



National Défense
Defence nationale

ANNUAL REPORT TO PARLIAMENT 2003-2004



Meeting the Challenge

The Administration of the
Access to Information Act and Privacy Act
in the Department of National Defence and
the Canadian Forces

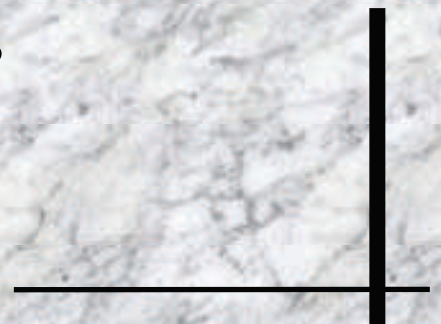


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Annual Report to Parliament 2003-2004

Foreward

Annual Report to Parliament

Section 72 of both the Access to Information Act and the Privacy Act require that the head of every Government institution prepare and submit to Parliament an annual report on the administration of the Acts within the institution during each financial year. This is the twenty-first Annual Report to Parliament on performance in respect to administration of the Acts by the Department of National Defence and the Canadian Forces.

Purpose

The purpose of this Annual Report is to describe how the Department of National Defence and the Canadian Forces administered Access to Information and Privacy activities and fulfilled responsibilities in relation to the Acts during the period from April 1, 2003 to March 31, 2004.

ATIP Administration

A single coordinator administers both the Access to Information Act and the Privacy Act within the Department of National Defence and the Canadian Forces. The Canadian Forces Ombudsman's Office, the Canadian Forces Grievance Board and the Military Police Complaints Commission are separate institutions under the control of the Minister of National Defence and are responsible for their own Access to Information and Privacy administration.

Part 1 - Introduction

The *Access to Information Act (AIA)* and the *Privacy Act (PA)* took effect on July 1, 1983.

The *AIA* gives Canadian citizens, permanent residents and any person and corporation present in Canada a right of access to information contained in government records, subject to certain specific and limited exceptions. The *PA* extends to individuals the right of access to information about themselves held by the government, subject to specific and limited exceptions. The latter *Act* also protects individuals' privacy by preventing others from having access to their personal information and gives individuals substantial control over its collection, use and disclosure.

Section 72 of the *AIA* and section 72 of the *PA* require that the head of every government institution prepare for submission to Parliament an annual report on the administration of the Acts within the institution during each financial year.

Mission of the Department of National Defence and Canadian Forces

The mission of the Department of National Defence (DND) and the Canadian Forces (CF) is to defend Canada and Canadian interests and values while contributing to international peace and security.

Departmental Mandate

Canada needs and benefits from combat-capable maritime, land and air forces able to fulfil a broad range of missions and tasks. While Canada faces no direct conventional military threat, the world is becoming increasingly complex and unpredictable. There remain direct and indirect threats to our national security for which a military response may be required, including drugs, organized crime, illegal immigration, terrorism and the uncertainty caused by the growing proliferation of missiles carrying weapons of mass destruction. As with our allies, Canadian defence planning is now based upon the capabilities Canada needs to protect and promote its interests and values in a responsive manner, rather than upon direct threats to our well being.

Within this mandate, Defence is responsible to:

- provide strategic defence and security advice to the Government of Canada;
- conduct surveillance and control of Canada's territory, airspace and maritime areas of jurisdiction;
- respond to requests from provincial authorities for *Aid of the Civil Power*;
- participate in bilateral and multilateral operations with Canada's allies;
- assist Other Government Departments and other levels of government in achieving national goals;
- provide support to broad federal government programs; and
- provide emergency humanitarian relief.

Minister's Responsibility

The Minister of National Defence is responsible for all matters relating to national defence, including the management and control of the DND and the CF. The Minister has two senior advisors. The Chief of the Defence Staff is responsible for command, control and administration of the Canadian Forces and military strategy, plans and requirements, and the Deputy Minister of National Defence is responsible for policy, resources and international defence relations.

