



Indian and Northern Affairs Canada  
Affaires indiennes et du Nord Canada

## 1999-2000 ANNUAL REPORT TO PARLIAMENT



**ACCESS TO INFORMATION ACT**

**PRIVACY ACT**

Canada

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# **ACCESS TO INFORMATION ACT AND PRIVACY ACT**

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***ACCESS TO INFORMATION ACT***

## 1. INTRODUCTION

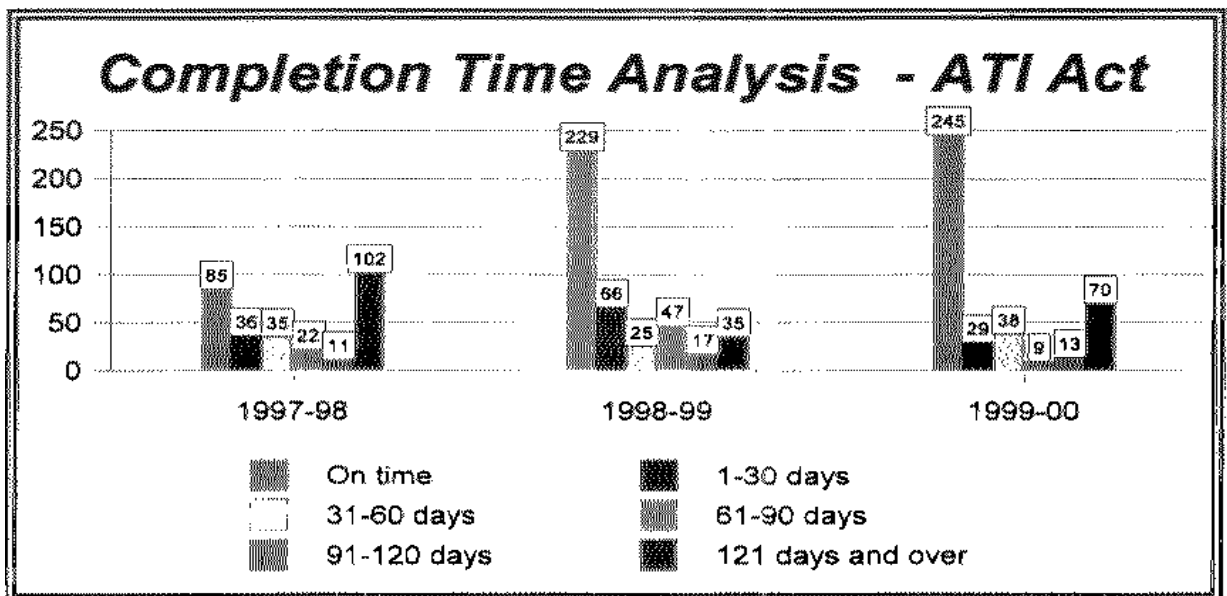
The *Access to Information Act* (ATIA), proclaimed in July 1983, extends the laws of Canada to grant all individuals and incorporated entities in Canada a right of access to information in records under the control of government institutions. Four principles underlie this legislation:

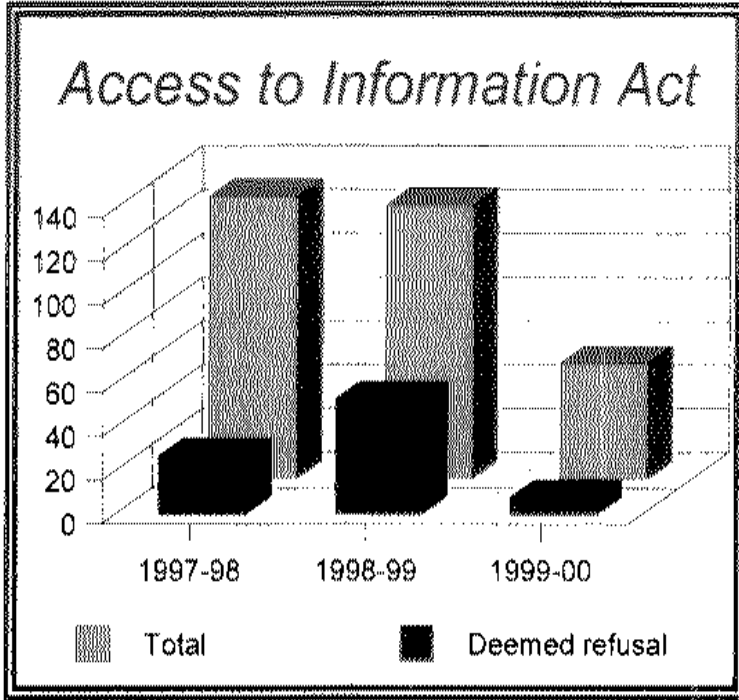
- Government information should be available to the public.
- Necessary exceptions to the right of access should be limited and specific.
- The *Act* is not meant to replace existing means of providing information.
- Decisions on the disclosure of government information should be reviewed independently of government.

This Annual Report to Parliament is for the 1999-2000 fiscal year as required under subsections 72(1) and 72(2) of the *Access to Information Act*.

## 2. HIGHLIGHTS

During fiscal year 1999-2000, the Department of Indian Affairs and Northern Development (DIAND) continued to show its commitment to improving timeliness through several concrete measures. It recruited five new full-time employees for the ATIP Unit, as denoted in the 1998-1999 Annual Report. The Department also undertook a major staff reorganization within the Unit.



