



Citizenship & Immigration Canada

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

— Information Commissioner of Canada —

MARCH 1999

Citizenship & Immigration Canada(C&I)

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Citizenship & Immigration Canada (C&I)

A. REPORT—March 1999

I. Glossary of Terms

ATI Coordinator:

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

ATIPFlow System:

ATIP*flow* is a case management and workflow system, developed by MPRSYS Inc. It was designed for use in an access to information and privacy environment.

C&I: Citizenship & Immigration Canada.

Complaint Findings:

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

Deemed Refusal:

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

Extension:

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

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the original time limit would unreasonably interfere

- (b) with the operations of the government institution, 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.

FAIT: Department of Foreign Affairs and International Trade.

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.

Pending:

Unfinished requests or complaints.

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

Processing Time:

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

3rd 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, C&I has been one of a number of institutions subject to review because of evidence of chronic difficulty in meeting response deadlines. In his 1996-97 Annual Report to Parliament, the former information commissioner reported that delays in responding to access requests had reached crisis proportions. Specifically identifying C&I and two other institutions, he said, "It is time for C&I to make a concerted effort to put the practices, procedures, resources and training in place to ensure that deadlines are met and that exemptions are sparingly applied." The 1997-98 Annual Report presented a more optimistic view, reporting that although the deemed-refusal problem had not gone away, C&I had shown determination to comply with response deadlines set out in the *Access to Information Act*. A promise was there made to monitor C&I's performance.

III. Grading Standard

This report card contains the results of the Information Commissioner's review of C&I's performance statistics to November 30, 1998.

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. C&I is, in this report card, assessed against the following grading standard:

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

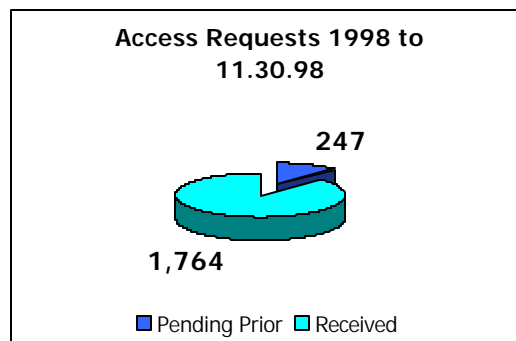
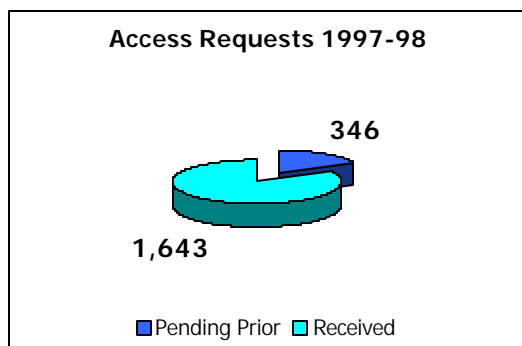
On this grading scale, C&I rates **F***. Its performance is unacceptable. [This fiscal year to November 30, the ratio of new requests to deemed-refusal is 1,764:864=48.9%. Of note, this ratio is significantly down from the 1997-98 ratio of 1,643:1,363=82.9%.]

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

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

IV. Statistical Information

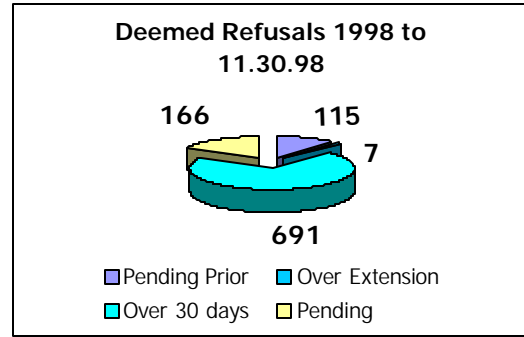
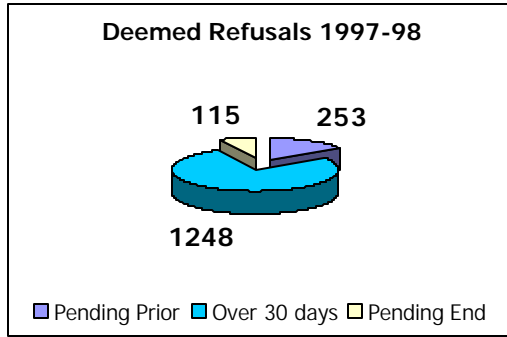
1. Requests



The charts above show the significance of C&I's backlog.

Of note, Citizenship & Immigration was listed in the 1997-98 *InfoSource* Bulletin as having placed first on the list of the ten institutions receiving the most requests. In 1997-98, C&I received 13.5% of all requests made during that reporting period—1,643 requests.

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



At the outset of the 1997-98 fiscal year, C&I's Access to Information office had 346 unfinished requests—253 (73.1%) of which were already in a deemed-refusal situation. The 1998-99 fiscal period started much the same with 247 outstanding requests—166 (67.2%) in a deemed-refusal situation. Considering the fact that 1,643 new requests were received in the 1997-98 fiscal period—1,764 to November 30th of this fiscal period, these (pending prior) deemed refusals amount to approximately ten to 15 per cent of the yearly intake. Non-compliance considerations aside, this backlog is burdensome to the ATI office and must be eliminated.

The time taken to complete new requests is equally distressing:

- In 1997-98, processing times for 1,248 requests completed beyond the 30-day statutory limit without an extension were:
 - 439 (35.1%) took between 31 to 60 additional days
 - 600 (48%) took an extra 61 to 90 days
 - 209 (16.7%) took more than 90 additional days
- In 1998 to November 30, 1998, additional processing times for 691 non-extended requests were:
 - 447 (64.7%) took an additional 31-60 days
 - 156 (22.6%) took between 61 to 90 additional days
 - 88 (12.7%) needed more than 90 additional days

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

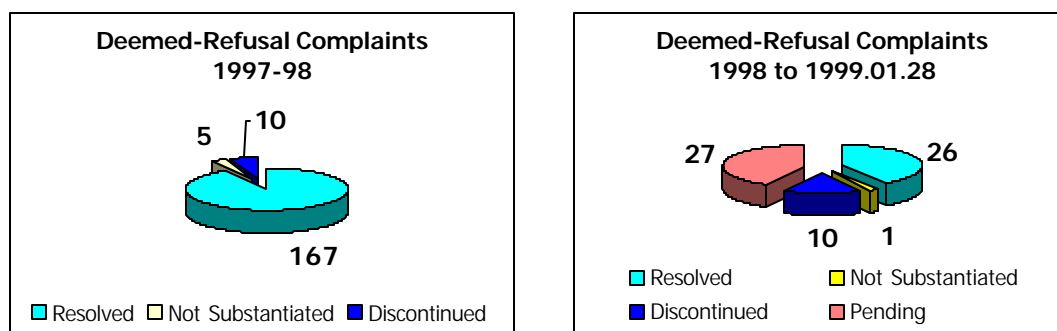
Time extensions pursuant to section 9 were consistently low in both reporting periods.

- In 1997-98, only one extension was applied—out of 1,643 requests received.
- In 1998 to November 30, 1998, there were 14—out of 1,764 requests received—7 bypassed the extended date:
 - 1 (7%) took an additional 31 to 60 days

- 6 (42.9%) took over 90 additional days

As of November 30, 1998, 166 unfinished new requests were in a deemed-refusal situation. The duration for these outstanding requests is not known.