Part 2 - Departmental Organization and Structure

The Department of National Defence has a unique personnel structure made up of two separate components – one military and one civilian. This table depicts the number of personnel in each component:

Departmental Personnel Figures by Component as of		
Military members:	Regular force:	61,437
	Primary Reserve force:	29,335
Civilian employees (Indeterminate):	18,521	
Total Military and Civilian Personnel:	109,293	

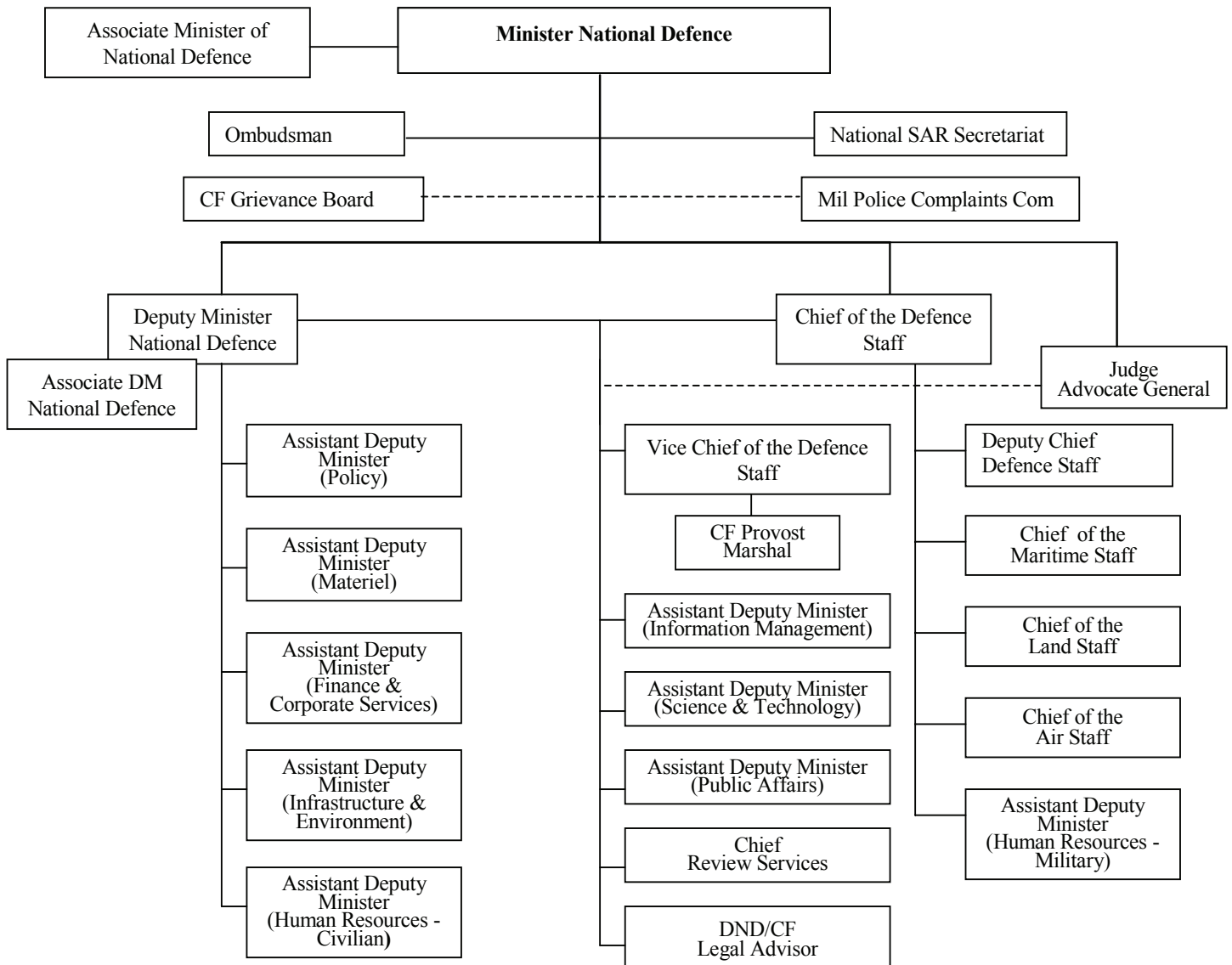
Chain of Command

National Defence Headquarters (NDHQ) in Ottawa provides broad direction for administration and operations, with specific execution being assigned to the various elements of the Department and the CF located across the country.

The DND/CF Ombudsman reports directly to and is accountable to the Minister of National Defence. His office was established to act as a direct source of information, referral and education to assist individuals to access existing channels of assistance and redress within DND/CF. To ensure the confidentiality of information brought to his attention, the Ombudsman has been given autonomy for ATIP matters related to his office. Accordingly, a separate annual report will be tabled respecting the administration of the *AIA* and *PA* within the Office of the Ombudsman.

