratio for requests received from April 1, 1998 to November 30, 1998. For the complete 1998/1999 fiscal year, the ratio was 61.8%. For requests received from April 1, 1999 to November 30, 1999 the ratio improved dramatically to 3.1%. In addition, the backlog of deemed refusal requests was entirely eliminated. Health Canada is to be congratulated on its achievement in reducing the deemed refusals to a negligible number and on eliminating its backlog of unanswered access requests.

## Recommendations

- Health Canada should continue to devote the resources and effort necessary to maintain its good performance in meeting the time requirements of the **Access to Information Act**.
- Health Canada should continue careful tracking of completion times for the various stage of the access process.
- The department should take care to ensure that those processing of access requests within TPP are independent from the operational staff.
- The department should revisit the issue of whether the second stage review by the senior reviewer (within TPP) should be eliminated.



## **Special Report to Parliament of the Information Commissioner of Canada**

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- 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.
- Performance contracts with operational managers should require compliance with internal and legislated response deadlines.
- Health Canada should provide mandatory ATI training for all new managers as part of their orientation and for all managers on a refresher basis.
- The department should review the delegation order now in force (since April 5, 1995). It gives routine administrative responsibilities to the position of Assistant Access to Information Coordinator; authority for most exemptions to the Access to Information Coordinator, and authority over some exemptions—sections 14, 15, & 21—to the Director General, Health Policy & Information Directorate. The DM has a few vested responsibilities—e.g. subsection 20(6). It does not, however, make it clear who has the responsibility for decision-making under the Act. In practice, in all but the most straightforward cases, the responsibility seems to be a collective one. It should be made explicit where the responsibility for decision-making under the Act lies.

### **Status**

The March 1999 Report Card made the following recommendations. The status of each recommendation is described below the recommendation.

1. In August of 1998, Probus Consulting and Audit Services submitted to HC a report entitled: Report of the Review of the Access to Information Process—Therapeutics Products Program, Health Canada. That study made many sensible recommendations for solving HC's ATI problems. The Office of the Information Commissioner endorses (with some modifications) recommendations 1-5, 10-14, and 16-19 of that study.

Response: The status of the recommendations is provided under the specific recommendation below.

2. However, experience in other institutions shows that it is unusual for an ATIP group, with decision-making authority, to be located within the operational area which receives the bulk of access requests. While there is, in HC's case an obvious need for scientific expertise, there is also an arguably greater need for objectivity in reviewing records for possible exemptions. The tests for exemption are objective and arguments for secrecy should be readily apparent even to non-experts—if not, chances are the exemptions are being applied in an overbroad fashion. HC must avoid entrenching its past tendencies to administer the access to information law in a way most hospitable to third-party firms.

Response: The HC Coordinator stated that the TPP operational area does not have decision-making authority under the **Access to Information Act**. The TPP ATI Group only makes recommendations to the decision-maker(s) who are located in the Access to Information Centre, Policy and Consultation Branch.

**Special Report to Parliament of the Information Commissioner of Canada**

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3. HC's senior management should retain an organizational conflict interest specialist to work with the ATI Coordinator, and an appropriate official from TPP—attended by a senior official of HC's management—to resolve differences, and to clarify and define the roles and inter-unit relations of the ATI Unit and TPP's ATI Unit. (From Probus Recommendation 3, 4 & 5.)

Response: Although it might have been relevant at the time, the recommendation is no longer relevant from the HC Coordinator's or the TPP point of view. Now the entire Department uses the same ATI processing model and virtually all requests are processed within the time requirements of the Act.

4. The ATI Coordinator, while soliciting input from TPP, should take the lead in defining and documenting ATI request processing, clearly defining the roles of each unit at every step. (From Probus Recommendation 1.)

Response: A project is underway to develop the procedures and operating standards for ATI processing in the ATI Centre as well as in OPIs. A consultant was hired, the approach has been scoped out and the project is due for completion by March 31, 1999. Up to \$50,000 has been set aside for the project.

5. The ATI Coordinator should develop, in consultation with TPP, a framework of policies and standard operating procedures for the ATI process at HC. (From Probus Recommendation 2.)

Response: This recommendation is covered in the response to recommendation 4.

6. HC should adopt a policy of openness regarding the rationale for its position when negotiating severances with third parties. (From Probus Recommendation 10.)