2. Complaints—Deemed refusals



In 1997-98, the Office of the Information Commissioner received 182 deemed-refusal complaints against C&I—most (167—91.8%) were upheld (resolved). If all requesters where responses were late had exercised the right to complain, the commissioner's office would have received 1,501 complaints.

As of January 28, 1999, the commissioner's office has received 64 deemed-refusal complaints—out of the 37 completed complaints, most (26—70.2%) were upheld (resolved). That number (based on known statistics to November 30, 1998) could have been as high as 979 complaints.

One may only guess why more requesters are not complaining. It could be from resignation or due to good communications from the ATI office. Regardless, almost in excess of 49 per cent of all requests received by C&I this fiscal year to November 30th resulted in a deemed-refusal situation. Complaints could be much higher.

Of note, C&I's new requests are projected to be up by about 61 per cent over last year and more have been processed faster. The numbers and some improvement can be seen on C&I's statistical self-audit questionnaire (included under Part B, item II.)

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* and the *Human Rights Act*. The staff of the ATIP office is comprised of 19 employees—12 officer-level and 7 support staff. The current workload is approximately 200 requests per officer.

The coordinator believes the ATIP office could use additional staff, but doubts that more staff would be enough to resolve the deemed refusal problems.

Regional Coordinators—ATIP Liaison Officers' at the PM2 level—liaise with local offices to gather required records/documents, respond to questions from local offices and assist in training. C&I has Regional Public Rights (including access) Coordinators—Halifax, NS; Montreal, QC; Toronto, ON, Winnipeg, MB, and in Vancouver, BC. Case Processing Centre ATIP Coordinators are located in Sydney, NS; Mississauga, ON, and Vegreville, AB.

4. **ATI Office—Budget**

The ATI salary dollar budget for 1998-99—excluding the recent PSAC settlement—is \$700,000 for 16 positions plus \$95,000 (2 persons) on “loan” from another unit. The budget remained unchanged from 1997-98.

The ATI operating budget for 1998-99 is \$34,000, whereas the 1997-98 budget was \$41,500. The training portion of the 1998-99 budget is \$25,000. In 1997-98, the training allocation was \$34,381—funds included a one-time allocation for a national training campaign. Regional training does not come out of the ATI office's operating budget.

5. **Allotted Times for Request Processing**

The 30-day statutory time limit allows 21-22 days for processing. C&I's expected turnaround times (listed below) would require some simultaneous processing for the deadline to be met.

Area	Turnaround Time
ATI office (Headquarters)	1 or 2 days—1 for MP or media requests
ATI (Regions)	12 days, plus 1-5 days transmittal
OPI—Missions Overseas	12 days, plus 7-20 days transmittal
Public Affairs	1-5 days—less than 10% of requests
ATI office	1-3 days—review material,
◆ Legal Services	consult with legal—10% of requests
◆ Authorized Officer	
ATI office	1-3 days—final processing
Director General, Corporate Secretariat	Copy for information only
Minister's office	1 day—less than 5% of requests

V. Sources of Delay

There appear to be four primary reasons for the delay problem at C&I: delays in operational areas where records are held, outdated technology, inappropriate processing times, and poorly managed extensions.

1. Operational Areas—Foreign Posts Overseas

Documents pertaining to more than 70% of requests are located in 67 posts overseas. One significant aspect of the problem of delay involves C&I's use of the DFAIT Signet communications system to relay requests to posts. This system has frequent and systemic problems; the gateway is frequently blocked or down, which results in delays in getting the initial request messages to the posts. Clarifications and negotiations concerning the requests are also subject to this slow means of communication. There are also conflicts between technologies—Visa offices use WP5.1, whereas C&I has upgraded to a current versions of Microsoft Word; the electronic files are incompatible.

After foreign posts finally receive requests, there are often problems locating records. Records are frequently held off-site due to volume and space limitations. Hence, delay is compounded by the time it takes to locate and retrieve records from storage, and transfer them to the visa offices.

Finally, there is the logistics of transmitting records to headquarters. For reasons of privacy and security, such transmissions are by FAIT's diplomatic courier system (diplomatic bag)—a slow service, which varies in frequency from post to post. The schedule from certain posts only allows for pick-up every two or three weeks. Once in Ottawa, congestion in the FAIT mailroom further delays transmittal to C&I. A delay of this magnitude makes it virtually impossible to complete the overall processing of an access request within deadline.

2. Computer Tracking System

C&I's current DOS-based System for tracking the progression of access request processing is outdated, inefficient and has poor tracking capabilities, which impact the delay problems. There is no tracking process to indicate: requests not assigned; requests in danger of not meeting the 30-day deadline; requests nearing or past the end of an extension period, or requests almost one year old.

Monthly inventory reports for the Assistant Deputy Minister and other senior officers cannot be expected to effectively identify significant trends or weak areas. Monthly statistical reports are produced too infrequently to help meet response

deadlines. The weekly narrative, a management report produced for the Director General, only addresses the subject matter of access requests.

3. Processing Turnaround Times

Allotted turnaround times for processing also appears to be a problem at C&I. By following the established timelines, it is likely that only the most routine requests can be processed in a timely manner.

OPIs, including foreign posts, have a maximum of 12 days to retrieve and forward records to the ATI office—with a deadline of up to 8 working days prior to the due date. This deadline must be met in order to allow enough time for all other stages of processing, including review and approval. Unfortunately, the OPI deadline does not include the time it takes to transmit the records to the ATI office, which averages 1-5 days from Canadian regions and up to three weeks from foreign posts.

Approximately five per cent of all requests are sent to Public Affairs for the preparation of media lines. This area has up to five days to return the records and media lines to the ATI office. Although C&I's documentation suggests that OPIs consult with Public Affairs for potential sensitivities and a need for media lines, it is unlikely that the time needed for this processing step is included in the expected turnaround time for OPIs.

The ATI office then has 1-3 days to review all of the records and prepare recommendations for exemptions and/or exclusions. However, consultations with Legal Services, considered necessary for 10 per cent of all requests, must also be completed during this same 1-3 day period. The recommendations for exemptions and/or exclusions must also be also forwarded to the authorized officer for approval.

After the above processing stages are complete, in most cases, the request has already bypassed day 22—the last day for a timely response. Regardless, a further 1-3 days is required for any final processing, before a response is mailed out.

4. Extensions Not Taken

The noticeable lack of extensions claimed under section 9 indicates there is a problem in this area. Although the coordinator said that C&I uses extensions as often as possible, the statistics tell a different story. In 1997-98, out of 1,643 new requests received, only 1 was extended pursuant to section 9. The current fiscal period to November 30th, out of 1,764 new requests received, only 14 extensions were taken. Further, half of the extended due dates were not met.

It is not because the requests do not warrant extensions. Business-related requests are vague, complex, and can involve sensitivities and volume—two this year contained between 5,000 to 15,000 pages. Requests from one such requester require 2.5 FTE per year for processing.

C&I also receives many wide-scope, non-specific research requests for documents in all parts of the department. Such requests have included all emails sent or received by one or more individual(s) during a six-month period. Not only is the ATI office entitled to ask for clarification of such requests, thus pushing the date received forward, but extensions may also be appropriate.

The lack of extensions is due, partly, to poor communications with, and slow transfer of records from, overseas. Even if there is a valid reason to extend the due date, an extension cannot be claimed when the information is not received on time. The Information Commissioner believes this can be remedied by training overseas staff to recognize conditions justifying extensions, and establishing guidelines for notifying the ATI office electronically or by telephone. Extension letters could easily be sent to the requester even though the records have yet to reach headquarters.

