

Department of National Defence

Status report on access requests in a deemed-refusal situation

1. BACKGROUND

Every department reviewed has been assessed against the following grading standard:

% of Deemed Refusals	Comment	Grade
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

This report reviews the Department of National Defence's (ND) progress in attaining ideal compliance with the time requirements of the *Access to Information Act*, since the previous report. In addition, this report contains information on the status of the recommendations made in the Status Report of January 2004.

2. COMPLIANCE HISTORY

In January 1999, the Office of the Information Commissioner (OIC) issued the first Report Card on ND's compliance with the statutory time requirements of the *Access to Information Act*. In that report, ND received a red alert grade of "F" with a 69.6% request to deemed-refusal ratio for access requests received from April 1 to November 30, 1998. The report included a number of recommendations on measures that could be taken to reduce the number of requests in a deemed-refusal situation.

From April 1 to November 30, 1999, the deemed-refusal ratio for access requests improved to 38.9%, although still a grade of "F".

In January 2001, ND received a grade of "D" with a new request to deemed-refusal ratio of 17% for the period April 1 to November 30, 2000. This report noted that the trend lines for reducing the number of access requests in a deemed-refusal situation were steadily improving.

ND continued to improve its performance in meeting the time requirements of the *Access to Information Act*, achieving a grade of "C" with a new request to deemed-refusal ratio of 11.8% for the period from April 1 to November 30, 2001. However, that improvement was not maintained for the full fiscal year; while the grade remained the same at a "C", the ratio declined slightly to 12.7%.

For the 2002-2003 reporting period, the department attained a new request to deemed-refusal ratio of 9.1% for a grade of "B", with this ratio slipping to a 12.7% ratio and a grade of "C" for the full fiscal year.

In the Status Report of 2004, it was reported that the department continued to strive to attain ideal compliance. For the period April 1 to November 30, 2003, the department maintained a grade of "B", the actual percentage improving to 6.3% in comparison to a 9.1% for the year before.

3. CURRENT STATUS

For the reporting period April 1 to November 30, 2004, those requests carried over from the previous year, as well as the number of requests already in a deemed-refusal status on April 1, were taken into consideration. The department's performance for April 1 to November 30, 2004, was 9.5%, a grade of "B" and substantial compliance. Since this is the first year that the figures were calculated differently, the following will show the compliance levels utilizing both the previous and current formulas for last year's and this year's status reports.

Previous Formula Apr 1 – Nov 30, 2003	Current Formula Apr 1 – Nov 30, 2003
6.2%	9.1%

Previous Formula Apr 1 – Nov 30, 2004	Current Formula Apr 1 – Nov 30, 2004
6.0%	9.5%

During the reporting period, ND was involved in significant events, like the conflicts in Afghanistan and Iraq, that resulted in large volumes of access requests. Further, high profile Boards of Inquiry (BOI) like the 'Jowz Valley Mine Strike' and the 'Kabul Suicide Bomber', to name a few, impacted request numbers. In this regard, it should be noted that DAIP (Directorate of Access and to Information and Privacy) tasks out some of its personnel to special Severance Teams throughout the department to assist in the application of exemptions to BOI documents, which facilitates the disclosure of the information to the public, or victims and families. Consequently, addressing these BOIs draws precious resources away from regular DAIP operations, causing delays in responses to mainstream access request.

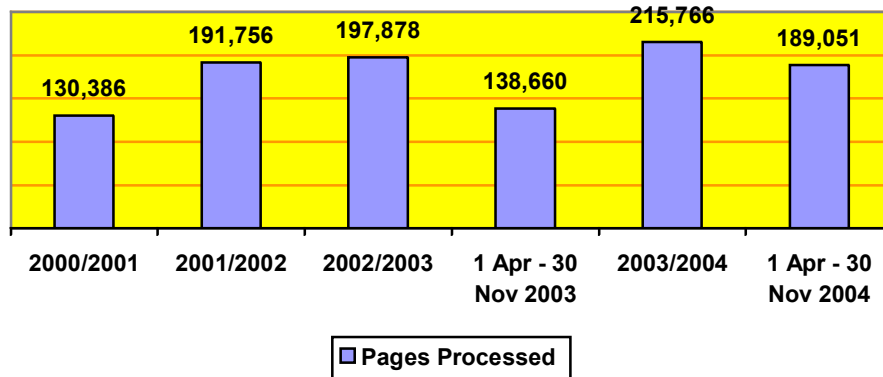
To add to the workload, records indicate that significant numbers of requests were received related to the 'Maritime Helicopter Project' (a huge capital equipment acquisition) and DAIP was also the recipient of a number of unforeseen Motions of Production of Paper requests from various Parliamentary Committees.