Response: The Coordinator and TPP ATI officials agree that openness with third parties is extremely important and are always looking for ways to improve the situation. The improved third party guide now being developed (see response to next recommendation) will provide an even better starting point for working together with third parties.

7. Using the TPP'S ATI Unit's third-party guide as a base, the ATI Coordinator should produce a guide suitable for wide distribution to third parties. This guide should also be approved by Legal Services. (From Probus Recommendation 11.)

Response: The current Guide is being updated. The target for completion is March 31, 2000.

8. TPP'S ATI Unit should make the clarification of all requests with the requester a standard step where there is a possibility that clarification will allow faster processing. (From Probus Recommendation 12.)

Response: Clarification procedures are in place. The HC Coordinator's Office will frequently contact the requester for clarification and any results will be noted for TPP. If TPP wants to further clarify the request, TPP must provide the results to the HC Coordinator's Office. The TPP is the only OPI group that is allowed to contact the requester for clarification. Complex requests are often clarified by a three-way conference call with the requester, the program area and the ATI Centre.

**Special Report to Parliament of the Information Commissioner of Canada**

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9. Under the guidance of the coordinator, TPP's ATI Unit should charge fees in accordance with the ATI Act. (From Probus Recommendation 13.)

Response: The prior practice was not to charge fees for requests that were processed beyond the Act's statutory time requirements. Now that virtually all requests are processed within the required time requirements, fees are charged in accordance with the Act. In the case of TPP, only a recommendation on fees to be charged is made. The ATI Centre does the actual charging of fees.

10. Under the guidance and supervision of the coordinator, TPP's ATI Unit should, when the backlog is reduced, claim appropriate extensions. (From Probus Recommendation 14.)

Response: Extensions are now taken whenever necessary.

11. TPP'S ATI Unit should eliminate the review by the senior reviewer (TPP, ATI Unit) of the information selected by the 1st reviewer as requiring third-party notification. (From Probus Recommendation 16.)

Response: TPP does not agree with this recommendation. Their view is that the second review function is an important part of the review process for what are often very complex files. The second review is considered a part of the team-based approach recommended in recommendation 19. The second review function also has other benefits such as a final check that all relevant records have been located and processed. The HC Coordinator's position is that since the Act's time requirements are now being met, and the second review can only improve the overall record review process, second review should be retained. If the Act's time requirements are met then this should not be a problem.

12. The coordinator should set up a database within TPP'S ATI Unit. This system, for internal use, would include ATI precedents and legal opinions, and could be used for rapid communications to third parties and to justify positions. Preferably, this need, can be met with the new computer system. (From Probus Recommendation 17.)

Response: The search capability of the ATIP flow System will find ATI case precedents, legal opinions and so on.

13. TPP'S ATI Unit should make more use of electronic and CD-ROM databases in order to more quickly identify information in the public domain. (From Probus Recommendation 18.)

Response: Extensive access to electronic databases is now available in TPP and the capability will be expanded in the ...

14. TPP'S ATI Unit should maintain its Internet access and its access to General Query Language for TPP databases. (From Probus Recommendation 19.)

Response: This has been done.

**Special Report to Parliament of the Information Commissioner of Canada**

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15. Selected staff of the TPP'S ATI Unit should be provided with Internet search courses in order to speed up information searches. (From Probus Recommendation 20.)

Response: This has been done.

16. TPP'S ATI Unit should be provided with electronic (read-only) access to bureau LANs in order to speed up the processing of product monograph requests. (From Probus Recommendation 21.)

Response: Since all product monographs are now completed on time this is no longer an issue.

17. TPP should appoint a Head of TPP'S ATI Unit or relocate two of the current Corporate, ATI Unit's Assistant Coordinators to TPP's ATI Unit. This could provide a link between the ATI Coordinator and TPP, and would give that unit ready access to persons with delegated authority, which could hasten some procedural steps. These assistant coordinators should continue to report directly to the ATI Coordinator as should the Head of TPP's ATI Unit. (From Probus Recommendation 22.)

Response: The TPP ATI Unit has been relocated to the Management Services Area within TPP. A Unit Head has been appointed. The TPP ATI staff has ready access to staff with delegated authority. Now that the compliance rate with statutory time requirements is high, this recommendation does not need to be pursued.

18. The coordinator should oversee the development of training materials and procedures for training new staff in TPP'S ATI Unit. (From Probus Recommendation 23.)

