Department of Justice Canada | Ministère de la Justice Canada

ANNUAL REPORT TO PARLIAMENT
2010-2011

Access to Information Act
Department of Justice Canada

Canada

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INTRODUCTION

The *Access to Information Act* (ATIA) was proclaimed into force on July 1, 1983.

The Act gives Canadian citizens, permanent residents and any person and corporation present in Canada a right of access to information contained within government records, subject to specific and limited exceptions.

Section 72 of the ATIA requires that the head of every government institution prepare for submission to Parliament an annual report on the administration of the ATIA within the institution during each financial year.

This twenty-eighth Annual Report on the administration of the ATIA within the Department of Justice is intended to describe how the Department administered its responsibilities for the fiscal year 2010-2011 in relation to the application of the ATIA.

The organizational chart of the ATIP Office may be found in Appendix A.

PART I

GENERAL INFORMATION

DEPARTMENT OF JUSTICE

To better understand the context within which the *Access to Information Act* is administered, this section provides background information about the Department.

The Department of Justice has a dual mandate. This mandate derives from the dual role of the Minister of Justice, who is also the Attorney General of Canada.

In support of the Minister of Justice, the Department is responsible for providing policy and program advice as well as direction through the development of the legal content of bills, regulations and guidelines. In support of the Attorney General, the Department is responsible for litigating civil cases by or on behalf of the Federal Crown and for providing legal advice to federal law enforcement agencies and other government departments.

ACCESS TO INFORMATION ACTIVITIES

The ATIP Coordinator is accountable for the development, coordination and implementation of effective policies, guidelines, systems and procedures in order to enable efficient processing of requests under the ATIA. The Coordinator is also responsible for related policies, systems and procedures stemming from the ATIA.

The activities of the ATIP Office include:

- processing requests under the ATIA;
- acting as spokesperson for the Department in dealings with the Treasury Board Secretariat, the Information Commissioner and other government departments and agencies regarding the application of the ATIA;
- responding to consultation requests submitted by other federal institutions on Justice documents located in their files and on records that may be subject to solicitor-client privilege;
- coordinating, reviewing and approving new entries and modifications to Info Source, an annual Government of Canada publication about its organization and information holdings;
- preparing the Annual Report to Parliament and other statutory reports, as well as other materials that may be required by central agencies;
- developing policies, procedures and guidelines for the orderly implementation of the ATIA by the Department;
- promoting awareness of the ATIA to ensure departmental respect of the obligations imposed on the government; and
- monitoring compliance with the ATIA, its regulations, and relevant procedures and policies.

ORGANIZATION FOR THE IMPLEMENTATION OF ACCESS TO INFORMATION ACTIVITIES

The ATIP Coordinator has full authority delegated by the Minister for the administration of the Act, and is also referred to as Director. (Refer to page 18 for a copy of the delegation order.)

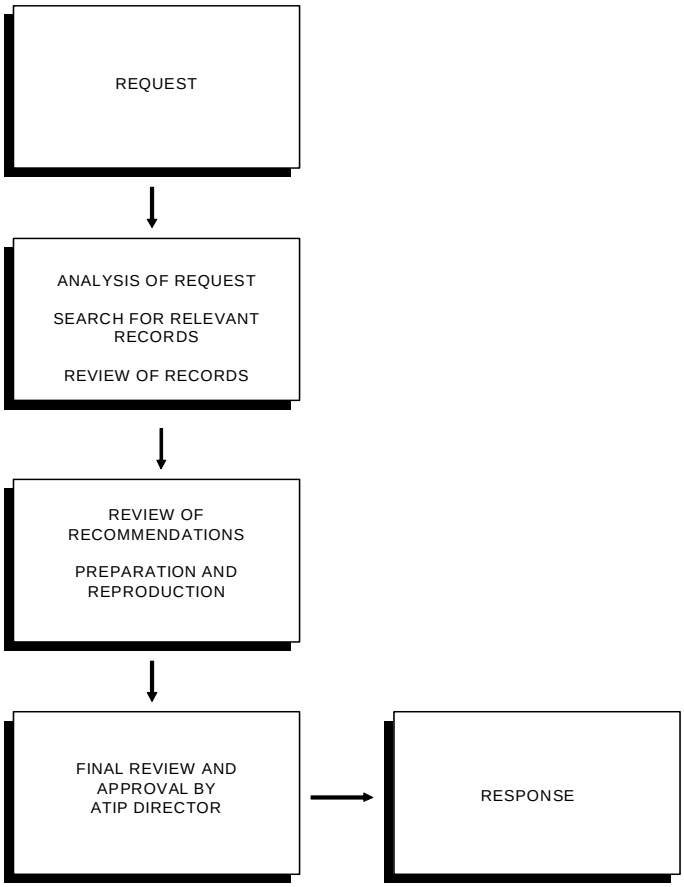
Within the ATIP Office, twenty-two (22) employees were dedicated on a full-time basis to the administration of the *Access to Information Act* and related functions.