The Canadian Forces Grievance Board and the Military Police Complaints Commission are institutions separate and apart from the DND and are recognized as such in the corresponding schedules to both the *AIA* and the *PA*. Consequently, neither of these institutions is accounted for in this Annual Report.

DEPARTMENTAL ORGANIZATIONAL CHART



Part 3 - Directorate Access to Information and Privacy (DAIP)

The mandate of DAIP is to act on behalf of the Minister of National Defence in enforcing compliance with legislation, regulations, and government policy and create departmental directions, including standards, in all matters relating to the *AIA* and the *PA*. DAIP's authority in this regard extends to all elements of the Canadian Forces and the Department of National Defence – except for the Office of the Ombudsman, the Military Police Complaints Commission and the Canadian Forces Grievance Board.

At DND, the Director of Access to Information and Privacy administers and co-ordinates both the *AIA* and the *PA*. The DAIP organization comes under the authority of the Assistant Deputy Minister Finance and Corporate Services. DAIP seeks specialist advice on legal, public affairs, and policy matters from other NDHQ organizations and specialists as required.

Delegation of Authority

As required by the legislation, a delegation of authority is in place. For the purpose of the *AIA* and *PA*, the “head of the institution” as defined in section 3 of the *AIA* and section 73 of the *PA* for the DND is the Director Access to Information and Privacy and the person holding the position of Deputy Director Access to Information and Privacy to exercise all powers and functions of the Minister as the Head of the Department of National Defence and the Canadian Forces under the Acts.

DAIP Organization

The ATIP organization at National Defence operates with a staff of 50 civilians and 2 military personnel. DAIP continues with its three team working structure, which has now been fully implemented and is considered a success both administratively and financially.

Administration

This year, the Policy and Training section within DAIP has administered ATIP training to over 2000 military and civilian personnel from across Canada. These training sessions offer employees the opportunity to participate in real-time discussions pertaining to policies and procedures and provide them with the forum to comment on concerns that they may have with regards to the two Acts. DAIP has continued this year to fund training sessions outside of the National Capital Region. This has been deemed a great success by those units with limited financial resources and provides exceptional results in the form of greater awareness and compliance with the federal Access to Information and Privacy laws.

Internal training continues this year for DAIP staff, with presentations offered by the Information Commissioner’s Office and Privacy Commissioner’s Office as well as DND related topics provided by DAIP staff and representatives from the office of the Canadian Forces Legal Adviser.

The ATIP advisory committee continues to meet at National Defence Headquarters. This committee provides Level One organizations with direct representation by senior management from DAIP. It also provides the Director with the ability to determine through suggestions or complaints issues that may require change or revision that will assist in the implementation of the ATIP process within DND.

Several new projects have been undertaken by DAIP this year as well. Assistance was provided with the implementation of the new Personal Emergency Notification form. The revised form provides individuals with the ability to authorize the department to release to their next of kin their personal information in the case of their death or incapacitation. DAIP was also involved in the review and public release of the Tarnak Farm Board of Inquiry into the deaths of Canadian soldiers by friendly fire while deployed in Afghanistan.

This directorate has also been tasked with the implementation and control of the proactive release of Travel and Hospitality expenses for the Department. This involves coordinating Level One organizations with their returns and ensuring that an accurate account of expenses for senior staff is identified. This information is then posted quarterly on our web-site for public consumption.

Foreign Assistance

Judith Mooney, the Director of DAIP, has recently had the opportunity to travel to the United Kingdom as a guest speaker to comment on their implementation of the Freedom of Information Act, which will take place in 2005. DND has welcomed this opportunity to assist the British and to share our experiences and expertise with our implementation of the *AIA*. A Russian delegation has also had the opportunity to review our organization this year as a possible means of establishing a system that may be used by their government in the future.

Part 4 - The Year In Review

The DND continues to remain committed to building on the progress made over the past several years in the field of Access to Information and Privacy. Senior management within the DND has stressed the importance of ensuring their staff is aware of the requirements of the *AIA* and *PA* legislation. Accordingly, resources have been more adequately allocated to those sections responsible for ensuring compliance with the legislation.

Caseload

Formal Access to Information requests continued to increase this year. With the recent deployment of Canadian Forces personnel to Afghanistan, heightened security threats from terrorist organizations and recent military equipment purchases, this trend is predicted to continue.