Legitimate opportunities to extend time are also missed because C&I does not well-understand the circumstances in which extensions may be claimed. The difficulty involves an interpretation of paragraph 9(1)(a)—“the request is for a large number of records or necessitates a search through a large number of records and meeting the original time limit would unreasonably interfere with the operations of the government institution.” Specifically, C&I does not have a clear definition to determine what constitutes a “large number” of records, and is thus reluctant to claim valid extensions.

C&I requires a better understanding of 9(1)(a), and needs to establish an improved method for OPIs, especially foreign posts, to communicate justifiable extensions. This should allow C&I to invoke more extensions and, hence, reduce the number of deemed refusals. It is entirely in C&I’s control to manage these extensions.

5. Other

C&I is of the view that there are two other causes of delay: 1) the nature of client files, which necessitate consultations with policing agencies, provincial and international authorities, and 2) lawyers requesting original files prior to appeal proceedings, while simultaneously requesting the same files through access to information.

With regard to requests requiring consultations, it is the Information Commissioner’s view that C&I has all the legal tools it requires under the Act to

extend response deadlines for the purpose of consultations. Once operational areas come into compliance with the 12-day turnaround standard, C&I will be able to invoke extensions and, hence, reduce the number of deemed refusals due to consultations. Additionally, it is entirely within C&I's control to manage the duration of these consultations. After selecting the period of extension, in consultation with the third party or foreign jurisdiction, C&I should proceed to answer the request whether or not the third party or foreign jurisdiction has responded to the consultation.

As for the second concern, it should be possible for the Access to Information office to determine, in consultation with a requester, whether appeal proceedings are involved. If so, records could be duplicated early in the process and the two disclosures could be coordinated with the requester.

VI. Management Response to the Problem of Delay

At the end of 1997, C&I assessed the work of its Access to Information office. The review involved discussions internally, with the Office of the Information Commissioner, with experts in the field and six other federal government departments. The resulting initiatives are discussed below.

1. Operational Areas—Foreign Posts Overseas

In November 1997, the ATI office purchased the license and installed an in-house terminal to allow access to the electronic information held on the Computer Assisted Immigration Processing System (CAIPS). CAIPS contains all information related to client files and in many cases holds all the information sought by requesters. In response to requests, the ATI office can now access and print out copies of all information in the system and provide it expeditiously to requesters without having to obtain copies of the actual file documents from an overseas office. This greatly reduces response times in these cases.

2. Computer Tracking System

In a letter to the Information Commissioner, dated October 22, 1998, C&I's Deputy Minister discusses the reorganization of the ATI office, which took place in January 1998. (See Part B, Section IV.) He says, "A critical component of our reorganization of PRAD was the dedication of resources to develop an effective and accurate database and reporting capacity within the Public Rights unit to allow for improved monitoring of progress and identification of stress points. This is now in place...."

Although the allocation of funds may be in place, the new system is not. The coordinator, along with an interdepartmental working group, is in the process of deciding on a replacement system. The system purchased by FAIT (ATIP*flow* from MPR & Associates) is the likely choice. The coordinator hopes to have a new system in place by fiscal year 1999-2000.

ATIP*flow* has the following features:

- Is year 2000 compliant.
- Calculates due dates, days allowed and the number of days taken.
- The automated correspondence feature transparently extracts and merges information into word-processing software.
- Confidential text marking ensures requester confidentiality when uploading to CAIR.
- Electronic case history.
- Search options on applicant, full text, OPI, actions, etc.

- Standard reports include: active requests, status, and workload reports including the last action, progress report, on-time trends, BF by officer, annual statistical report and more.
- Allows extensive trend analysis.
- Captures annual report statistics automatically as the request is processed.

Once the new system is in operation, management reports can be produced that will help C&I to identify delay areas and factors, which will assist in devising strategies for solving the problems.

3. Processing Turnaround Times

The DM's letters includes, "By the end of August, our success rate in meeting the legislated deadlines has risen from a document low of 20% in 1997 to more than 60 per cent of access requests completed within expected timeframes."

In the fall of 1997, C&I introduced a fast-track process for routine access requests, which is controlled by a General Manager of Operations. Previously, requests were handled sequentially. This new workflow process may be the reason that the statistics show an improvement from the previous reporting period, specifically in the number of requests processed on time. Although the numbers show a significant change on the surface, the improvements might only pertain to routine requests. If priority is being given to routine requests, the number can improve while there remains a potential that the more complex requests in deemed-refusal situations are suffering further delays. More information is needed.

The fast-track process is helping to bring C&I into compliance with the Act by pushing 'easy' requests through the process faster.

Nevertheless, this improvement is significant and shows that the trend is in the right direction at C&I. C&I must bear in mind, however, that it is far from acceptable when, even now, almost 49 per cent of requests it receives are not answered within deadline.

4. Extensions Not Taken

C&I has not yet developed a set of policies, procedures and training materials designed to ensure that it can take maximum benefit from the law's extension of time provisions. Such matters should be discussed with Treasury Board as the Board has responsibility for giving guidance of this sort—including the issue of what constitutes a large volume of records.

VII. Recommendations

This review recommends the following:

- ❖ The coordinator is directly responsible for ensuring compliance with the Access Act, and should take a strong leadership role in establishing a culture of compliance throughout RC. Such a role requires the unwavering support and endorsement of the Minister and the Deputy Minister.
- ❖ The coordinator should be directed by the Minister, in writing, to exercise the delegation to answer requests within deadlines whether or not the senior approval process has been completed.
- ❖ 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.
- ❖ Allotted turnaround times should be tightened up, with some approval processes dropped or performed simultaneously. An information sheet, clearly showing the expected turnaround times for each stage in the access process, should be developed. This might help those not familiar with the request process to understand the tight timelines.
- ❖ OPI-specific training (and information packages), with a focus on timelines and other considerations, should be developed, and training sessions given.
- ❖ If a request is clarified or modified, the ATI unit should confirm, in writing, its understanding of the revised request—when the original wording of a request does not provide sufficient detail to enable an experienced employee of the institution with a reasonable effort to identify the record. The date clarified becomes the effective date of the request, and the requester should be informed.
- ❖ If an extended date will not be met, the ATI office should routinely contact the requester to indicate it will be late, to provide an expected response date and of the right to complain to the Information Commissioner. This will not impact the deemed-refusal status once the extension date is missed; however, it will alleviate some of the requester's frustration and perhaps avert a complaint.

- ❖ If an outstanding request is almost one year old, the ATI office should notify the requester about section 31, the one-year limitation on the right to complain.
- ❖ Performance contracts with operational managers should contain consequences for poor performance in processing access requests.
- ❖ Come into substantial compliance with the Act's deadlines no later than March 31 of 2000.
- ❖ Where possible, the ATI office should provide partial response releases for portions of records not involved in 3rd party or other consultations.
- ❖ Approach the overall delay problem by establishing milestones to reach pre-set targets for improved performance (i.e. move to a project management mode).
- ❖ ATI training should be mandatory for all new managers as part of their orientation and for all managers on a refresher basis.
- ❖ An information sheet, clearly showing expected turnaround times for each stage in the access process, should be developed. This might help those not familiar with the request process to understand the tight timelines.
- ❖ 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.
- ❖ The delegation order now in force (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.

- ❖ Every effort should be made to implement the proposed database as soon as possible. The *ATIPflow* (or similar) system will likely result in better workflow processing and work sharing. The 4-5 electronic systems in other departmental locations should also be upgraded.
- ❖ 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.
- ❖ Remove media relations from the approval chain and deal with that office in parallel.
- ❖ Informal follow-up actions should be replaced with written procedures, and repercussions for missed 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.
- ❖ 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.
- ❖ The coordinator should use the *ATIPflow* system's reporting capabilities to monitor OPI turnaround times. Problematic areas should be reported to Senior Management.