Officials of the Department were directly involved in the application of the Act by making recommendations concerning the disclosure of records and ensuring compliance with the Act.

The stages for processing requests are set out in a chart found on the next page.

The Reading Room at Headquarters and those located in the Regional Offices across Canada make available to the public the current version of Info Source, as well as departmental publications and manuals.

PROCESSING CHART



ADMINISTRATIVE ISSUES

Salary and Administrative Expenditures

A total of twenty-two (22) person-years were utilized in the administration of the *Access to Information Act.* The salary expenditures amounted to $1,482,816.22.

The administrative expenditures amounted to $81,476.37.

The statistical report outlining administrative and salary expenditures is included on page 16.

Accomplishments

The Department of Justice continues to strive to provide leadership and improve its performance in order to maintain the highest standards of service as outlined in the *Values and Ethics Code for the Public Service*.

For the 2010-2011 fiscal year, the ATIP Office has:

- improved its procedures by making use of current technological tools in order to gather, review and provide records more efficiently;
- drafted guidelines outlining internal procedures for processing ATIA requests in order to formalize its best practices and ensure consistency within the office;
- participated in the Community Development Initiative working and focus groups in order to assist the Treasury Board Secretariat in developing organizational models, job descriptions and competency profiles that will standardize work throughout the ATIP community;
- continued to improve communications with requesters in accordance with the ten (10) principles of practice outlined on the Department's Internet website in order to better assist requestors and increase the transparency of the ATIA process;
- continued to reduce paper consumption by printing double-sided as well as providing release packages electronically to requesters when appropriate;
- continued to abide by its services standards set out in Memoranda of Understanding with several client-departments; and
- continued to share its best practices with other government institutions.

Education and Training

ATIP officers regularly provide advice and informal training on the application of ATIP legislation to Departmental employees who must review relevant records requested under the ATIA. Formal awareness and information sessions are also provided to program areas within the Department. Particular emphasis is given to those aspects of the Act that are directly related to the employees' areas of responsibility.

This year the sessions were provided to the following groups, for a total of 183 employees:

- The Department's Ontario Regional Office (2 sessions – 60 employees)
- Royal Canadian Mounted Police Legal Services Unit (57 employees)
- Ministerial Secretariat (17 employees)
- Youth, Justice, Strategies and Law Reform (22 employees)
- Information Management Branch's Management Team (6 employees)
- Directors, Business Management (21 employees)

Formal training entitled "The Fundamentals of ATIP is also offered through the Department of Justice's Learning Program in conjunction with the Information Law and Privacy Section. This year three (3) sessions were held for a total of 75 participants.

An e-orientation deck is also posted on the Department's intranet site for employees to consult.

Moreover, ATIP employees regularly participate in collective awareness sessions with the ATIP Counsel to review recent jurisprudence and case law related to ATIA. The ATIP Counsel participates in monthly ATIP Practice Group meetings during which information is exchanged and viable solutions are proposed. The Practice Group is open to all Departmental counsel, including those from Legal Services Units, and its mandate is to discuss questions such as the right of access to information or privacy issues.