Response: Training materials and procedures for training new staff in TPP are now in place for training new staff in TPP's ATI Unit.

19. TPP'S ATI Unit should adopt a team-based approach to processing its ATI requests. However, the team approach does not work well in some other institutions and it should be carefully evaluated. (From Probus Recommendation 24.)

Response: TPP's view is that a traditional team-based approach is used. TPP works as a team where each person works at their main task and fills in for others when needed. The second review function is an important part of the team approach.

20. TPP should require each Bureau to appoint a senior officer, preferably reporting to the Director, to oversee the identification and remittance of all Bureau files in response to TPP ATI Unit's requests. (From Probus Recommendation 25.)

Response: A list of Bureau contacts has been established. A document that indicates the responsibilities of the Bureau contacts should be completed by January 31, 2000.

21. The coordinator, in conjunction with TPP'S ATI Unit, should prepare a short description of the responsibilities of the TPP's Bureau ATI contacts. (From Probus Recommendation 26.)

Response: This is the responsibility of the TPP ATI Unit. The HC Coordinator has offered assist in the finalization of the document.

**Special Report to Parliament of the Information Commissioner of Canada**

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22. The DG, TPP should communicate to all TPP staff to remind them of the need to provide all relevant information to TPP'S ATI Unit in a timely fashion in response to ATI requests through TPP Bureau ATI contacts. (From Probus Recommendation 27.)

Response: This recommendation is not as relevant since most requests are responded to within the Act's time requirements. There are plans for the DG to send a memo to all staff in the near future informing them of the new Bureau contacts system and the responsibilities of these individuals.

23. TPP should continue to increase the volume of information made available outside the ATI process. (From Probus Recommendation 28.)

Response: The Department is making extensive use of its website to disclose information. Information about programs, products and projects, as well as the minutes of external consultations and expert meetings, are available

24. The coordinator should ensure that the new computer tracking system will generate the work statistics reports required by TPP's ATI Unit, in a suitable format designed to eliminate manual generation of work statistics. (From Probus Recommendation 29.)

Response: ATIP flow was implemented on April 1, 1999 and generates statistical reports. Some further custom reports may be developed.

What follows are additional recommendations not drawn from the probus report:

25. The coordinator is directly responsible for ensuring compliance with the **Access to Information Act**, and should take a strong leadership role in establishing a culture of compliance throughout Health Canada. Such a role requires the unwavering support and endorsement of the Minister and the Deputy Minister.

Response: Up to \$1,000,000 was allocated to resolve the backlog of deemed refusal requests and to develop and implement other improvements to the ATI operation. The Coordinator states that he has ready access to senior managers in the Department at all levels. The Coordinator states that he has the direct support of Health Canada management up to and including the Deputy Minister. The Coordinator has been making annual presentations on ATI to Branch Executive Committees to report on the status of the program and to obtain cooperation.

26. 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.

Response: The delegation has not been changed (although the Department is now in substantial compliance with the Act).

**Special Report to Parliament of the Information Commissioner of Canada**

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27. HC 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.

Response: The number of extensions has increased substantially.

28. 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.

Response: The processing model has not changed. Staffs are now complying with the model. An information sheet, in both narrative and chart form, is included with every record search that goes out to OPIs.

29. OPI-specific training (and information packages), with a focus on timelines and other considerations, should be developed, and training sessions given.

Response: A consultant has conducted training as follows since April 1, 1999:

June 22, 1999 - 24 participants  
June 30, 1999 - 22 participants  
September 16, 1999 (French language) - 13 participants  
October 20, 1999 - 26 participants  
October 21, 1999 - 13 participants  
Total participants so far this fiscal year: 96  
A further course is planned for December 8, 1999 (for Health Programs and Promotion Branch) - 8 participants have registered

Further training is planned for early 2000. Courses are also offered "on demand".

30. 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.

Response: This procedure is always followed.

31. 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.

Response: The procedure is followed as of November 1999 by sending a "letter of regret" to the requester.

**Special Report to Parliament of the Information Commissioner of Canada**

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32. 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.

Response: This will be part of the standard process in the future although the HC Coordinator does not believe that the circumstances will arise in the future

33. Performance contracts with operational managers should contain consequences for poor performance in processing access requests.

Response: The HC Coordinator stated that this recommendation remained under active consideration (although no activities in pursuit of the recommendation are planned).