B. BASIS OF REPORT

I. INTERVIEW WITH C&I'S ATIP COORDINATOR—DECEMBER 21, 1998

On December 21, 1998, C&I's ATIP Coordinator was interviewed for the purpose of the Report Card.

II. C&I—PRE-INTERVIEW STATISTICAL SELF-AUDIT QUESTIONNAIRE

Questionnaire for Statistical Analysis Purposes in relation to official requests made under the Access to Information Act		
Part A: Requests carried over from the prior fiscal period.	April 1/97 to March 31/98	April 1/98 to Nov. 30/98
1. Number of requests carried over:	346	247
2. Requests carried over from the prior fiscal period in a deemed refusal situation on the first day of the new fiscal period:	253	115
Part B: New Requests—Exclude requests included in Part A.	April 1/97 to March 31/98	April 1/98 to Nov. 30/98
3. Number of requests received during the fiscal period:	1,643	1,764
4.A How many were processed within the 30-day statutory time limit:?	474	1,032
4.B How many were processed beyond the 30-day statutory time limit where no extension was claimed?	1,248	691
4.C How long after the statutory time limit did it take to respond where no extension was claimed?		
1-30 days:		
31-60 days:	439	447

	61-90 days:	600	156
	Over 90 days:	209	88
5.	How many were extended pursuant to section 9?	1	14
6.A	How many were processed within the extended time limit?:	---	7
6.B	How many exceeded the extended time limit?:	---	7
6.C	How long after the expiry of the extended deadline did it take to respond?		
	1-30 days:	---	-
	31-60 days:	---	1
	61-90 days:	---	-
	Over 90 days:	---	6
7.	As of December 1, 1998, how many requests are in a deemed refusal situation?		166

Part C: Contributing Factors

- 8.** 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:

Citizenship and Immigration faces several unique challenges in responding to access requests:

In more than 70% of requests, the documents sought are located in offices overseas. This presents several challenges. C&I uses the DFAIT Signet communication system to alert the posts to the request. This system has frequent and systemic problems and it is common for the gateway to be blocked, or the system to be down completely. This delays the initial message. Secondly, the physical reality of offices overseas complicates requests. Due to volume, and space limitations in most visa offices, files are not all held on site but frequently stored in some other location. This requires that they be retrieved from the off-site storage. Thirdly, documents requested must be sent to HQ through the DFAIT diplomatic courier system. This causes delays in two ways: congestion in the mailroom in Ottawa sometimes delays transmittal to C&I and the schedule for delivery of the bag from certain Posts allows for a pick-up only every two and sometimes three weeks.

C&I receives regular and frequent requests from professional requesters. These requests are typically complex, requesting sensitive documents and often voluminous. Two such requests this year contained volumes between 5,000 to 15,000 pages for review. One such requester produces and sells a monthly publication using information received from C&I. This places C&I in the position of providing research to an individual in support of his business. Volumes from this one requester require 2.5 FTE per year for processing.

C&I receives many requests that are essentially requests to provide documentation for research purposes. These requests are typically vague, wide in scope, non-specific and request access to documents in all parts of the department. Discussions with the requesters indicate that they wish these requests to remain non-specific in order to keep the research scope as broad as possible (eg. All emails sent or received by an individual during a six-month period with no indication of upon what subject the requester is seeking information).

In order to serve our clients abroad, C&I is organized as a matrix within the International Region with reporting relationships based both on geographic area and functional responsibility. As a result, documents are often held in more than one area of the branch and department in order to serve and inform varying accountabilities.

Most of our requesters are lawyers seeking client files. These requests are for a client's personal information and as such are effectively information which should be sought under the Privacy Act but instead masquerade as access requests in order to allow clients without rights under the Privacy Act to seek their documents under the Access to Information Act. These requests provide examination for discovery for the lawyers and are made in anticipation of legal proceedings against the department. This is a unique situation. In addition, since the department in these cases is both the respondent and the defendant, we must make two copies of these files in order to serve both purposes - one copy for the requester (lawyer) and one copy for the departmental lawyers in order to respond to the legal action. This makes these requests very resource intensive.

Due to the nature of our client files, we must carry out broad consultations in many cases including consultations with provincial and international authorities and frequently policing agencies.

Due to the adversarial nature of the immigration appeal process, lawyers representing our clients submit two requests for the file as a matter of common practice. One request is made for the original file as part of the discovery process prior to appeal proceedings. The requester then typically makes a second request through Access to

Information for the same file. This often leads to delays since the original file is often in transit to another location when the request for documents is received. Copies of copies of documents are often not legible which requires that we seek the original file from the second office in order to make copies for the requester. Lawyers advise us that they make these duplicate requests because they “do not trust the department”.

Requests are frequently submitted to this office as both a privacy and access request for the same file.

Immigration client files hold documents that are often difficult and expensive to both duplicate and transmit by mail. In particular, all immigration client files hold original medical x-ray. Duplication of these records costs approximately \$2.50 per. Immigration client files also often contain personal letters that are difficult to duplicate, records on poor quality paper overseas and other non-paper records such as microfiche.

Much of the information on immigration client files is held in electronic systems within the department. This requires that printouts be obtained from all electronic systems (in some cases as many as 4-5 different systems in different locations) as well as the paper file located overseas.

THANK YOU FOR COMPLETING THIS QUESTIONNAIRE

III. C&I—REVIEW QUESTIONNAIRE (DECEMBER 1998)

Review Questionnaire—December, 1998

Delegation of Authority:

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

See page 390 of the Training Manual (copy provided)

DELEGATION OF AUTHORITY

**PRIVACY ACT AND ACCESS TO
INFORMATION ACT**

I, the undersigned, Minister of Citizenship and Immigration Canada, pursuant to Section 73 of the *Privacy Act* and Section 73 of the *Access to Information Act*, hereby authorize those officers and employees of Citizenship and Immigration occupying the position identified within the attached schedule to exercise signing authorities or perform any of the Minister's powers, duties or functions specified therein.

Dated at Ottawa
this 20th day of December 1995

Signed by Sergio Marchi

The schedule provides the following authorities:

Deputy Minister

- Complete authority for sections 7 to 72(2)

Director General, Ministerial and Executive Services

- Complete authority for sections 7 to 72(2)

Director, Public Rights Administration

- With the exception of subsections 20(6) and 52(3), authority for sections 7 to 72(2).

Senior Administrators, Public Rights

- **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)
- **DO NOT have authority 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)

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

X yes; ___ no

See pages 393, 394 and 395 of the Training Manual. (Reproduced below.)