Finally, ATIP employees participate in training sessions, conferences and seminars organized by the Treasury Board Secretariat or by the Canadian Access and Privacy Association (CAPA) on matters relating to both access and privacy. These exchanges provide for updates in the development of ATIP and upcoming trends in this area.

PART II

REPORT ON THE *ACCESS TO INFORMATION ACT*

REQUESTS UNDER THE *ACCESS TO INFORMATION ACT*

I. Statistical Report

The annual statistical report for fiscal year 2010-2011 is included at the end of this chapter.

II. Interpretation of the Statistical Report

1. Informal Requests

The policy of the ATIP Office is to process requests on an informal basis when records have already been released in response to previous Access to Information requests or where the documents could be released in their entirety.

Twenty-nine (29) informal requests were received during the period under review. In addition to these, one (1) formal request was treated informally with the consent of the applicant, bringing the total number of informal requests processed to thirty (30).

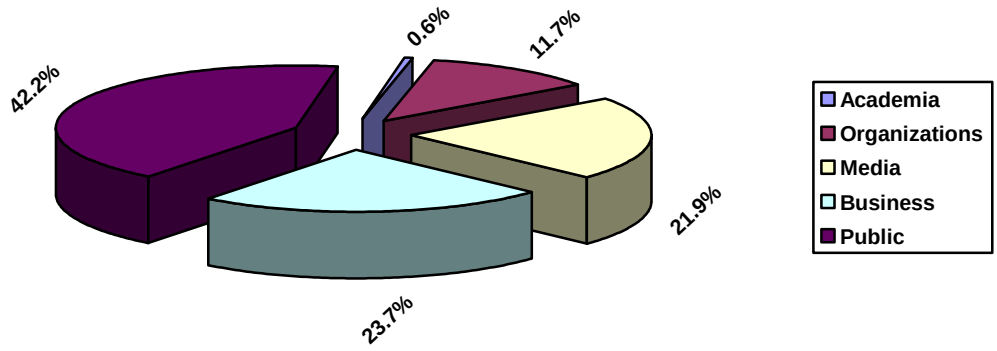
2. Formal Requests Processed

Three hundred and thirty-four (334) requests were received during the period under review. In addition, forty-seven (47) requests were outstanding from previous years, for a total of three hundred and eighty-one (381).

3. Sources of Requests Received

The public was the largest group of requesters, followed by business and the media. The following table provides a comparison with the previous years:

	2010-2011	2009-2010	2008-2009
Academia	0.6%	1.5%	1.7%
Organizations	11.7%	6.2%	3.8%
Media	21.9%	21.9%	38.1%
Business	23.7%	22.2%	18%
Public	42.2%	48.2%	38.4%
	100%	100%	100%