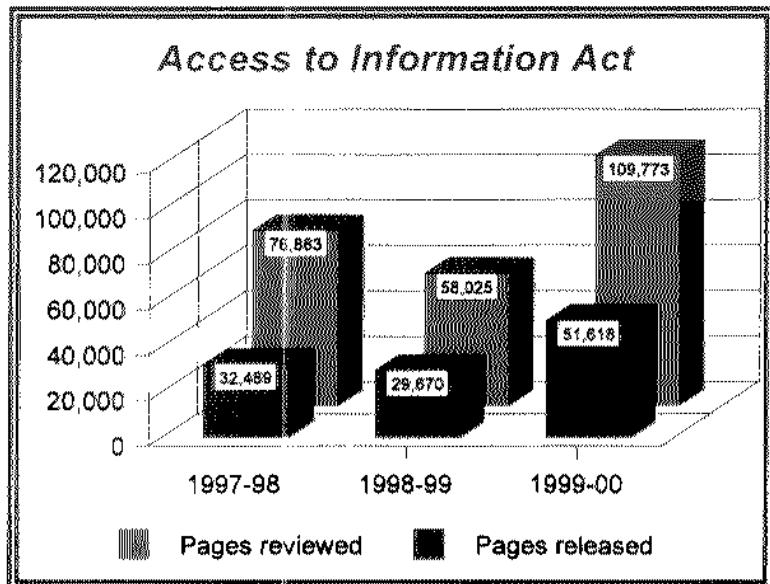


The ATIP Unit has developed and now provides information and awareness sessions to meet the needs and answer the questions of all departmental employees. This enhances understanding and acceptance of the Acts, which in turn permits the ATIP Unit to better fulfill its mandate towards the Canadian public in general and requesters in particular. Improvements to internal processes, policies and procedures are always ongoing, confirming DIAND's commitment to meet its legislated requirements within the spirit of the Acts.

### 3. TYPES OF INFORMATION REQUESTED

For the last two fiscal years, the most common requests were for information on First Nations, such as band audits, funding agreements, land claims, environmental issues, and band membership and elections. Although it has been DIAND's policy to make internal audit reports publicly available, Treasury Board's February 2000 statement reminded departments that it is also its own policy. This did not impact on the fact that the majority of requests made were for a variety of reports, studies, audits, information on government policies and plans relating to Aboriginal issues, as well as financial and contractual information, and information about reserve lands. The remaining requests dealt with general departmental information.

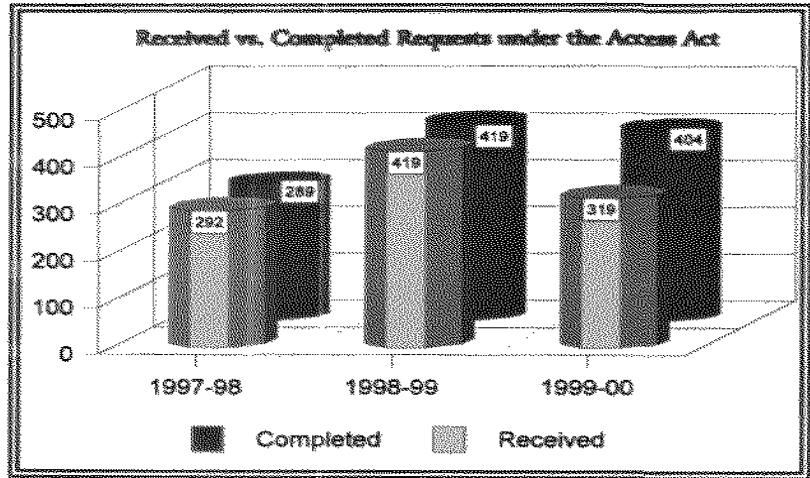
Some of the requests processed were extremely complex, requiring lengthy searches encompassing thousands of pages and extensive consultations. Such large cases required, in some instances, formal



extensions due to volume, interference to government operations, consultations as well as notification of third parties.

#### 4. STATISTICAL REPORT

Appendix A contains the detailed report on the Access to Information Act from April 1, 1999 to March 31, 2000. It includes the following,



##### (1) Requested under the Access to Information Act

DIAND received 319 requests under the *Access to Information Act* during this reporting period and had 139 outstanding from the previous year. Of the total 458 requests, 404 were completed by March 31, 2000. Only 54 were carried forward because their processing had not been completed by the end of the reporting period.

##### (2) Disposition of Requests Completed

The 404 requests processed were disposed of in the following manner:

- **All Disclosed**

In 85 (21.1%) cases, the requesters were provided with total access to the relevant requested records.

- **Disclosed in Part**

In 135 (33.4%) cases, the requesters were granted partial access to the records requested. Portions of the information were protected under several provisions of the ATIA.