34. Come into substantial compliance with the Act's deadlines no later than March 31 of 2000.

Response: Health Canada will be in substantial compliance for access requests received after April 1, 1999.

35. Where possible, the ATI office should provide partial response releases for portions of records not involved in 3rd party or other consultations.

Response: This procedure is followed whenever possible.

36. Approach the overall delay problem by establishing milestones to reach pre-set targets for improved performance (i.e. move to a project management mode).

Response: A month by month plan was developed to eliminate the deemed refusal backlog of access requests. At the time of the Report Card 154 requests were identified in a deemed refusal status. As of November 1999 the backlog was eliminated.

37. ATI training should be mandatory for all new managers as part of their orientation and for all managers on a refresher basis.

Response: This recommendation is not being pursued.

38. 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.

Response: This recommendation has been adopted (see recommendation 28).

39. Health Canada should come into immediate compliance with the third-party consultation timeframes set out in sections 27 and 28 of the Access to Information Act.

Response: A number of measures are in place to report on and manage potential delays to the Act's time requirements set out in sections 27 and 28 of the Act. The ATIP flow System will alert the analyst to a potential time delay situation. The analyst is expected to develop a plan to resolve the problem. If the problem persists until two days before the due date, the analyst will involve the HC Coordinator for resolution.

**Special Report to Parliament of the Information Commissioner of Canada**

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40. The delegation order now in force (since April 5, 1995) gives routine administrative responsibilities to the position of Assistant Access to Information Coordinator; authority for most exemptions to the Access to Information Coordinator, and authority over some exemptions—sections 14, 15, & 21—to the Director General, Health Policy & Information Directorate. The DM has a few vested responsibilities—e.g. subsection 20(6). It does not, however, make it clear who has the responsibility for decision-making under the Act. In practice, in all but the most straightforward cases, the responsibility seems to be a collective one. It should be made explicit where the responsibility for decision-making under the Act lies.

Response: The delegation order has not been changed. The view of the HC Coordinator is that it is clear that he has delegated authority under the Act to make decisions. He will exercise the delegated authority usually when in receipt of a recommendation and work on a cooperative basis to revise the recommendation if necessary.

41. TPP's new procedures and guidelines should be given to the ATI Unit. These can be reviewed, and perhaps used as a base to write processing procedures pertaining to all ATI areas. Clear instructions should include the appropriate use of subsection 9(1). All ATI staff should be fully knowledgeable about the treatment of requests, especially those that involve a large number of records, or a search through a large number of records. Detailed third-party procedures should be established and followed.

Response: The ATI Centre has received copies of every guideline and procedures produced by TPP including operational procedures for claiming subsection 9(1) and third party review procedures.

42. Caution should be taken to ensure that procedures do not fast-track routine or “easy” requests to the detriment of the more complex and/or difficult requests.

Response: Almost all requests are processed on time therefore the recommendation is not relevant. As a practice, the “easy” requests are processed to respond quickly to the requester.

43. The coordinator should use the ATIP flow system's reporting capabilities to monitor OPI turnaround times. Problematic areas should be reported to Senior Management.

Response: The situation is monitored via the ATI flow System. The system has extensive OPI search capabilities and can produce numerous special reports. However, OPI turnaround times are not a problem at the present time.

44. Remove Public Affairs from the approval chain and deal with that office in parallel.

Response: Only those requests that require communications input are referred to Public Affairs. This represents only 5-10% of the requests received. Public Affairs does not approve decisions on a request.



**Special Report to Parliament of the Information Commissioner of Canada**

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45. Give the ATIP Coordinator a specific budget for which he is responsible and accountable.

Response: The Branch that the HC Coordinator is located in does not provide each Unit with a budget. Only detailed expenditure reporting is tabulated by Unit. The Branch is being reorganized and a Unit budget is under consideration for 2000/2001.

A copy of the statistical questionnaire is presented on the following page.