Formal requests submitted to the department under the *PA* have declined again this year. Since 1998, the department has seen a drop in the number of formal *PA* requests of nearly 50%. This decrease can be attributed mainly to an effective informal access procedure where personnel obtain records containing their personal information directly from the records holder and are not obligated to make formal requests through DAIP for the most routine cases. Those cases that are processed formally tend to be the more complex and often contentious issues that require the attention of DAIP.

Request submitted under the <i>Privacy Act</i>	Number of Requests	Percentage Increase or Decrease
FY 2002-2003:	4,338	
FY 2003-2004:	4,117	- 5.1%

Request submitted under the <i>Access to Information Act</i>	Number of Requests	Percentage Increase or Decrease
FY 2002-2003:	1,316	
FY 2003-2004:	1,488	+ 8.8%

DND continues in its efforts to provide individuals and organizations with the right to request and obtain records under the *AIA* and *PA* in a timely manner. Responses to requests made under the *AIA* and *PA* for this fiscal year were completed on time in over 80% of all cases, continuing a trend of timely performance by DAIP in recent years. This on-time percentage is reflected in a B grading from the Office of the Information Commissioner.

Request submitted under the <i>Access to Information Act</i>	FY 2003/04 # of Requests	Percentage
Completed on time:	1,292	88.2%
Number of days completed after due date:		
1-30 days:	60	4.1%
31-60 days:	34	2.3%
61-90 days:	25	1.7%
91-120 days:	12	0.8%
Over 120 days:	42	2.9%
Subtotal:	173	11.8%
Total	1,465	

Request submitted under the <i>Privacy Act</i>	FY 2003/04 # of Requests	Percentage
Completed on time:	3,509	83.2%
Number of days completed after due date:		
1-30 days:	340	8.1%
31-60 days:	139	3.3%
61-90 days:	65	1.5%
91-120 days:	42	1.0%
Over 120 days:	91-120	3.0%
Subtotal:	711	16.8%
Total	4,220	

Transparency

DND continues to strive to meet the requirements as outlined under the *AIA* and *PA* and those recommendations made by both the Information Commissioner and Privacy Commissioner. Increased knowledge and awareness of the Acts among the members of the department and the CF continues to grow each year, contributing to a more transparent and open environment.

DND is aware that while easier availability of information is generally beneficial from an Access perspective, obvious concerns exist from a Privacy perspective. DAIP must continue to assist the department to remain vigilant so that access to personal information remains restricted to authorized users. With the implementation of the Privacy Impact Assessment (PIA) Policy and Guidelines, DAIP has assisted organizations within the Department prepare PIA reports whenever a new project having privacy implications is proposed.

Award

This year, the Director Judith Mooney, was presented with the Treasury Board award for Dedication, Leadership and Community Spirit, adding to the award presented to the Directorate in 2003 for Excellence in Service and Innovation.

Part 5 - The Year Ahead

Once again, we look forward to the upcoming fiscal year with the anticipation of further reducing the deemed refusal rate. With the implementation by DAIP of the new ATIP imaging system, the processing of requests initially slowed due to the necessity for training and familiarization. This trial/training period has recently been completed and the system is fully functional.

It has become apparent that the Department's efforts to make its employees aware of the *AIA* and *PA* have been very effective. Queries to DAIP from within the department requesting guidance on implementing procedures that are more compliant with Access and Privacy laws and regulations are up substantially. Employees are clearly taking a greater interest in their responsibilities and entitlements under the Acts. This has been very noticeable in the Informal Access procedures for personal information. Employees are now aware that they have the right to obtain their records informally, and have been doing so in greater numbers each year. The willingness to process requests informally has also noticeably increased. This has resulted in a substantial reduction in the number of formal Privacy requests submitted to DAIP, allowing our organization to shift resources to areas requiring our direct attention.

Level One organizations are also taking a greater interest in the area of Proactive Disclosure. The public release of records without a request under the *AIA* was very uncommon just a few years ago. More and more organizations are now requesting assistance from DAIP to review records for the purpose of proactive disclosure. Information such as audits and Boards of Inquiry have been posted on the websites of the Level One organizations as well as on the main departmental site. This is one illustration of a greater effort by the Department and Canadian Forces to be more open with the public and is consistent with Government efforts as a whole.