- **Nothing Disclosed (Excluded)**

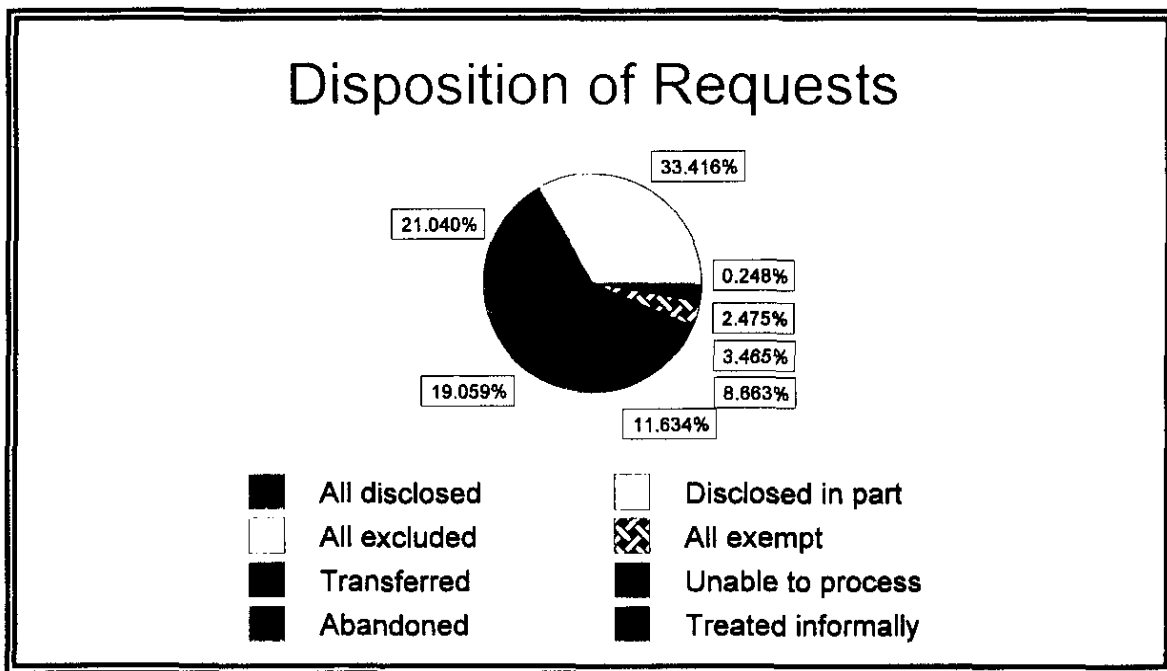
In one (0.3%) case, the information was totally excluded from disclosure under section 69 of the *Access to Information Act*.

- **Nothing Disclosed (Exempt)**

In 14 (3.4%) cases, requests were for records that were totally exempt under provisions of the ATIA where severability could not be applied.

- **Transferred**

In 10 (2.5%) cases, requests were transferred to another federal institution having greater interest in the records requested, in accordance with subsection 8(1) of the *Act*.



- **Unable to Process**

Forty-seven (11.6%) requests fell into this category. In the majority of cases, these were requests either for records that had been disposed of under the Management of Government Information Holdings (MGIH) Policy or for non-existent records.



- **Abandoned by Requester**

Seventy-seven (19%) requests were abandoned by the requesters, including those that were either formally withdrawn by the requester and requests for which fees were not paid.

- **Treated Informally**

Thirty-five (8.7%) of the completed requests were treated informally.

**(3) Fees and Costs**

The methodology used for calculating fees is based on the *Access to Information Act* and attendant regulations. A five-dollar application fee is required for processing a request. Search, preparation and reproduction fees of less than \$25 were waived in 114 cases. In 43 cases fees were waived in the public interest. These discretionary decisions were made on a case-by-case basis.

**5. CONSULTATIONS WITH OTHER INSTITUTIONS**

When a request contains records that are of greater interest to another federal institution, the ATIP Coordinator of that institution is consulted. Our Department received 72 requests for consultations from other institutions in 1999-2000. DIAND reviewed these records pursuant to the *Act* and made recommendations on disclosure. Departmental ATIP officials and their counterparts in other federal institutions also consult on an informal basis to exchange information, coordinate multi-departmental requests and ensure consistency of interpretation.

**6. DELEGATED AUTHORITIES RELATED TO THE ADMINISTRATION OF THE ACT**

The Minister's authority under the *Access to Information Act* is delegated to enable the Department to meet the requirements of the *Act* and exercise its powers. The Director, Departmental Secretariat, and the departmental Access to Information and Privacy Coordinator have been delegated full responsibility for all sections of the *Act*.

In order to expedite matters, all ATIP Advisors have been delegated the authority to accept and extend requests. They can also transfer requests to an institution of greater interest, charge fees to requesters and give notice of consultations to any third parties, as per sections 6, 8, 9, 11 and 27 of the *Access to Information Act*.

## **7. COMPLAINTS AND INVESTIGATIONS**

To ensure that federal institutions fully comply with the *Act* and that all requesters are treated fairly and consistently, sections 41 to 53 of the *Access to Information Act* provide for a two-tiered system of review of decisions made under the *Act*. The first step is a complaint to the Information Commissioner; the second is an appeal to the Federal Court.