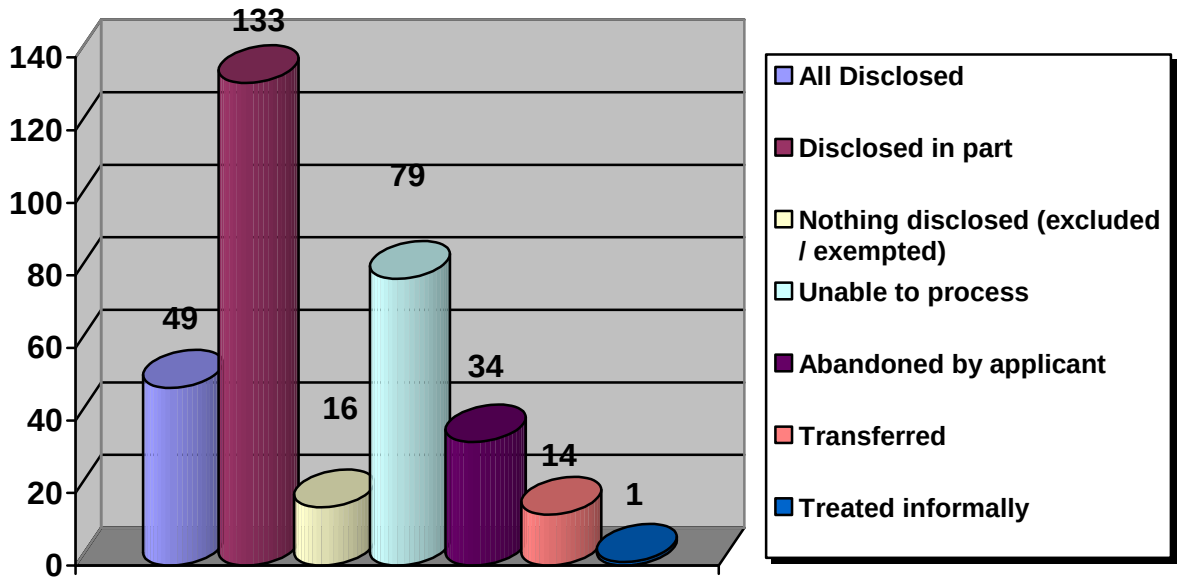


4. Requests Completed

Three hundred and twenty six (326) access requests were completed during the 2010-2011 fiscal year; fifty-five (55) requests were carried forward to be completed in fiscal year 2011-2012.

5. Disposition of Requests Completed

	Number of Requests	Percentage
All disclosed	49	15.0%
Disclosed in part	133	40.8%
Nothing disclosed (excluded/exempted)	16	4.9%
Unable to process	79	24.2%
Abandoned by applicant	34	10.4%
Transferred	14	4.3%
Treated informally	1	0.3%
	326	100%



a) Unable to Process

Seventy-nine (79) requests could not be processed as no relevant records existed under the control of the Department of Justice.

b) Abandoned

Thirty-four (34) requests were abandoned. In the majority of cases, the applicants did not pursue the requests, either by withdrawing them or by not providing the clarification requested. In a few of the cases, the applicants were unwilling to pay the required fees.

c) Transferred

Fourteen (14) requests were transferred to other government institutions having a greater interest in the subject matter of the request.

d) Processed informally

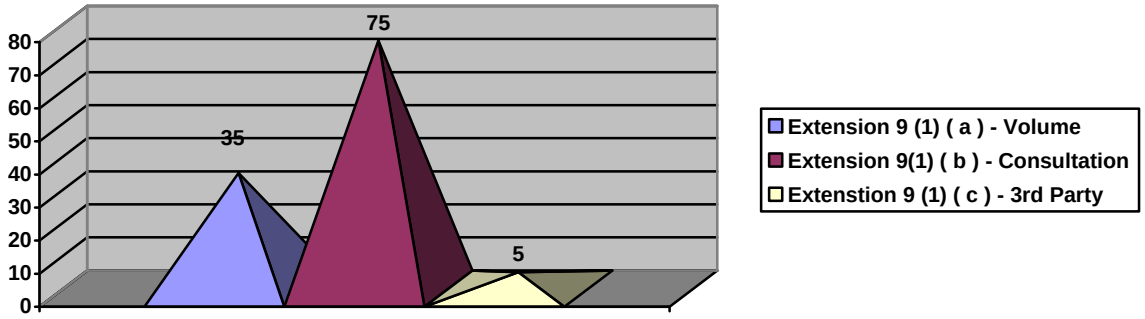
Furthermore, one (1) formal request was processed informally with the consent of the requester.

6. Extensions

One hundred and fifteen (115) requests had their time limit extended, as follows:

Number of days	Number of requests
30	20
31 or over	95

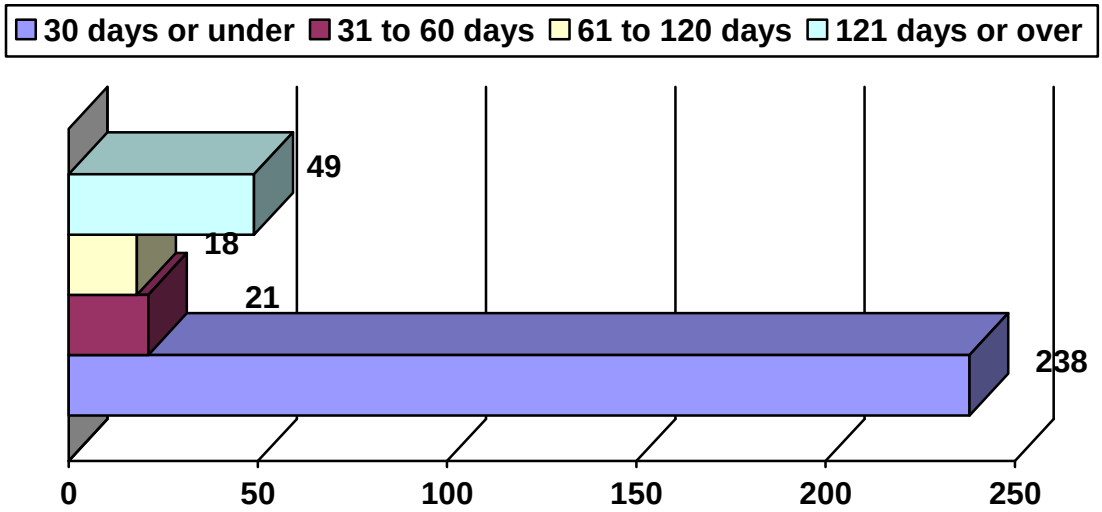
Of the one hundred and fifteen (115) extended requests, thirty-five (35) included extensions under paragraph 9(1)(a) (large number of records or search through a large number of records), seventy-five (75) included extensions under paragraph 9(1)(b) (consultations with other institutions) and five (5) included extensions under paragraph 9(1)(c) (consultations with third parties).



7. Completion Time

The time required to process the requests is summarized below:

	Number of Requests	Percentage
30 days or under	238	73.01%
31 to 60 days	21	6.44%
61 to 120 days	18	5.52%
121 days or over	49	15.03%
Total	326	100%



8. Method of Access

Access to the relevant documents was given, in whole or in part, in response to one hundred and eighty-two (182) requests. Copies were provided in all cases on either CD-ROM or in paper form.

9. Fee Waivers

The policy of the Department of Justice is to waive the reproduction fees under 200 sheets (double-sided = 400 pages), whether the request is processed formally or informally. However, when more than 200 sheets are released, fees are calculated for the total number of sheets. For extensive or complex requests, search and preparation fees are charged as determined on a case-by-case basis. The Department of Justice offers the applicants the possibility of receiving the release package on CD-ROM at no charge, an option which tends to be more widely accepted.

During the reporting period, the Department of Justice waived a total of $2,899.60 in reproduction fees.

III. Consultations by Other Federal Institutions or Departments

One thousand two hundred and fifty-one (1251) consultation requests were received from other federal institutions during the fiscal year covered by this report. During this reporting period, Justice completed one thousand, one hundred and eighty-three (1183) consultations from other federal government institutions or departments.

Memoranda of Understanding were created to strengthen our commitment towards better service delivery with the institutions that consult the Department of Justice.

IV. Complaints and Investigations

The complaint findings are defined as follows:

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

The following table summarizes the reasons for the complaints and the results of the investigations:

	10-11	Closed during reporting period				On-going
Reason for complaint	Received	Discontinued	Not well founded	Settled	Well founded	
Delay	0	0	0	0	0	1
Extension	4	0	4	2	0	1
Fees	2	0	0	0	0	2
Language	0	0	0	0	0	0
Miscellaneous	1	0	0	1	0	2
Publications	0	0	0	0	0	0
Refusal – 69	6	2	2	0	0	4
Refusal – Exemption	12	1	5	6	1	19
Refusal - General	1	0	0	1	0	6
Subtotal		3	11	10	1	
Total	26	25				35

1. Complaints filed

Twenty-six (26) complaints were lodged with the Information Commissioner during the reporting period.

2. Completed Investigations

Twenty-five (25) investigations were completed, including some of which had been carried forward from previous years. Out of the twenty-five (25), ten (10) complaints were resolved to the satisfaction of the Information Commissioner. One (1) was well-founded. Furthermore, eleven (11) complaints were not substantiated and three (3) were discontinued.