**RESPONSIBILITIES OF
PUBLIC RIGHTS, NHQ**

- PROMOTE OBJECTIVE OF OPEN GOVERNMENT
 - develop, implement and monitor institution's policies, procedures and practices for administering the Act
 - processing requests, generally requests for client files of persons not in Canada, or for policy information
- ACCOUNT FOR INFORMATION HOLDINGS, INFOSOURCE
- ADVISE SENIOR NHQ OFFICIALS AND RHQ MANAGERS AND ATIP COORDINATORS
- DEVELOP AND PROVIDE TRAINING AIMED AT IMPARTING KNOWLEDGE, GAINING CONSISTENCY OF APPLICATIONS

- COORDINATE AND INVESTIGATE COMPLAINTS
- REPORT TO PARLIAMENT

**RESPONSIBILITIES OF
ATIP LIAISON OFFICERS**

- PROMOTE OBJECTIVE OF OPEN GOVERNMENT
- release whenever possible (where no exemption/exclusion under the ATI Act would apply)
- processing ATI requests
- ACCOUNT FOR INFORMATION HOLDINGS, INFOSOURCE
- ADVISE BRANCH OFFICIALS OR MANAGERS ON PROCESSING OF ATI REQUESTS
- IDENTIFY TRAINING REQUIREMENTS
- COOPERATE IN THE INVESTIGATION OF COMPLAINTS
- PROVIDE DATA REQUIRED FOR ANNUAL REPORT TO PARLIAMENT

**RESPONSIBILITIES OF
ALL C&I OFFICES**

- PROVIDE GENERAL INFORMATION TO APPLICANTS ON CONTACT PERSONS, PROCESSING INFORMALLY
- PROVIDE DOCUMENTS AND RECOMMENDATIONS TO NHQ ONLY
 - no direct responsibility to apply exemptions, no local processing

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.)**

Yes

ATI Office:

1. **To which unit/division (and management level) of the institution does the ATI Coordinator report?**
- a) For operational purposes:**
Executive Services
- b) For administrative purposes:**
Executive Services
2. **Who (name and title) completes the coordinator's annual performance appraisal?**
Claire Lavoie, Director General, 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

See page 393 of the Training Manual. (The page refers to the RESPONSIBILITIES OF PUBLIC RIGHTS, NHQ, which can be found under Delegation of Authority, question 2 above.)

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.)?**

Yes-

Delegated authority, not line authority & responsibility for training & ATI processes.

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.)**

Regional Coordinators at the PM2 level liaise with local offices to gather required records/documents, respond to questions from local offices and assist in training. List below:

**REGIONAL PUBLIC RIGHTS COORDINATORS AND
CASE PROCESSING CENTRES ATIP COORDINATORS**

Regions

1. Roy Cleary, Regional Public Rights Coordinator, Citizenship and Immigration Canada, Atlantic Region, 1875 Brunswick Street, Halifax, Nova Scotia. B3J 2G8
Tel: (902) 426-0972; Fax: (902) 426-4241.
2. Claude Bourget, Consultant régional en législation sur les droits de la personne, Citoyenneté et Immigration Canada, 715 Peel Street, 3rd floor Montréal, Québec. H3C 4H6
Tel: (514) 283-8171 2781; Fax: (514) 283-8237
3. Susan Wray-Anstett, A/ATIP Coordinator, Citizenship and Immigration Canada, Ontario Region, 25 St. Clair Ave. East, Suite 200, Toronto, Ontario. M4T 1M2
Tel: (416) 954-7857; Fax: (416) 954-7837
4. Jim Crawford, Administration Officer, Citizenship and Immigration Canada, Prairies

Region/NWT, 25 Forks Market Road, Johnson Terminal Bld., Winnipeg, Manitoba. R3C 4S9

Tel: (204) 983-2428; Fax: (204) 984-2017

5. Deborah Goble/Rick Siemens, Regional Public Rights Coordinators, Citizenship and Immigration, Canada B.C./Yukon Region, #641 - 800 Burrard Street, Weststar Building, Suite 1800 Vancouver, British Columbia. V6Z 2V8
Tel: Deb (604) 666-8485/ Rick 666-8423; Fax: (604) 666-1927
Vancouver Appeals (604) 666-4835

Case Processing Centres

1. Sharon Wynn, ATIP Coordinator, CPC Sydney, P.O. Box 7000, Sydney, Nova Scotia. B1P 6V6
Tel: (902) 564-7395; Fax: (902) 564-2781
2. Gina Ponziani, Privacy Coordinator, CPC Mississauga, P.O. Box 6100, Station "A", Mississauga, Ontario, L5A 4H4
Tel: (905) 615-2863; Fax: (905) 803-7392
3. Bob Généreux, Privacy Coordinator, CPC Vegreville, 6212 - 55th Avenue, Vegreville, Alberta. T9C 1W5
Tel: (403) 632-8001; Fax: (403) 632-8100

Updated 2/12/98-SC

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

A: Officer Level:

<u>Classification</u>	<u>Full-time</u>	<u>Part-time</u>	
(1) AS-07	x		Director
(5) PM-05	x		Senior Officers
(2) PM-04			Temp. assignment from other units.
(2) PM-03	x		
(2) PM-02	x		

B: Support:

<u>Classification</u>	<u>Full-time</u>	<u>Part-time</u>	<u>Experience</u>
(1) CR-04	x		5 yrs
(1) CR-04	x		3 yrs
(1) CR-04	x		2 yrs
(1) CR-04	x		2 ½ yrs
(3) CR-04s	x		less than 6 months

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

See pages 404 to 421 of the Training Manual. CEIC ATI Manual (also available on C& I Intranet).

Access to information-related portion of Citizenship and Immigration Canada's Training manual:

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Excerpts from pages 404 to 421, Chapter 7, of C&I's training manual:

CHAPTER 7	
PROCEDURES FOR PROCESSING	
<u>ACCESS TO INFORMATION REQUESTS</u>	
7.03	[...] RESPONSIBILITIES OF PUBLIC RIGHTS ADMINISTRATION DIRECTORATE NHQ [...]

10) Fees

If the request involves search and preparation time in excess of 5 hours and/or reproduction of over 125 copies and/or computer programming and processing, fees may be assessed. Refer to Chapter 8, (“Procedures for Administering Costs, Fees, Waivers and Refunds”) of this manual for procedures.

11) Extension of Time Limit

If it is determined that the processing of a request will take more than the initial 30 calendar days and an extension can legitimately be taken (see 7.04 12) below), the Senior Public Rights Administrator will, before the end of the initial 30 calendar day period, prepare a letter notifying the requester of the length of the extension (see model Letter F, Appendix B) (Subsection 9(1) of the Act). If the time extension is for more than 30 calendar days, the Senior Public Rights Administrator will send to the Office of the Information Commissioner a copy of the letter to the requester (Subsection 9(2) of the Act)

If the processing will take more than 30 days and there is no legal basis for an extension, the SPRA will send a brief letter to the requester informing him/her that the request will be completed as soon as possible (see Model Letter K, appendix B).

[...]

18) Final Steps

A copy of all records released, exempted or excluded must be placed on the official file, along with copies of outgoing correspondence and originals of incoming correspondence, the Costs and Fees Worksheet and notes file documenting all activities on the request PRAD support staff will then enter details of exemptions, fees paid/waived costs and important dates in the computer tracking system. Where regional records are involved, the regional office will also be provided with a copy of records to be disclosed

Note: It is essential that all request files be complete and up-to-date at all times. All activity on the request must be documented in writing on the file by the SPRA, both for future reference and in the event of a complaint.

7.04 RESPONSIBILITIES OF PROGRAM/SERVICE GROUP(S) IN PROCESSING ACCESS REQUESTS**1) Questions to be addressed**

The NHQ program/service Public Rights coordinator is responsible for directing the access request to the correct area(s) for processing. The request should then be assigned to an officer for processing. Upon receiving the formal Access to Information request for processing, the responsible program officer will review the Record Assessment Guide (see Appendix F) and, in consultation with the Senior Public Rights Administrator, address all the following questions:

- a) Is the request from the media or a Member of Parliament? If it is, refer also to the special procedures in Appendix A to this chapter.
- b) Do the necessary records exist within that area (NHQ or RHQ) to respond to the request?
- c) Have all the required records been compiled and have all possible sources of records been searched?
- d) Are fees chargeable? (See 7.04 7 below)

- e) Is any of the information excluded from the provisions of the Act?
- f) Which records from the program/service group perspective can be released to the requester?
- g) Which records should be more closely reviewed to determine whether all or part of the information could or should be subject to exemptions)?
- h) Should any documents be sent to another institution for consultation?
- i) Can the request be completely processed within 30 calendar days from date of receipt by EIC?
- j) Will any of the information require translation?