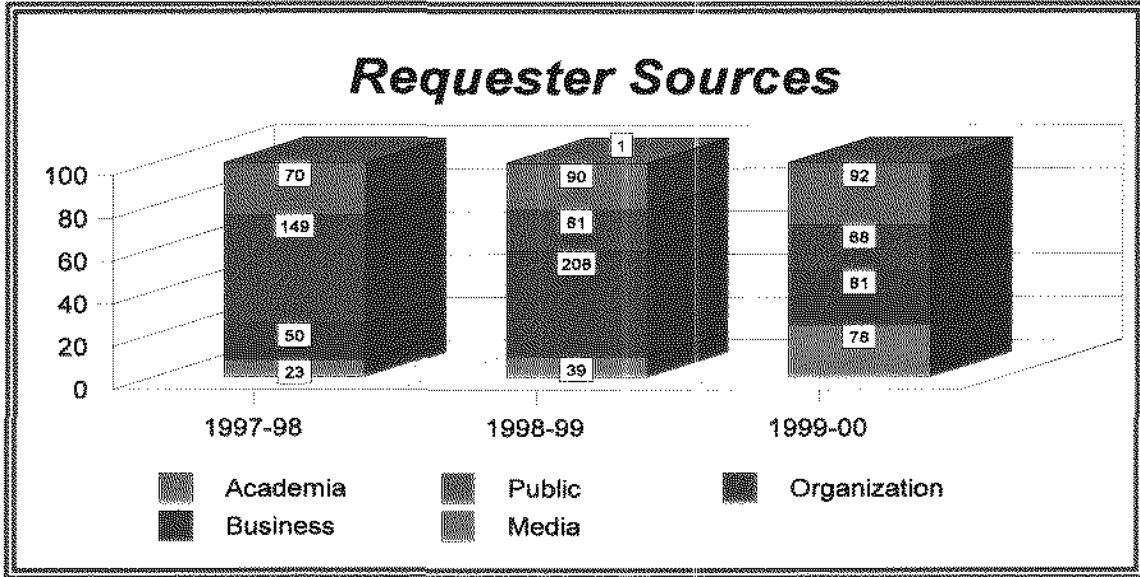
One hundred and ninety complaints were filed with the Information Commissioner against the Department during the reporting period. Although this is an increase in the number of complaints received, compared to 158 in the previous fiscal year, it should be noted that, as in 1998-1999, 183 (96%) of the 190 complaints were filed by the same requester, who submitted a large volume of requests simultaneously (consistently 20 to 60 requests at a time). Within this context, we anticipate the Information Commissioner will conclude, as he did in his 1998-1999 Annual Report, that "...the high number of complaints against Indian and Northern Affairs Canada does not appear to be indicative of a systemic problem."

Twenty-two complaints were outstanding from 1998-1999. One hundred and sixty-seven cases were completed by the Office of the Information Commissioner and the remaining 23 are still under investigation. Of the 167 completed cases, 34 were not substantiated, eight were discontinued and 125 were resolved to the satisfaction of all parties involved.

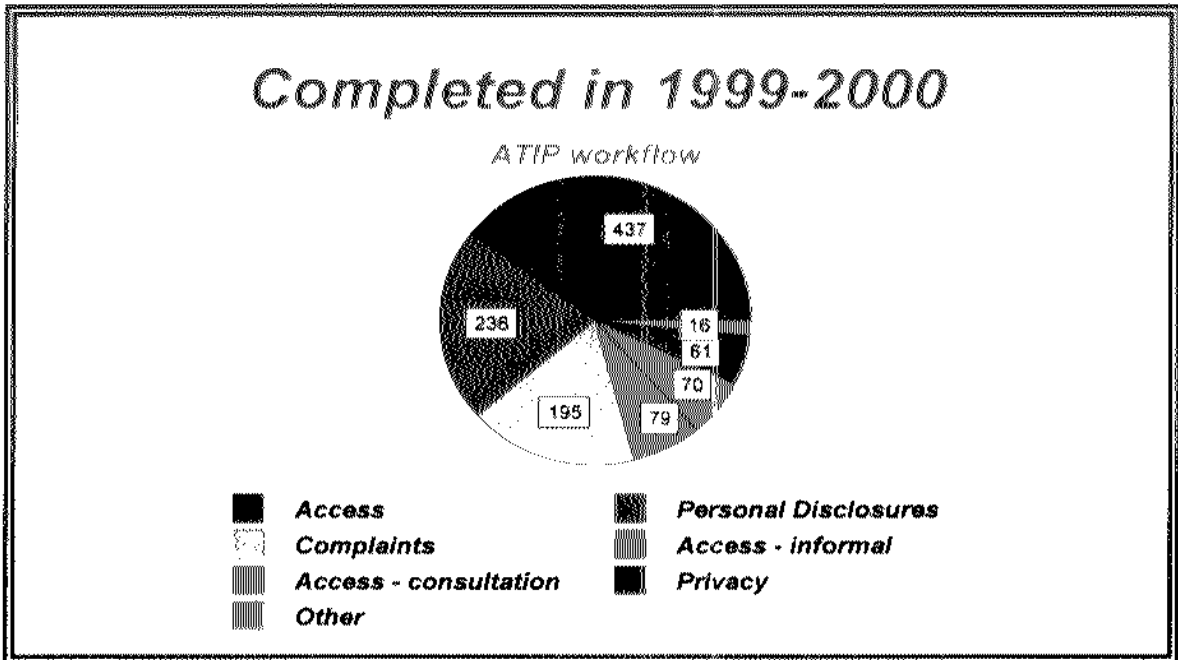
One appeal was received from the Federal Court in 1999-2000 and has yet to be resolved.

## **8. INFORMAL CHANNELS**

Access by individuals to information under the Department's control, which was generally available from the Department before the implementation of the *Access to Information Act*, continues to be made available informally. If informal access cannot readily be given, requesters are advised of their rights under the *Act* and how these can be exercised.



In fiscal year 1999-2000, 1,094 applications of all natures were completed by the ATIP Unit. In the chart above, you can see the sources for the formal requests under the *Access to information Act*. The graph below shows a breakdown of the workload.