In August 2003, the Ontario Power Blackout resulted in a minimum loss of five working days for the whole Directorate. In October 2004, the Public Service strike caused a loss of processing resources of an additional five working days. It should also be noted that further resources were expended in the policy development and/or the implementation of

the Privacy Impact Assessment Policy, the proactive disclosure of Travel and Hospitality Expenses and contracts over \$10K.

In order to increase communications with requesters, the Acting Director of DAIP stated that she would like to instill a more “client approach” to the ATI process. The Acting Director would also like to see improvements to the management of records in the department so that OPIs can provide better and faster responses to DAIP tasking for records as well as provide more accurate fee assessments.

More requests were received during the fiscal period April 1, 2003, to March 31, 2004, (1,488) compared to the previous fiscal year (1,316). Although there were less requests received in the period April 1 to November 30, 2004, (782) compared to the same period last year (967), the graph below reflects that more pages were processed.



4. FURTHER RECOMMENDATIONS

There is some rebuilding and reorganizing taking place in DAIP. The Acting Director stated that DAIP is faced with many challenges and needs to set its priorities accordingly. For this reason, DAIP may not be able to attain ideal compliance but will at least try to maintain substantial compliance as it has been doing for the last two years.

Recommendation #1

ND attain ideal compliance or at least maintain substantial compliance with the time requirements of the *Access to Information Act* for 2005-2006.

Over the next two years, DAIP plans to place all disclosed records under ATI on its website.

Recommendation #2

That DAIP continue to expand public access to records informally and that a plan be completed in 2005-2006 to begin placing disclosed records under ATI on its website within the next two years.

Improvements in the management of records at ND are needed to enable OPIs to conduct more accurate searches and fee assessments.

Recommendation #3

That DAIP take a proactive role in assuring that management of records at the department improve in order that more accurate searches for records and fee assessments are made.

5. STATUS OF 2004 RECOMMENDATIONS

The following recommendations were made to support ND's continuing efforts to process requests within the time requirements of the *Access to Information Act*:

Previous Recommendation #1

ND set an objective for 2004-2005 to attain ideal compliance with the time requirements of the *Access to Information Act*.

Action Taken: Although ND did not attain ideal compliance, substantial compliance was maintained as was achieved last year. Considering the factors mentioned above, DAIP's maintaining of the "B" rating was a positive effort nonetheless. The Acting Director reported that, since April 1, 2004, a number of staff turnovers took place within DAIP with the departure of the Director and a number of analysts, resulting in the need to train new staff which further depleted processing resources. In addition, there are also a number of employees at the clerical level that are on work assignments. The overall workload is heavy for the current 56 FTEs in DAIP, causing additional stress. In the latter part of the reporting period, DAIP lost 2.5 weeks because of the move from ND Headquarters to Place de Ville in December 2004, causing some delays in processing requests.

Previous Recommendation #2

ND is encouraged to continue its investigation of methods of improving informal access to information to the public.

Action Taken: ND did continue to explore ways to provide informal access to information. Travel and Hospitality and contracts over \$10K are placed on the DAIP website. Boards of Inquiry documentation is reviewed, severed, and made available on the ND website. Lists of passengers on Challenger jets are provided informally upon request. It is DAIP's plan to place all disclosed records under ATI on its website within the next two years.

6. QUESTIONNAIRE AND STATISTICAL REPORT

Questionnaire for Statistical Analysis Purposes in relation to official requests made under the <i>Access to Information Act</i>			
Requests carried over from the prior fiscal period.		Apr. 1/03 to Mar. 31/04	Apr. 1/04 to Nov. 30/04
1.	Number of requests carried over:	280	303
2.	Requests carried over from the prior fiscal — in a deemed refusal situation on the first day of the new fiscal:	53	56
New Requests — Exclude requests included in Part A.		Apr. 1/03 to Mar. 31//04	Apr. 1/04 to Nov. 30/04
3.	Number of requests received during the fiscal period:	1488	782
4.A	How many were processed <i>within</i> the 30-day statutory time limit?	716	339
4.B	How many were processed beyond the 30-day statutory time limit <i>where no extension was claimed?</i>	20	14
4.C	How long after the statutory time limit did it take to respond <i>where no extension was claimed?</i>		
	1-30 days:	16	11
	31-60 days:	4	2
	61-90 days:	0	1
	Over 91 days:	0	0
5.	How many were extended pursuant to section 9?	692	304
6.A	How many were processed <i>within</i> the extended time limit?	408	147
6.B	How many exceeded the extended time limit?	60	14
6.C	How long after the expiry of the extended deadline did it take to respond?		
	1-30 days:	31	5
	31-60 days:	9	5
	61-90 days:	16	1
	Over 91 days:	4	3
7.	As of November 30, 2004, how many requests are in a deemed-refusal situation?		19