2) Locating records

The responsible program officer shall, as quickly as possible, determine whether the records requested exist in EIC. Note there is no obligation to create a record except as outlined in 7.04 6) below. AS NECESSARY, REGIONAL AND LOCAL OFFICES MUST ALSO BE CONSULTED AND REQUESTED TO PRODUCE ALL RELEVANT RECORDS WITH RECOMMENDATIONS ON THEIR RELEASE OR EXEMPTION. Records that do exist in the program/service group shall be retrieved. Recorded Information Management should also be consulted by the program/service group.

[...]

Ch. 7

App. A

PROCEDURES FOR RESPONDING TO ACCESS REQUESTS FROM THE MEDIA AND MEMBERS OF PARLIAMENT (MPs)

NOTE: ALL DOCUMENTATION, CORRESPONDENCE, ETC., MUST BE TAGGED URGENT AND BE DELIVERED BY HAND

Upon receipt of an Access request from the media or from an MP, the following procedures will apply.

1. Public Rights will

- a) Immediately review the request and obtain clarification from the applicant, if needed; (the official receipt date is the date on which clarification is received);
- b) Within one day of receipt at Public Rights, send a copy of the request, a transmittal and the Record Assessment Guide to the appropriate EIC program/service group, with a copy to Public Affairs, informing them of the request and stating the time frames to be respected; and
- c) Send a copy to the appropriate Minister's Office

2. The Program/Service Group will

- a) Gather the records;
- b) Decide which records will be proposed for release;
- c) Propose records for exemption or exclusion and provide reasons for such. PRAD will review the material in light of the Access to Information Act as specified in 7.04 14); and,
- d) Suggest consultations take place with other institutions, third parties, Legal Services and other program/service groups including regions, if required.

The Public Rights Coordinator of the NHQ program/service group will be a valuable resource in the processing of the request. The Public Rights Administration Directorate will advise on the application of exemptions/exclusions, the application of access fees and overall compliance with the Access to Information Act (see 7.03 and 7.04 for details).

- e) Consult with Public Affairs to determine the possible sensitivity of the release and to decide if media lines will be needed;
- f) Advise Public Rights Administration of any sensitivity regarding the records to be released. Additionally, where a high profile is expected, the program/service group will convene a meeting of all interested parties to ensure that the processing of the Access request takes all concerns into account. It should be noted that the sensitivity of information does not in itself support an exemption/exclusion. Records should be kept of the rationale for decisions. (It should be noted that these records can be accessed.)

If required:

- i) prepare anticipated oral questions card(s); and
- ii) obtain media lines from Public Affairs

If not required, attach a short note indicating that no problems are anticipated;

- g) Ensure that a complete package of the required records is sent to Public Rights Administration 8 working days prior to the due date. The package should include:
 - i) A covering memorandum signed by the executive head of the program/service group clearly identifying all records to be released in their entirety and/or all records or parts of records proposed for exclusion/exemption fully explaining the rationale for exemption or exclusion;
 - ii) One unmarked numbered copy of all the records pertaining to the request and one identical numbered copy marked with proposed exemptions or exclusions;
 - iii) Highlights of discussions on sensitive information, if required;
 - iv) Media lines, if required. If not required, include in the covering memorandum a short note indicating that no problems are anticipated and
 - v) The completed Cost and Fees Worksheet.

3. Public Rights Administration will:

- a) Maintain frequent contact with the NHQ program/service Public Rights coordinator regarding progress of the request;
- b) Within two days of receipt of all the material from the program/service group, (see paragraph 2 g) above) review all the material submitted; and,
- c) If applicable, consult with Legal Services and other government institutions, prepare the recommendations for exemption/exclusion, and forward to the authorized officer to obtain approvals where required. Recommendations for exemption/exclusion must be accompanied by a rationale.

4. Once exemption/exclusion approvals are obtained, the SPRA will, and no later than three full working days prior to the due date, forward to the Minister's Office (a copy of the memo to the MO should also be sent to the Director General, Corporate Secretariat) for information purposes a package which will contain all of the following:

- a) a summary of the request including the date the response will be sent to the requester

- by Public Rights Administration;
- b) Information on the approved exemptions/exclusions, if any;
 - c) A copy of the request;
 - d) A draft reply to the requester (prepared by Public Rights). The reply should include the name and telephone number of at least one official in the responsible service group who can be contacted by the requester for further explanation;
 - e) An overview of public relations considerations prepared in consultation with Public Affairs, and, if required, the suggested media lines; and
 - f) An analysis of the sensitivity of the material being released.

Public Rights Administration will monitor the above steps in order to respond to the request on or before the required 30-day or extended time limit/ The SPRA will also provide the program/service spokesperson referred to in 4 d) above with a copy of the media lines, letter to the requester, the records as released.

[...]

Access to Information Request Record Assessment Guide

Guidelines for retrieving and reviewing records in response to a request for Information under the Access to Information Act.

1. Read the request carefully and make sure you know exactly what the requester wants before searching for any records. Feel free to call the responsible Public Rights officer and/or requester at this stage to clarify the request.
2. When you are satisfied that the request is clear, retrieve all official and working files you believe hold the relevant records. **STOP!**
Will it take you more than five hours to review the files and extract the relevant records?
 - If no, proceed to 3.
 - If yes, call the Public Rights officer to discuss the amount of time you will need, so that any applicable search fees can be calculated and charged. If search fees are assessed, do no more work until you hear from Public Rights that the deposit has been received. Proceed to 3.
3. Extract and review all relevant records to determine whether they can be released under the Access to Information Act.
Your program area is responsible for recommending to Public Rights whether records should be released or exempted.
4. If the requested information has already been released to the public as a news release, publication or other form of public communication, return the request file to Public Rights with two copies of the publication.
5. If not, prepare a memorandum to the Director of Public Rights, giving your program area's recommendations to release or exempt the records by referring to the questions listed below. Any recommendations for exemption must be strongly justified.

Were any of the records

- Received in confidence from foreign, provincial or municipal government organizations?
- Supplied by another federal government organization?

Would release of the records

- Damage federal-provincial relations?
- Damage international relations or the defense of Canada?
- Be injurious to law enforcement or the conduct of lawful investigations?

Do the records contain personal information?

- Commercial, financial or other information supplied in confidence by a business or other third party?
 - Advice or recommendations developed for the government or the Minister?
 - Accounts of consultations or deliberations involving government officials, the Minister or the Minister's staff?
 - Positions or plans developed for negotiations by the government and related considerations?
 - Cabinet confidences?
 - Plans relating to the management of personnel or the administration of a government institution that have not yet been carried out?
 - Information on testing or auditing procedures, which could prejudice their future use if released?
 - Any information you feel should be protected for any other reason (for example, would its release damage Canada's economic interests; is it subject to solicitor-client privilege)?
6. Make two photocopies of the record and send both copies to Public Rights along with your memorandum. On one copy, write your recommendations for release or exemption and leave the other copy unmarked.

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, x never.

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, x almost always, ___ sometimes, ___ rarely, ___ never.

11. **When extensions are necessary, are notices sent to the requester within 30 days?**

X Always, ___ almost always, ___ sometimes, ___ rarely, ___ never.