***PRIVACY ACT***

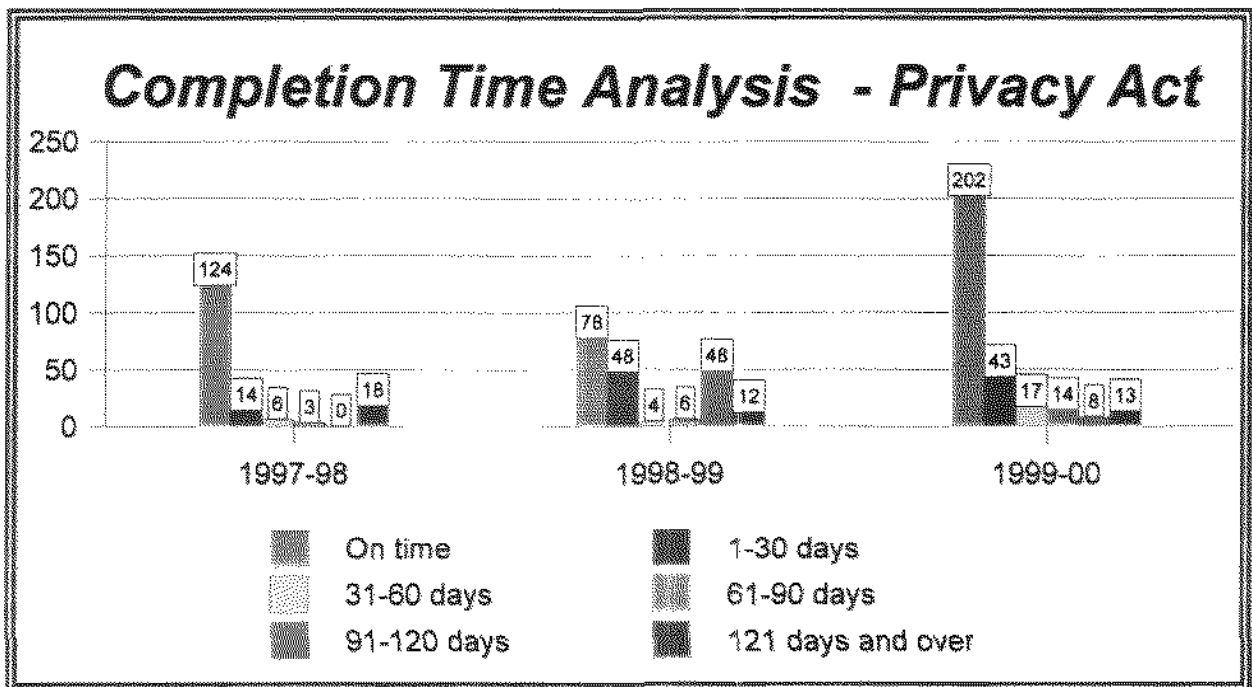
## 1. INTRODUCTION

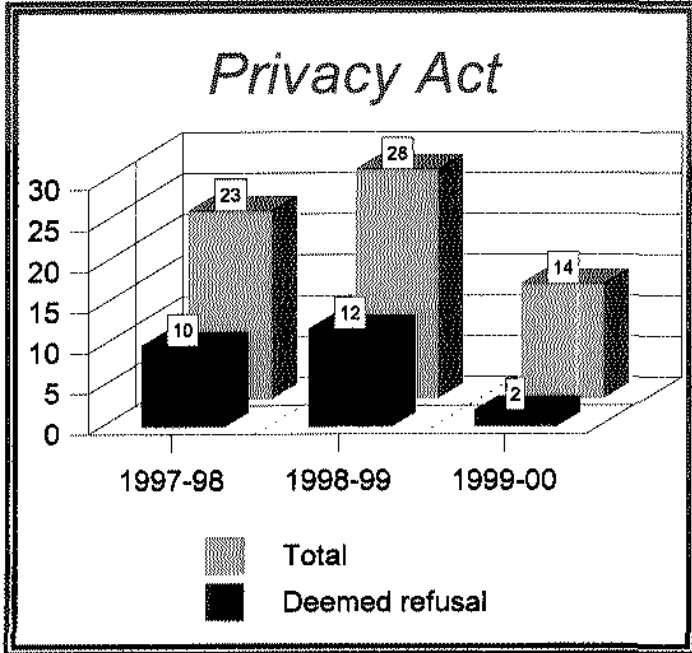
The purpose of the *Privacy Act* (PA), proclaimed in July 1983, is to extend the present laws of Canada protecting the privacy of individuals with respect to personal information about themselves held by a government institution. The *Act* also provides individuals with a right of access to such information.

This Annual Report to Parliament is for the 1999-2000 fiscal year as required under subsections 72(1) and 72(2) of the *Privacy Act*.

## 2. HIGHLIGHTS

As also reported last fiscal year, 1999-2000 saw a significant increase in the volume and complexity of requests received. DIAND continued to show its commitment by taking several concrete measures to improve timeliness such as recruiting five new full-time employees, as denoted in the 1998-1999 Annual Report and undertaking major staff reorganization within the unit.