3. On-going Investigations

At the end of the fiscal year, thirty-five (35) complaints were still under investigation by the Office of the Information Commissioner.

4. Review by the Federal Court of Canada

Three (3) new applications were filed before the Federal Court pursuant to section 41 of the ATIA during this fiscal year.

Three (3) other previously ongoing section 41 applications before the Court were discontinued by the applicant during this same period.

5. Review by the Federal Court of Appeal

An application to the Federal Court of Appeal was received during the previous fiscal year for which the appeal was dismissed this fiscal year.

ACCESS TO INFORMATION ACT

ANNUAL STATISTICAL REPORT

APRIL 1, 2010 TO MARCH 31, 2011

Government of Canada / Gouvernement du Canada

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

Institution				Reporting period / Période visée par le rapport	
Ministère de la Justice	Department of Justice			2010-04-01 to / à 2011-03-31	
Source	Media / Médias	Academia / Secteur universitatire	Business / Secteur commercial	Organization / Organisme	Public
	73	2	79	39	141

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	334
Outstanding from previous period / En suspens depuis la période antérieure	47
TOTAL	381
Completed during reporting period / Traitées pendant la période visées par le rapport	326
Carried forward / Reportées	55

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

1.	All disclosed / Communication totale	49	6.	Unable to process / Traitement impossible	79
2.	Disclosed in part / Communication partielle	133	7.	Abandoned by applicant / Abandon de la demande	34
3.	Nothing disclosed (excluded) / Aucune communication (exclusion)	9	8.	Treated informally / Traitement non officiel	1
4.	Nothing disclosed (exempt) / Aucune communication (exemption)	7		**TOTAL**	**326**
5.	Transferred / Transmission	14			

III Exemptions invoked / Exceptions invoquées

S. Art. 13(1)(a)	11	S. Art 16(1)(a)	4	S. Art. 18(b)	2	S. Art. 21(1)(a)	59
(b)	1	(b)	2	(c)	0	(b)	53
(c)	5	(c)	10	(d)	1	(c)	9
(d)	0	(d)	0	S. Art. 19(1)	109	(d)	5
S. Art. 14	21	S. Art. 16(2)	5	S. Art. 20(1)(a)	1	S. Art.22	5
S. 15(1) Art. International rel. / Relations interm.	3	S. Art. 16(3)	0	(b)	6	S. Art 23	94
Defence / Défense	33	S. Art. 17	4	(c)	9	S. Art. 24	2
Subversive activities / Activités subversives	0	S. Art. 18(a)	0	(d)	1	S. Art 26	4

IV Exclusions cited / Exclusions citées

S. Art. 68(a)	9	S. Art. 69(1)(c)	1
(b)	0	(d)	3
(c)	0	(e)	18
S. Art. 69(1)(a)	11	(f)	4
(b)	1	(g)	32

V Completion time / Délai de traitement

30 days or under / 30 jours ou moins	238
31 to 60 days / De 31 à 60 jours	21
61 to 120 days / De 61 à 120 jours	18
121 days or over / 121 jours ou plus	49

VI Extensions / Prorogations des délais

	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Searching / Recherche	4	31
Consultation	16	59
Third party / Tiers	0	5
TOTAL	20	95

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	182
Examination / Examen de l'original	0
Copies and examination / Copies et examen	0

IX Fees / Frais

Net fees collected / Frais net perçus			
Application fees / Frais de la demande	1,630.00	Preparation / Préparation	0
Reproduction	2,449.60	Computer processing / Traitement informatique	0
Searching / Recherche	2,108.00	**TOTAL**	6,187.00

Fees waived / Dispense de frais	No. of times / Nombre de fois	$	
$25.00 or under / 25 $ ou moins	123	$	757.40
Over $25.00 / De plus de 25 $	20	$	2,142.20