Percentage of requests: .7%

12. **When notice is sent under subsection 9 (1), extending the time limit for more than thirty days, how often is a copy of the notice sent to the Office of the Information Commissioner?**
 X Always, ___ almost always, ___ sometimes, ___ rarely, ___ never.
 Percentage of requests: .5%
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, x sometimes, ___ rarely, ___ never.
- 2) **Of an expected date for the final response**
 ___ Always, ___ almost always, x sometimes, ___ rarely, ___ never.
- 3) **Of the right to complain to the Information Commissioner**
 X Always, ___ almost always, ___ sometimes, ___ rarely, ___ never.
 Every request is acknowledged advising of right to complain.
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, x never.
- 15.a) **Are third-party notices sent as soon as the need for such notice is identified?**
 ___ Always, x almost always, ___ sometimes, ___ rarely, ___ never.
- b) **Is the third party timing process (as set out in section 28) observed?**
 x 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, x 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, x sometimes, ___ rarely, ___ never.
18. **Is there a tracking process in place to alert the ATI office if a request:**
- | | |
|--|-----------------|
| has not been assigned?: | ___ yes; x no |
| will not be processed within the 30 days?: | ___ yes; ___ no |
| is nearing the end of the extension date?: | ___ yes; ___ no |

given for an expected response. (Provide any written documentation.)

Informal Process.

B. Public Affairs /Communications:

1. **ATI requests are submitted to this area for preparation of media lines.**

Always; almost always; sometimes; rarely; never

Percentage of requests: less than 10%

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

Within the week.

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.)**

See page 415 of the Training Manual. (Reproduced above ATIP office, 8. Ch. 7. Appendix: A)

C. Minister's Office:

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

Always; almost always; sometimes; rarely; never

For Information.

Percentage of requests: Less than 5%

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

Within the week.

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.)**

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D. Deputy Minister's Office:

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

always; almost always; sometimes; rarely; never

Percentage of requests: 0%

ATI requests are never submitted to this office therefore we have no response for this question.

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

Not applicable.

Fees:

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

x yes; ____ no

See Chapter 8 of the CEIC ATI Manual (copy attached)

8.04 FEES

As stated earlier, some of the costs of administering the Access to Information Act are recoverable as fees charged to requesters. The administration of fees is governed by Section 11 of the Act and Section 7 of the Regulations (see Appendix A) which specify what features of a request are liable to fees and the rates at which charges may be levied. All of the Minister's powers under Section 11 of the Act have been delegated to the Senior Public Rights Administrators.

1) Chargeable Fees:

The following fees may be charged

- a) Application fee. A formal application made under the Access to Information Act must be accompanied by a \$5.00 application fee.
- b) Reproduction fee. The charge for photocopying a record is 20 cents per page, which includes the time of the person who does the photocopying. This fee may be avoided if the requester examines records rather than receives copies. Note that this fee can only be charged for copies made to give to the requester; it cannot be charged for copies made to facilitate the processing the request. Fees for more specialized methods of reproducing records are given in paragraph 7(1)(b) of the Regulations.
- c) Search for and preparation of records. A fee of \$2.50 per quarter hour can be charged for the time-in excess of five hours-that it takes to search for and/or prepare a record for disclosure. Search time means the time required to go through files to find the relevant records. Preparation of a record includes, for example, the physical work required to sever parts of records to be released.
Preparation does not include the time taken to photocopy records for Internal administration; no charges can be made for this time.
- d) Machine-readable records when a record is produced from a machine-readable record, the fees for programming and production are calculated at \$5.00 per person per quarter hour for time spent programming. The cost of using the central processor and locally attached devices is a maximum of \$16.50 per minute.

2) **Non-Chargeable Fees**

No fees may be charged for the following:

- a) Review time. Although reviewing records to determine whether they can be released is often the most time-consuming part of processing a request, neither the Act nor the Regulations authorize the assessment of fees to recover this cost.
- b) Administration. No fees can be charged for maintaining statistics or documentation relating to the administration of the Act; filing and refiling of records; providing facilities for processing requests or affording public access; or for postage or shipping charges to send records to requesters.

3) **Estimates, Deposits and Notifications**

A requester must be given an estimate of the total amount needed, as soon as it is determined by the SPRA in consultation with the responsible program officer. The requester will be asked to pay the full estimated cost before work begins on retrieving and reviewing the records.

In accordance with subsection 11(5) of the Access to Information Act, the Senior Public Rights Administrator (SPRA) prepares notices respecting estimated total fees required from the requester, notifies the requester that the full fee is required, advises the requester that fees may be reduced if records are examined rather than photocopied, that he/she has the right to complain to the Information Commissioner if the fees are considered to be too high and that the request will be considered abandoned if the requester does not respond within 30 days. (See Model Letter, Appendix C).

If the estimate later proves to be too low, EIC must absorb the difference. On the other hand, if the estimate is too high, EIC can charge only the actual amount and must refund the difference.

Experience has shown that EIC frequently underestimates the time required for search and preparation and that photocopying fees are often not levied; EIC thus fails to recoup many of the recoverable costs. It is therefore essential that SPRAs make every effort to calculate all applicable fees before any work is done, particularly for search and preparation time.

Normally, SPRAs should provide a requester with an estimate of the total fees for processing a request. In exceptional circumstances, however, it may not be possible to calculate some of the fees in advance.

It may, for example, be impossible to predict the number of records which will be found or how extensive exemptions will be and therefore how time-consuming to sever.

In these cases, it is likely to be more practical to calculate and charge fees in stages. The search fee estimate should be issued first, followed by an estimate of the fees for the preparation of exemptions and, once the number of records is known, the estimate for reproduction of the records. The requester should be informed of this process, told why the work is being done this way and required to pay the fee for a particular stage in advance of the work on that stage. If the requester objects strongly to these methods, the SPRA should prepare a total estimate in place of the phased estimate. The SPRA should, however, be

confident that the new total estimate is both reasonable and unlikely to be lower than the actual final cost. The SPRA can also consider a fee waiver at any time in this process, if the circumstances warrant it.

Once the SPRA has issued the fee estimate, processing of the request stops and then starts again only when all fees are received. No further work is to be done and no information is to be released until all fees owing are paid.

If no response to a notification of fees or deposits is received within 30 calendar days, the request is considered "abandoned."

As the requester has the right to complain to the Information Commissioner about fees for one year from the date the request was made, processing may be required to be resumed at a later date; it may then be considered as a new request.

4) **Payment of Fees**

All fees must be paid by the requester before access (by examination or by way of copies) is given to any records. Payment may be made by money order or cheque payable to the Receiver General for Canada. If a payment is made in cash (this is rare), the requester should immediately be given a receipt. Sending cash by mail should be discouraged.

If substantial sums are involved, payment should be by certified cheque or money order.

8.05 EIC POLICIES AND PROCEDURES RESPECTING THE WAIVING AND REFUNDING OF FEES

These policies and procedures have been prepared (a) to provide consistency in decisions respecting the waiving and refunding of fees for access to information, and (b) to provide appropriate control over revenue.

1) Policies and Practices

While the Access to Information Act provides that fees may be waived, reduced or refunded, decisions to do so will ordinarily be made on a case-by-case basis in a manner consistent with the following policies.