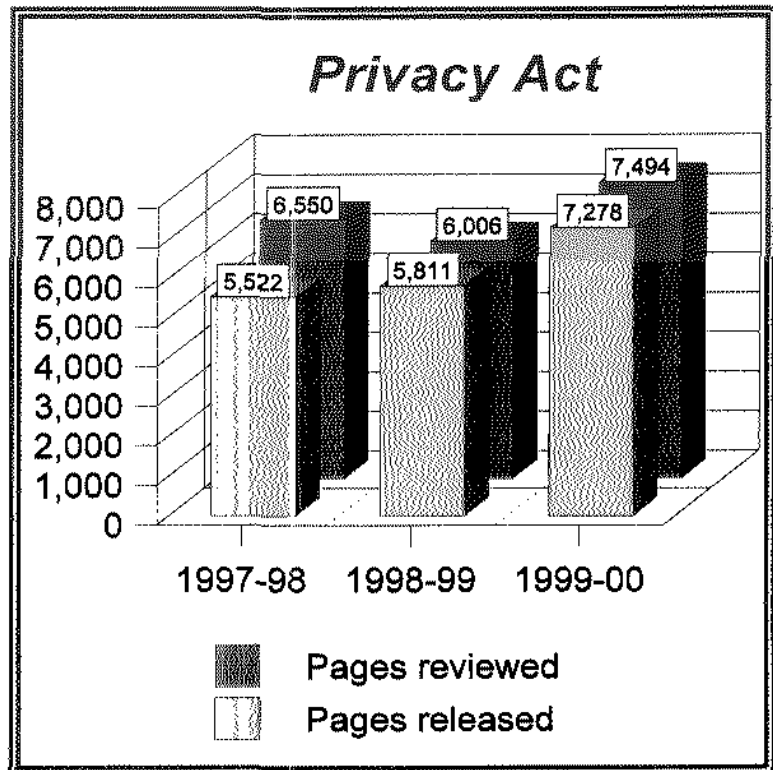




The ATIP Unit has developed and now provides information and awareness sessions to meet the needs and answer the questions of all departmental employees. This enhances understanding and acceptance of the Acts, which in turn permits the ATIP Unit to better fulfill its mandate towards the Canadian public in general and requesters in particular. Improvements to internal policies and procedures are always ongoing, confirming DIAND's commitment to proceed within the spirit of the Acts.

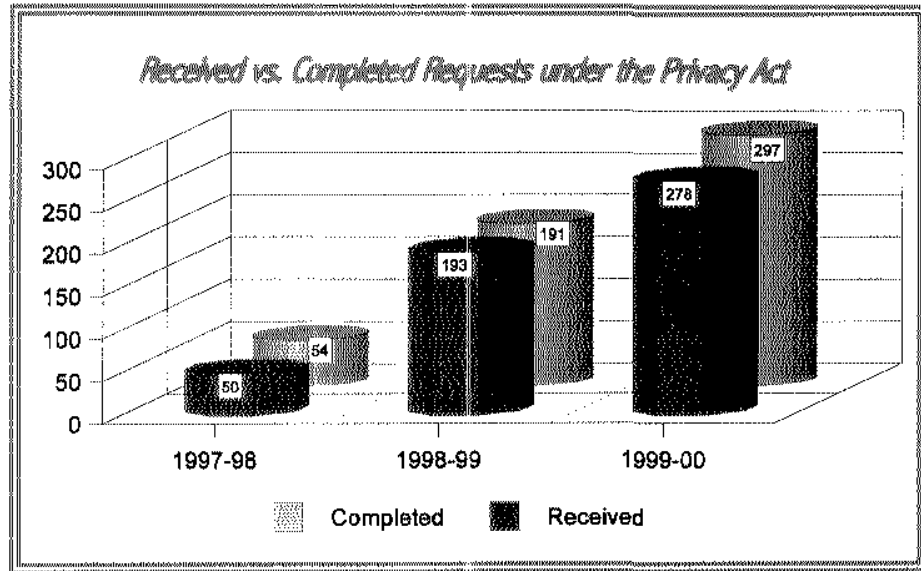
### 3. TYPES OF INFORMATION REQUESTED

As with the previous year, the most common requests for the 1999-2000 fiscal year were for information on residential schools, staff relations and registration issues. Some of the requests processed were extremely complex, requiring lengthy searches encompassing hundreds of pages.



#### 4. STATISTICAL REPORT

Appendix B contains the detailed statistical report on the Privacy Act from April 1, 1999 to March 31, 2000. It includes the following.



##### (1) Requests processed under the *Privacy Act*

The Department of Indian Affairs and Northern Development received 278 requests during the reporting period, in addition to the 33 outstanding from the previous year. Two hundred and ninety-seven requests were processed during the year, and only 14 were carried over to fiscal year 2000-2001.

##### (2) Disposition of Requests Completed

- **All Disclosed**

Requesters were provided total access to the relevant personal records in 22 (7.4%) cases.

- **Disclosed in Part**

Portions of the records were disclosed in 74 (24.9%) cases. The protected information was about individuals other than the requester.

- **Unable to Process**

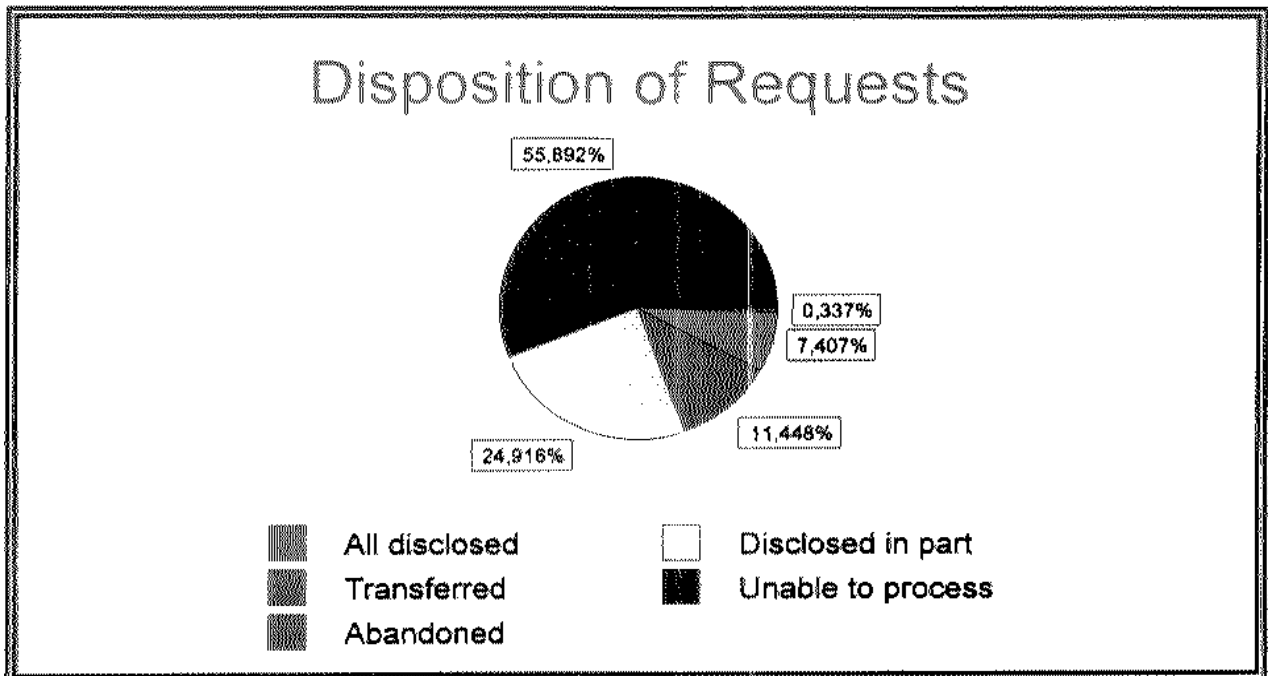
One hundred and sixty-six (55.9%) requests fell into this category. These were requests for which records did not exist or no longer existed or had been disposed of under the Management of Government Information Holdings (MGIH) Policy.