**Special Report to Parliament of the Information Commissioner of Canada**

<b>Questionnaire for Statistical Analysis Purposes in relation to official requests made under the Access to Information Act</b>				
<b>Part A: Requests carried over from the prior fiscal period.</b>		<b>April 1/97 - March 31/98</b>	<b>April 1/98 - March 31/99</b>	<b>April 1/99 - Nov. 30/99</b>
<b>1.</b>	Number of requests carried over:	311	477	313
<b>2.</b>	Requests carried over from the prior fiscal — in a deemed refusal situation on the first day of the new fiscal:	234	398	240
<b>Part B: New Requests — Exclude requests included in Part A.</b>		<b>April 1/97 - March 31/98</b>	<b>April 1/98 - March 31/99</b>	<b>April 1/99 - Nov. 30/99</b>
<b>3.</b>	Number of requests received during the fiscal period:	1,114	972	903
<b>4.A</b>	How many were processed <i>within</i> the 30-day statutory time limit?	364	400	578
<b>4.B</b>	How many were processed beyond the 30-day statutory time limit <i>where no extension was claimed?</i>	367	350	7
<b>4.C</b>	How long after the statutory time limit did it take to respond <i>where no extension was claimed?</i>			
	1-30 days:	178	172	4
	31-60 days:	82	57	3
	61-90 days:	35	39	0
	Over 91 days:	72	82	0
<b>5.</b>	How many were extended pursuant to section 9?	44	44	187
<b>6.A</b>	How many were processed <i>within</i> the extended time limit?	6	8	118
<b>6.B</b>	How many exceeded the extended time limit?	38	11	8
<b>6.C</b>	How long after the expiry of the extended deadline did it take to respond?			
	1-30 days:	10	4	3
	31-60 days:	6	3	3
	61-90 days:	4	3	1
	Over 91 days:	18	1	1
<b>7.</b>	As of November 30, 1999, how many requests are in a deemed refusal situation?			<b>13</b>



# Privy Council Office (PCO)

## Summary

The efforts of the PCO to reduce the number of access requests that were in deemed refusal status met with success. Substantially all of the requests received in 1999/2000 have been processed within the timelines of the **Access to Information Act**.

In the 1999 Report Card the PCO received a grade of F with a 45.1% (correct per cent is 38.9%) request to deemed-refusal ratio for requests received from April 1, 1998 to November 30, 1998. For the complete 1998/1999 fiscal year, the ratio was 47.1% (197 requests received as a ratio of 44 and 29 requests answered beyond the Act's time requirements and 21 requests carried over to the next year in a deemed refusal situation). For requests received from April 1, 1999 to November 30, 1999 the ratio improved remarkably to 3.6% (196: 5, 1, 1). The PCO is to be congratulated on its achievement in reducing the deemed refusals to a negligible number and on eliminating the backlog of unanswered access requests.

The success of the work at the PCO to reduce the number of deemed refusal requests appears to stem from a determination on the part of the Deputy Head and senior management to place a high priority on meeting the timeline requirements of the Act. Although the approval process has been modified in part, the delegation and approval process remain essentially the same.

The ATI Coordinator did not take a project management approach to the implementation of measures to reduce the number of deemed refusals. Instead a number of independent initiatives were undertaken to come into compliance with the time requirements of the **Access to Information Act**. These measures have resulted in success at eliminating the delays. It will be of interest to see if the situation can be maintained over the longer term in the current delegation and approval process.

The implementation of the ATIP flow System in the PCO will enable the ATI Office to be proactive. The system will allow ATI Officers to manage timelines and address potential problems rather than waiting for time delay problems to develop. The system will also provide factual information on the planned versus actual time taken to complete the various stages of the process to respond to access requests.

## Recommendations

- PCO should continue to devote the resources and effort necessary to maintain its good performance in meeting the time requirements of the **Access to Information Act**.
- PCO should consider further elimination where possible of the two stages OPI search and records review.
- PCO should continue careful tracking of completion times for the various stages of the access process.
- The head should give written direction that response deadlines should not be missed solely to complete the senior approval process.

## **Special Report to Parliament of the Information Commissioner of Canada**

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- Performance contracts with operational managers should require compliance with internal and legislated response deadlines.
- A less complex and diffused delegation order should be adopted wherein the coordinator, rather than an operational official, is given authority to fully process, apply exemptions and answer access requests.
- ATI training should be mandatory for all new managers and for existing managers on a refresher basis.

### **Status**

The March 1999 Report Card made the following recommendations. The status of each recommendation is described below the recommendation.

1. The coordinator is directly responsible for ensuring compliance with the **Access to Information Act**, and should take a strong leadership role in establishing a culture of compliance throughout PCO. Such a role requires the unwavering support and endorsement of the Minister and the Deputy Minister.