The success of DAIP over the past several years with the reduction of deemed refusal status and late responses would not have been possible without the assistance of the Offices of Primary Interest and their dedicated employees.

DAIP continues in its efforts to provide the public with an efficient means of obtaining records. Efficient and timely access must continue to be effected with due consideration for national security and the protection of personal information from unauthorized disclosure. Staff and management within DAIP will continue in their efforts to provide the public with documents held within the DND and CF in a cost effective manner.



REPORT ON THE ACCESS TO INFORMATION ACT / RAPPORT CONCERNANT LA LOI SUR L'ACCÈS À L'INFORMATION

Institution DEPARTMENT OF NATIONAL DEFENCE MINISTÈRE DE LA DÉFENSE NATIONALE			Reporting period / Période visée par le rapport 4/1/2003 to/à 3/31/2004		
Source	Media / Médias 353	Academia / Secteur universitaire 5	Business / Secteur commercial 286	Organization / Organisme 147	Public 697

I Requests under the Access to Information Act / Demandes en vertu de la Loi sur l'accès à l'information

Received during reporting period / Reçus pendant la période visée par le rapport	1,488
Outstanding from previous period / En suspens depuis la période antérieure	280
TOTAL	1,768
Completed during reporting period / Traitées pendant la période visée par le rapport	1,465
Carried forward / Reportées	303

II Disposition of requests completed / Disposition à l'égard des demandes traitées

1. All disclosed / Communication totale	379	6. Unable to process / Traitement impossible	266
2. Disclosed in part / Communication partielle	664	7. Abandoned by applicant / Abandon de la demande	79
3. Nothing disclosed (excluded) / Aucune communication (exclusion)	11	8. Treated informally / Traitement non officiel	2
4. Nothing disclosed (exempt) / Aucune communication (exemption)	30	TOTAL	1,465
5. Transferred / Transmission	34		

III Exemptions invoked / Exemptions invoquées

S. Art. 13(1)(a)	140	S. Art. 16(1)(a)	76	S. Art. 18(b)	44	S. Art. 21(1)(a)	232
(b)	16	(b)	18	(c)	2	(b)	150
(c)	4	(c)	12	(d)	22	(c)	107
(d)	2	(d)	0	S. Art. 19(1)	502	(d)	36
S. Art. 14	29	S. Art. 16(2)	25	S. Art. 20(1)(a)	47	S. Art. 22	7
S. 15(1) International rel. / Relations intern.	2	S. Art. 16(3)	0	(b)	129	S. Art. 23	95
Defence / Défense	6	S. Art. 17	4	(c)	131	S. Art. 24	11
Subversive activities / Activités subversives	3	S. Art. 18(a)	43	(d)	74	S. Art. 26	3

IV Exclusions cited / Exclusions citées

S. Art. 68(a)	8	S. Art. 69(1)(c)	6	V Completion time / Délai de traitement	782
(b)	0	(d)	8	30 days or under / 30 jours ou moins	276
(c)	0	(e)	14	31 to 60 days / De 31 à 60 jours	262
S. Art. 69(1)(a)	81	(f)	0	61 to 120 days / De 61 à 120 jours	145
(b)	0	(g)	35	121 days or over / 121 jours et plus	

VI Extensions / Prorogations des délais

	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus	VII Translations / Traductions	0	VIII Method of access / Méthode de communication	1,038
Searching / Recherche	204	317	Translations requested / Traductions demandées	0	Copies given / Copies de l'original	0
Consultation	28	147	Translations prepared / Traductions préparées	0	Examination / Examen de l'original	5
Third party / Tiers	16	90	English to French / De l'anglais au français	0	Copies and examination / Copies et examen	
TOTAL	248	554	French to English / Du français à l'anglais	0		

IX Fees / Frais

Net fees collected / Frais nets perçus			
Application fees / Frais de la demande	\$7,135.00	Preparation / Préparation	\$0.00
Reproduction	\$0.00	Computer processing / Traitement informatique	\$5.00
Searching / Recherche	\$360.00	TOTAL	\$7,500.00
Fees waived / Dispense de frais		No. of times / Nombre de fois	\$
\$25.00 or under / 25 \$ ou moins		534	\$3,392.95
Over \$25.00 / De plus de 25 \$		192	\$14,216.80