- **Abandoned by Requester**

Thirty-four (11.5%) requests were abandoned by the requesters.

- **Transferred**

One (0.3%) request was transferred to another government institution with the requester's prior consent.



## 5. DELEGATED AUTHORITIES RELATED TO THE ADMINISTRATION OF THE ACT

The Minister's authority under the *Privacy Act* is delegated to enable the Department to meet the requirements of the *Act* and to exercise its powers. The Director, Departmental Secretariat, and the departmental Access to Information and Privacy Coordinator have been delegated full responsibility for all sections of the *Act*.



In order to expedite matters, all ATIP Advisors have been delegated the authority to accept and extend requests, as per sections 13 and 15 of the *Privacy Act*.

## **6. COMPLAINTS AND INVESTIGATIONS**

During the fiscal year, five complaints were made to the Privacy Commissioner. Of these five complaints, two were well-founded, one was well-founded and resolved, one was not well-founded and one was settled.

## **7. USE AND DISCLOSURE OF PERSONAL INFORMATION**

Sections 7 and 8 of the *Privacy Act* constitute a code governing the use and disclosure of all personal information under the control of government institutions. Any uses or disclosures of personal information, other than those stipulated in these sections, can occur only with the consent of the individual to whom the information relates.

An underlying principle of the privacy legislation is that the right of the individual to privacy includes the right to control the use and disclosure of information about the individual and, when exceptions to this principle exist, to know what use can be made of the information and to whom and for what purposes the information may be disclosed.

### **Requests from Third Parties under Subsection 8(2) of the Act**

Disclosure of personal information to third parties is not possible without the consent of the individual to whom it relates, unless authorized under subsection 8(2) of the *Privacy Act*.

Subsection 8(2) of the *Privacy Act* sets out 13 specific provisions under which personal information under the control of a government institution may be disclosed to third parties (e.g., to another government institution, person, groups or organizations) without obtaining the consent of the individual to whom the information relates. Such requests are examined on a case-by-case basis to ensure that personal information not relevant to the request is protected before disclosure.

## **8. DISCLOSURES UNDER PARAGRAPH 8(2)(e) OF THE ACT**

Thirty-eight requests were made by federal investigative bodies for personal information. In 19 cases, full disclosure was granted and in five cases partial disclosure was granted, pursuant to paragraph 8(2)(e) of the *Privacy Act*. In 13 cases the records did not exist. One request did not qualify as a request pursuant to paragraph 8(2)(e).

## **9. INFORMAL CHANNELS**

Access by individuals to personal information about themselves, which was generally available from the Department before the implementation of the *Privacy Act*, continues to be made available informally, if informal access cannot readily be given, requesters are advised of their rights under the *Privacy Act* and how these can be exercised.

## **APPENDICES**



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

Institution INDIAN AND NORTHERN AFFAIRS CANADA AFFAIRES INDIENNES ET DU NORD CANADA				Reporting period / Période visée par le rapport 4/1/1999 3/31/2000	
Source	Media / Médias 78	Academia / Secteur universitaire 0	Business / Secteur commercial 81	Organization / Organisme 68	Public 92

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

Received during reporting period / Reçues pendant la période visée par le rapport	319
Outstanding from previous period / En suspens depuis la période antérieure	139
<b>TOTAL</b>	<b>458</b>
Completed during reporting period / Traitées pendant la période visées par le rapport	404
Carried forward / Reportées	54

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

1. All disclosed / Communication totale	85	6. Unable to process / Traitement impossible	47
2. Disclosed in part / Communication partielle	135	7. Abandoned by applicant / Abandon de la demande	77
3. Nothing disclosed (excluded) / Aucune communication (exclusion)	1	8. Treated informally / Traitement non officiel	35
4. Nothing disclosed (exempt) / Aucune communication (exemption)	14	<b>TOTAL</b>	<b>404</b>
5. Transferred / Transmission	10		