- a) Application fees shall be waived or refunded as appropriate for
 - i) applications incorrectly filed under the Access to Information Act that should have been made under the Privacy Act;
 - ii) applications where all information requested is excluded from the Act such as: (a) information already in the public domain or which will be in the public domain within 90 days; or (b) confidences of the Queen's Privy Council.
- b) Application fees shall not be waived/refunded solely on the basis that the record does not exist or is exempt from disclosure under the Act.
- c) A decision to waive/refund an application fee does not necessarily mean that the other fees chargeable under the Act will be waived/refunded for the same application for information.
- d) Fees of \$25.00 or less, excluding the application fee, shall be waived where fees are in excess of \$25.00, the entire amount (i.e. including the first \$25.00) shall be collected.
- e) When the estimated fee paid by the requester is higher than the final computed fee according to Regulation or Treasury Board Policy, the difference shall be refunded to

- the requester.
- f) Where the record requested by a requester is produced from a machine readable record, and where the actual cost of producing the record through the use of a central processor is less than the fee prescribed by paragraph 7(3)(a) of the Regulations, the difference shall be refunded to the requester.
 - g) Fees may be waived or reduced where the circumstances of the application and the requester's reasons for seeking information, in the opinion of the head or his/her delegate, make it appropriate to do so.
 - h) The amount(s) applicable to each waiver shall be recorded in the tracking System.
 - i) Each refund of an application fee and/or other fees shall be raised on a Requisition for Payment by PRAD, NHQ and signed under the Section 34 certification of the *Financial Administration Act* by an individual who has delegated authority to indicate that the expenditure is in accordance with the program requirements.
 - j) Justification supporting each waiver/refund shall be recorded in the request file.

2) **Procedures**

Public Rights Administration - NHQ Senior Public Rights Administrator

- a) Receives all requests for access to information either directly from the requestor or forwarded from other federal institutions or other EIC Offices, such as the Regional Public Rights Coordinator, and has a file created for each request.
- b) Performs the initial analysis of the request, including any request for waiver/refund, and contacts the requester if additional clarification or justification is required contacts the program group to obtain an estimate of the fees.
- c) Before work begins on the request, or later in the process, if appropriate, considers the following factors when deciding whether the fees are to be waived or refunded:
 - i) Whether the request for information is made under the wrong Act;
 - ii) Whether the information exists;
 - iii) Whether all or some of the information will be exempted or excluded;
 - iv) Whether the information is in the public domain or will be in the public domain within 90 days;
 - v) Whether the computed fees are greater or less than \$25 00;
 - vi) The circumstances of the requester;
 - vii) The reasons of the requester for seeking the waiver/refund;
 - viii) The degree to which the general public may benefit from the release of the information, and
 - ix) Whether the fees collected exceed the final fees computed in accordance with the Regulations and Treasury Board Access to Information Guidelines.

In the case of a decision to waive:

- d) Prepares a note to file justifying the decision.

In the case of a decision to refund:

- e) Requests the support staff to prepare a Requisition for Payment (E&I 2865); ensures a suitable explanation is included on the cheque stub portion of the requisition and

attaches a copy of the support documentation, such as the Revenue Journal or Access to Information Request Form.

NOTE: Refunds occurring in the same fiscal year as the deposit must be coded to the same accounts coding, including the responsibility centre, as the deposit. If this information is unavailable to Public Rights personnel, a note should be attached to the requisition requesting Revenue Accounting to code the requisition.

NOTE: Refunds occurring in a fiscal year subsequent to the fiscal year of deposit are to be coded to the responsibility centre 9999, allotment 70, activity 010, project 000 and line object 8839.

f) Requests the Director of PRAD to review and sign the Requisition for Payment.

Director, Public Rights Administration

g) Reviews and signs the Requisition for Payment for the refund if s/he agrees or provides justification and/or instructions if not in agreement .

h) Asks the support staff to forward approved requisition to Finance for reimbursement of fees or refund.

Senior Public Rights Administrator

i) Prepares appropriate correspondence to the requester if the waiver or refund is denied.

j) Ensures that the note to file on the decision to waive or refund fees is attached to the request file in all cases and a copy of the approved waiver is forwarded to Revenue Accounting if an amount was set up as an account receivable in Revenue Accounting.

k) Ensures that other records (e.g. tracking system) are amended to reflect the results of the request for waiver or refund.

FTE/Operating Budgets:

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

Executive Services.

2. Are ATI activities (i.e. FTE allocations) included in the strategic planning of the institution?

Not currently, but planned for the next FY.

3. What is/was the salary dollar budget for the ATI office for the fiscal periods shown below?

1998/1999: \$ 700,000; number of person years 16+\$95,000 (2 FTE's) on loan from another unit

1997/1998: \$ 700,000; number of person years 16+\$95,000 (2 FTE's) on loan from another unit

1996/1997: \$ N/A; number of person years ____

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

1998/1999: \$ 34,000

1997/1998: \$ 41,500

1996/1997: \$ N/A

5. **If possible, please provide a breakdown of how much of the operating budget for the ATI office was used or set aside for training and/or training materials (manuals, information sheets, directives, etc) for the fiscal periods shown below?**

1998/1999: \$ 25,000

1997/1998: \$ 34,381

1996/1997: \$ N/A

IV. C&I's CORRESPONDENCE

In a letter addressed to the Honourable John M. Reid, P.C., dated October 22, 1998, Ms. Janice Cochrane, the Deputy Minister of Citizenship & Immigration Canada said the following:

Thank you for your letters of October 6 and 20, 1998 regarding administration of the *Access to Information Act* within my department. I certainly share your concern regarding delays in service to our public and complaints of less-than-timely responses to requests for information.

As you noted in your letter, the Public Rights Administration Directorate (PRAD) within Citizenship and Immigration (C&I) has been focusing particular attention over the past months on resolving some of the very difficult issues that this department faces in order to respond more effectively to our requesters.

In October 1997, I wrote to your predecessor to advise him that C&I intended to undertake an aggressive assessment of the work of PRAD and that this might create a short-term challenge to continue to respond to the increasing demand for information, while carrying out a thorough and complete process review. This review involved discussion with your officials, experts in the field and six other federal government departments as well as intensive internal discussions. I fully supported this immediate focus on taking the time to find the right solutions for our department.

In January 1998, the results of that review were incorporated into a reorganization of the Public Rights Directorate. I am happy to report that, by the end of August, our success rate in meeting the legislated deadlines has risen from a documented low of 20% in 1997 to more than 60% of access requests completed within expected timeframes. While this continues to fall short of the service standards we need to achieve, there are many unique challenges presented by both the large volume of requests for information received by Citizenship and Immigration, many from professional requesters, and the location of

documents in offices overseas. The PRAD directorate continues to seek new approaches to resolve this logistical difficulty.

A critical component of our reorganization of PRAD was the dedication of resources to develop an effective and accurate database and reporting capacity within the Public Rights unit to allow for improved monitoring of progress and identification of stress points. This is now in place and I have requested that regular and enhanced reports be brought to the attention of my Assistant Deputy Minister, Corporate Sector, so that concerns can be appropriately addressed at the most senior level of C&I.

I welcome your proposed review of the administration of the *Access to Information Act* within Citizenship and Immigration and believe that the PRAD staff will be able to demonstrate the many changes they have undertaken and the progress made toward our mutual goal of improved access to information by the public. They also look forward to another opportunity to discuss the particular challenges faced by this department, and your suggestions on possible solutions.

I would add that my officials have brought to my attention the positive and constructive relationship that has developed with your staff over the course of the last year as our organizations have worked toward their common objectives. I have asked Georges Tsai, my ADM Corporate Services to meet with Deputy Commissioner Alan Leadbeater as soon as possible.

Let me conclude with my personal congratulations for your appointment as Information Commissioner of Canada and my full support for the resolution of your concerns regarding the work of my department.