Response: The Clerk wrote to all employees at PCO on May 25, 1999 to express a determination to meet the Act's time requirements. The ATI Coordinator has briefed Senior Management and the ADM responsible for Corporate Services has a commitment to meeting the Act's statutory time requirements in her performance objectives. The ADM is informed routinely on the status of requests so that action can be taken to avoid delays

2. 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.

Response: The ATI Coordinator feels that the recommendation is moot since PCO is in substantial compliance.

3. 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.

Response: The tasking memo to OPI's makes this requirement clear. The ATI Office also follows up with the OPI's on day 3 of the time allotted for the OPI records search.

4. 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.

Response: The tasking memo has specific time requirements and a chart is provided on the time allocated for each step in the access request process. (A copy is available with the background material.)

**Special Report to Parliament of the Information Commissioner of Canada**

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5. OPI-specific training (and information packages), with a focus on timelines and other considerations, should be developed, and training sessions given.

Response: A number of training activities have been conducted or are planned. (A list is available with the background material).

6. 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.

Response: There is a standard letter sent that describes the modified or clarified request and provides the new date of receipt of the access request. (A copy of the letter is available in the background file).

7. 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.

Response: The ATI Office does not believe this situation applies, but will continue its practice of routinely contacting requesters on the status of files.

8. 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.

Response: If the situation does arise, the PCO will notify the requester.

9. Performance contracts with operational managers should contain consequences for poor performance in processing access requests.

Response: The ATI Office does not know if this recommendation has been discussed. The Office has not made any proposals on the subject.

10. Come into substantial compliance with the Act's deadlines no later than March 31 of 2000.

The Office is in substantial compliance with the deadlines as of November 15, 1999 for requests received in 1999/2000. The backlog is eliminated and turnaround time has been improved on the few late files.

11. Where possible, the ATI office should provide partial response releases for portions of records not involved in 3rd party or other consultations.

Response: This procedure is followed where possible.

12. Approach the overall delay problem by establishing milestones to reach pre-set targets for improved performance (i.e. move to a project management mode).

**Special Report to Parliament of the Information Commissioner of Canada**

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Response: Although the PCO ATI Office did not take this approach, the Office is confident that the measures taken at PCO will result in substantial compliance for the access requests received in this fiscal year.

13. ATI training should be mandatory for all new managers as part of their orientation and for all managers on a refresher basis.

Response: The ATI training will be part of a training program for new PCO staff that will be implemented in the Spring 2000. The ATI Office believes all staff, not only managers, require ATI training. The Clerk strongly supports a new orientation program including an ATIP portion for all PCO employees.

14. 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.

Response: An information sheet has been developed and is in use.

15. The delegation order now in force (since 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 answers 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.

Response: The delegation order remains unchanged. The Coordinator believes that it is clear and understood. The Coordinator stated that because the delegation order is not the cause of delay, therefore PCO does not intend to change the order.

16. 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.

Response: The Coordinator has one position between her and the Deputy Head.

17. OPIs should undertake the first reviews of requested records and provide the records to ATIP with suggested severances.

Response: While this may be done on a case by case basis depending on the OPI knowledge and experience with the Act, the ATI Office does not believe that it should be a general way of processing an access request. The Coordinator feel that this method is not suitable for PCO and in fact may cause delays.

18. 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.

Response: The tasking memo, training and follow-up by the ATI Office all support this objective.

**Special Report to Parliament of the Information Commissioner of Canada**

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19. 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 ATIP flow System from MPR & Associates. PCO's new system should match the benefits of the ATIP flow 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.

20. 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.

Response: The ATIP flow System was recently implemented.

19. Paper processes should be automated as much as possible.

Response: The ATI Office did not understand what processes were subject to this recommendation.

20. Departmental policies and procedures are outdated and need to be updated.

Response: The ATI Office is working on an Officer's Handbook. The target for completion is March 31, 2000.

21. Paper processes should be automated as much as possible.

The Coordinator believes that because of ATI flow paper processes are for the most part automated.

22. Other comments by the Coordinator:

The Coordinator believes that the number of deemed refusal requests has been reduced to a negligible number for the following reasons:

- a determination to meet the deadlines and a more proactive approach throughout PCO
- streamlining opportunities
- records management improvements
- no time spent dealing with deemed refusal complaints
- ATIP flow provides a discipline to the process and provides information that enables the ATI Office to be proactive about potential delay problems
- significant additional resources of a project officer for one year and three additional FTE's



- regular reviews of files with officers
- elimination of the backlog leading to further efficiencies in not dealing with delay complaints
- additional training across the organization
- specific cases where procedural changes have resulted in more timely processing.