**III Exemptions invoked / Exceptions invoquées**

S. / Art. 13(1)(a)	1	S. / Art 16(1)(a)	4	S. / Art. 18(b)	0	S. / Art. 21(1)(a)	76
(b)	0	(b)	2	(c)	0	(b)	77
(c)	10	(c)	4	(d)	6	(c)	28
(d)	2	(d)	0	S. / Art. 19(1)	121	(d)	3
S. / Art. 14	20	S. / Art. 16(2)	1	S. / Art. 20(1)(a)	9	S. / Art. 22	0
S. / Art 15(1) International rel. / Relations intern.	0	S. / Art. 16(3)	0	(b)	97	S. / Art. 23	39
Defence / Défense	1	S. / Art. 17	1	(c)	26	S. / Art. 24	1
Subversive activities / Activités subversives	0	S. / Art. 18(a)	1	(d)	20	S. / Art. 26	0

**IV Exclusions cited / Exclusions citées**

S. / Art. 68(a)	9	S. / Art 69(1)(c)	0
(b)	2	(d)	0
(c)	0	(e)	4
S. / Art. 69(1)(a)	9	(f)	0
(b)	0	(g)	15

**V Completion time / Délai de traitement**

30 days or under / 30 jours ou moins	178
31 to 60 days / De 31 à 60 jours	60
61 to 120 days / De 61 à 120 jours	54
121 days or over / 121 jours ou plus	112

**VI Extensions / Prorogations des délais**

	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Searching / Recherche	9	71
Consultation	34	11
Third party / Tiers	9	47
<b>TOTAL</b>	<b>52</b>	<b>129</b>

**VII Translations / Traduction**

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	214
Examination / Examen de l'original	0
Copies and examination / Copies et examen	6

**IX Fees / Frais**

Net fees collected / Frais net perçus			
Application fees / Frais de la demande	1,210	Preparation / Préparation	83
Reproduction	271	Computer processing / Traitement informatique	40
Searching / Recherche	100	<b>TOTAL</b>	<b>1,704</b>
Fees waived / Dispense de frais		No. of times / Nombre de fois	\$
\$25.00 or under / 25 \$ ou moins		114	\$ 903.60
Over \$25.00 / De plus de 25 \$		43	\$ 5,329.10

**X Costs / Coûts**

Financial (all reasons) / Financiers (raisons)	
Salary / Traitement	\$ 355.5
Administration (O and M) / Administration (fonctionnement et maintien)	\$ 123.1
<b>TOTAL</b>	<b>\$ 478.6</b>
Person year utilization (all reasons) / Années-personnes utilisées (raison)	
Person year (decimal format) / Années-personnes (nombre décimal)	9.22





Institution <b>INDIAN AND NORTHERN AFFAIRS CANADA</b> <b>AFFAIRES INDIENNES ET DU NORD CANADA</b>	Reporting period / Période visée par le rapport 4/1/1999 To - Au 3/31/2000
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<b>I Requests under the Privacy Act / Demandes en vertu de la Loi sur la protection des renseignements personnels</b>	
Received during reporting period / Reçues pendant la période visée par le rapport	278
Outstanding from previous period / En suspens depuis la période antérieure	33
<b>TOTAL</b>	<b>311</b>
Completed during reporting period / Traitées pendant la période visées par le rapport	297
Carried forward / Reportées	14

<b>II Disposition of request completed / Disposition à l'égard des demandes traitées</b>	
1. All disclosed / Communication totale	22
2. Disclosed in part / Communication partielle	74
3. Nothing disclosed (excluded) / Aucune communication (exclusion)	0
4. Nothing disclosed (exempt) / Aucune communication (exemption)	0
5. Unable to process / Traitement impossible	166
6. Abandoned by applicant / Abandon de la demande	34
7. Transferred / Transmission	1
<b>TOTAL</b>	<b>297</b>

<b>III Exemptions invoked / Exceptions invoquées</b>	
S. / Art. 18(2)	0
S. / Art. 19(1)(a)	0
(b)	0
(c)	2
(d)	0
S. / Art. 20	0
S. / Art. 21	0
S. / Art. 22(1)(a)	0
(b)	0
(c)	0
S. / Art. 22(2)	0
S. / Art. 23(a)	0
(b)	0
S. / Art. 24	0
S. / Art. 25	0
S. / Art. 26	73
S. / Art. 27	1
S. / Art. 28	0

<b>VI Exemptions / Prorogations des délais</b>		
	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Interference with operations / Interruption des opérations	1	
Consultation	1	
Translation / Traduction	0	0
<b>TOTAL</b>	<b>2</b>	<b>0</b>

<b>IV Exclusions cited / Exclusions citées</b>	
S. / Art. 69(1)(a)	0
(b)	0
S. / Art. 70(1)(a)	2
(b)	0
(c)	1
(d)	0
(e)	0
(f)	1

<b>V Completion time / Délai de traitement</b>	
30 days or under / 30 jours ou moins	195
31 to 60 days / De 31 à 60 jours	24
61 to 120 days / De 61 à 120 jours	57
121 days or over / 121 jours ou plus	21

<b>VII Translations / Traductions</b>		
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

<b>VIII Method of access / Méthode de consultation</b>	
Copies given / Copies de l'original	96
Examination / Examen de l'original	0
Copies and examination / Copies et examen	0

<b>IX Corrections and notation / Corrections et mention</b>	
Corrections requested / Corrections demandées	0
Corrections made / Corrections effectuées	0
Notation attached / Mention annexée	0

<b>X Costs / Coûts</b>	
Financial (all reasons) / Financiers (raisons)	
Salary / Traitement	\$ 261.4
Administration (O and M) / Administration (fonctionnement et maintien)	\$ 90.5
<b>TOTAL</b>	<b>\$ 351.9</b>
Person year utilization (all reasons) / Années-personnes utilisées (raisons)	
Person year (decimal format) / Années-personnes (nombre décimal)	6.78