X Costs / Coûts

Financial (all reasons) / Financiers (raisons)		(\$000)
Salary / Traitement		1,885,362.0
Administration (O and M) / Administration (fonctionnement et maintien)		65,242.0
TOTAL		1,950,604.0
Person year utilization (all reasons) / Années-personnes utilisées (raisons)		
Person year (decimal format) / Années-personnes (nombre décimal)		26.64

REPORT ON THE PRIVACY ACT

RAPPORT CONCERNANT LA LOI SUR LA PROTECTION DES RENSEIGNEMENTS PERSONNELS

Institution	DEPARTMENT OF NATIONAL DEFENCE MINISTÈRE DE LA DÉFENSE NATIONALE	Reporting period / Période visée par le rapport 1 Apr 03 – 31 Mar 04
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I Requests under the Privacy Act / Demandes en vertu de la Loi sur la protection des renseignements personnels	
Received during reporting period / Reçues pendant la période visée par le rapport	4,117
Outstanding from previous period / En suspens depuis la période antérieure	324
TOTAL	4,441
Completed during reporting period / Traitées pendant la période visées par le rapport	4,220
Carried forward / Reportées	221

II Disposition of request completed / Disposition à l'égard des demandes traitées	
1. All disclosed / Communication totale	899
2. Disclosed in part / Communication partielle	2,460
3. Nothing disclosed (excluded) / Aucune communication (exclusion)	0
4. Nothing disclosed (exempt) / Aucune communication (exemption)	12
5. Unable to process / Traitement impossible	123
6. Abandoned by applicant / Abandon de la demande	272
7. Transferred / Transmission	454
TOTAL	4,220

III Exemptions invoked / Exceptions invoquées	
S. Art. 18(2)	0
S. Art. 19(1)(a)	1
(b)	0
(c)	0
(d)	0
S. Art. 20	0
S. Art. 21	17
S. Art. 22(1)(a)	27
(b)	43
(c)	0
S. Art. 22(2)	2
S. Art. 23 (a)	1
(b)	1
S. Art. 24	0
S. Art. 25	2
S. Art. 26	2,410
S. Art. 27	48
S. Art. 28	9

IV Exclusions cited / Exclusions citées	
S. Art. 69(1)(a)	0
(b)	0
S. Art. 70(1)(a)	0
(b)	0
(c)	0
(d)	0
(e)	0
(f)	0

V Completion time / Délai de traitement	
30 days or under / 30 jours ou moins	3,463
31 to 60 days / De 31 à 60 jours	377
61 to 120 days / De 61 à 120 jours	208
121 days or over / 121 jours ou plus	172

VI Extensions / Prorogations des délais		
	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Interference with operations / Interruption des opérations	45	0
Consultation	1	0
Translation / Traduction	0	0
TOTAL	46	0

VII Translations / Traductions		
Translations requested / Traductions demandées		0
Translations prepared / Traductions préparées	English to French / De l'anglais au français	0
	French to English / Du français à l'anglais	0

VIII Method of access / Méthode de consultation	
Copies given / Copies de l'original	3,351
Examination / Examen de l'original	4
Copies and examination / Copies et examen	4

IX Corrections and notation / Corrections et mention	
Corrections requested / Corrections demandées	15
Corrections made / Corrections effectuées	3
Notation attached / Mention annexée	7

X Costs / Coûts	
Financial (all reasons) / Financiers (raisons)	
Salary / Traitement	\$ 1,616,000.00
Administration (O and M) / Administration (fonctionnement et maintien)	\$ 115,188.00
TOTAL	\$ 1,731,188.00
Person year utilization (all reasons) / Années-personnes utilisées (raisons)	
Person year (decimal format) / Années-personnes (nombre décimal)	26,74

Abbreviations and Acronyms

This is an alphabetical list of abbreviations and acronyms used in this report.

AIA:	Access to Information Act
ATIP:	Access to Information and Privacy
CDS:	Chief of the Defence Staff
CF:	Canadian Forces
Com:	Commission
DAIP:	Director or Directorate Access to Information and Privacy
DM:	Deputy Minister
DND:	Department of National Defence
FY:	Fiscal Year
Level 1:	Senior Managers who have direct accountability to DM/CDS
Mil:	Military
MND:	Minister of National Defence
NDHQ:	National Defence Headquarters
OPI:	Office of Primary Interest
PA:	Privacy Act
PIA:	Privacy Impact Assessment
TB:	Treasury Board