**The Coordinator provided the following general comments about the Report Card's Sources of Delay:**

1. Extensions poorly managed or not taken

The PCO has always taken extensions, but is mindful of recent OIC/TBS guidance in this matter. The ATI Office has criteria in place to identify the situations where an extension should be considered. (Copy with the background file).

The PCO ATI Office believes that the Office is handling up front work on requests in a more effective way by clarifying, providing notifications and opening a dialogue with the requester at the start of the process where applicable. There is also consistency with the application of fees for photocopying.

OPI contacts have been established in each Division (usually an office Manager) who is responsible for keeping track of the request file. This allows the file to be retrieved at any time. The OPI operational contacts know the internal timelines now because the "tasking memo" from the ATI Office clearly states all timing requirements.

These steps mean that the ATI Office has adequate time within the Act to claim any time extensions that may be allowed.

2. Application and review of exemptions/exclusions

The PCO ATI Office believes that the PCO method of interacting with the OPI is a better way of handling requests for their organization. The ATI Office reviews the records and provides the OPI with a recommendation – a two step process with the OPI.

3. Computer tracking system and use of technology

The ATI Office implemented the ATIP flow System in October 1999. This has eliminated the need for manual reports and the time can be spent elsewhere.

4. Inadequate awareness

Briefing sessions have been completed. (A list is in the background file).

The Clerk of the POC has determined that there will be an orientation training program for new staff at PCO. The ATI Office will provide a session on the **Access to Information Act** as part of the training program. The target for implementing the orientation training is Spring 2000.

The Officer's Handbook is being updated. The target for completion is March 31, 2000.

5. Inadequate Information Management

There are a number of PCO Information Services initiatives to improve records management.

Information Services is implementing RDIMS, a computerized system for tracking paper files. Additional resources were provided to the Records Management Office to eliminate the backlog of filing. A one-year project was established with a resource person from the Archives to review the records management practices in the PCO Secretariats, in addition to work underway in the Records Office. Turnaround time for record searches has improved significantly.

6. Inadequate resources

The request for resources to assist OPIs with clerical and photocopying work associated with the processing of access requests has been approved. Three more staff have been allocated to the ATI Office. There is an additional resource in Counsel, and a Project Officer in the ATI Office for this fiscal year.

A copy of the statistical questionnaire is presented on the following page.

**Special Report to Parliament of the Information Commissioner of Canada**

<b>Questionnaire for Statistical Analysis Purposes in relation to official requests made under the Access to Information Act</b>				
<b>Part A: Requests carried over from the prior fiscal period.</b>		<b>April 1/97 - March 31/98</b>	<b>April 1/98 - March 31/99</b>	<b>April 1/99 - Nov. 30/99</b>
<b>1</b>	Number of requests carried over:	93	92	54
<b>2</b>	Requests carried over from the prior fiscal — in a deemed refusal situation on the first day of the new fiscal:	51	57	21
<b>Part B: New Requests — Exclude requests included in Part A.</b>		<b>April 1/97 - March 31/98</b>	<b>April 1/98 - March 31/99</b>	<b>April 1/99 - Nov. 30/99</b>
<b>3.</b>	Number of requests received during the fiscal period:	217	197	196
<b>4.A</b>	How many were processed <i>within</i> the 30-day statutory time limit?	68	62	110
<b>4.B</b>	How many were processed beyond the 30-day statutory time limit <i>where no extension was claimed?</i>	65	44	5
<b>4.C</b>	How long after the statutory time limit did it take to respond <i>where no extension was claimed?</i>			
	1-30 days:	16	22	5
	31-60 days:	7	5	0
	61-90 days:	5	6	0
	Over 91 days:	37	11	0
<b>5.</b>	How many were extended pursuant to section 9?	60	37	47
<b>6.A</b>	How many were processed <i>within</i> the extended time limit?	8	8	46
<b>6.B</b>	How many exceeded the extended time limit?	52	29	1
<b>6.C</b>	How long after the expiry of the extended deadline did it take to respond?			
	1-30 days:	5	10	1
	31-60 days:	1	11	0
	61-90 days:	6	3	0
	Over 91 days:	40	5	0
<b>7.</b>	As of November 30, 1999, how many requests are in a deemed refusal situation?			<b>1</b>