X Costs / Coûts

Financial (all reasons) / Financiers (raisons)		
Salary / Traitement	$	1,482,816.22
Administration (O and M) / Administration (fonctionnement et maintien)	$	81,476.37
TOTAL	$	1,564,292.60

Person year utilization (all reasons) / Années-personnes utilisées (raison)	
Person year (decimal format) / Années-personnes (nombre décimal)	22

TBS/SCT 350-62 (Rev. 1999/03)

PART III

DELEGATION ORDER

Access to Information and Privacy Act Delegation Order

Arrêté sur la délégation en vertu de la Loi sur l'accès à l'information et la protection des renseignements personnels

The Minister of Justice of Canada, pursuant to section 73 of the *Access to Information Act* and the *Privacy Act*, hereby designates the persons holding the positions set out in the schedule hereto, or the persons occupying on an acting basis those positions, to exercise the powers and functions of the Minister as the head of a government institution, under the section of the Act set out in the schedule opposite each position. This designation replaces the attached designation.

En vertu de l'article 73 de la *Loi sur l'accès à l'information* et la *Loi sur la protection des renseignements personnels*, le ministre de la Justice du Canada délègue aux titulaires des postes mentionnés à l'annexe ci-après, ainsi qu'aux personnes occupant à titre intérimaire lesdits postes, les attributions dont il est, en qualité de responsable d'une institution fédérale, investi par les articles de la Loi mentionnés en regard de chaque poste. Le présent document remplace et annule le document ci-joint.

Schedule/Annexe

Position/Poste	*Privacy Act* and Regulations/Loi sur la protection des renseignements personnels et règlements	*Access to Information Act* and Regulations/Loi sur l'accès à l'information et règlements
The Director, Access to Information and Privacy Office/Le directeur, Bureau de l'accès à l'information et de la protection des renseignements personnels	Full authority/Autorité absolue	Full authority/Autorité absolue
The Assistant Director and the Legal Counsel, Access to Information and Privacy Office/Le directeur adjoint et le Conseiller juridique, Bureau de l'accès à l'information et de la protection des renseignements personnels	15, and the mandatory provisions of 26 for all records/15 et les dispositions obligatoires de l'article 26 pour tous les dossiers	8(1), 9, 11(2) to (6) inclusive, and the mandatory provisions of 19(1) for all records/8(1), 9, 11(2) à (6) inclusivement et les dispositions obligatoires de l'article 19(1) pour tous les dossiers
The Senior Access to Information and Privacy Advisors/Les conseillers principaux en accès à l'information et protection des renseignements personnels	15 for all records/15 pour tous les dossiers	8(1) and 9 for all records/8(1) et 9 pour tous les dossiers

Dated, at the City of Ottawa,
this 9th day of May, 2006

Daté, en la ville d'Ottawa,
ce jour de 2006

MINISTRE DE LA JUSTICE
L'HONORABLE VIC TOEWS

THE HONOURABLE VIC TOEWS
MINISTER OF JUSTICE

ANNEXE DE L'ORDONNANCE DE DÉLÉGATION DE POUVOIRS

DÉLÉGATION DE POUVOIRS, DE RESPONSABILITÉS ET DE FONCTIONS EN APPLICATION DE L'ARTICLE 73 DE LA LOI SUR L'ACCÈS À L'INFORMATION

Articles et Pouvoirs, responsabilités ou fonctions	
7(a)	Aviser le demandeur de l'information
8(1)	Transférer la demande à une autre institution ou accepter une demande d'une autre institution
9	Proroger le délai
10	Refus de communication
11(2)(3) 11(4)(5) 11(6)	Demander des frais supplémentaires
12(2)(3)	Version de la communication ou autre forme de communication
13	Les renseignements protégés obtenus à titre confidentiel
14	Renseignements protégés sur les affaires fédérales provinciales
15	Renseignements protégés sur les affaires internationales ou la défense
16	Renseignements protégés sur l'exécution de la loi et les enquêtes

SCHEDULE TO DELEGATION ORDER

DELEGATION OF POWERS, DUTIES AND FUNCTIONS PURSUANT TO SECTION 73 OF THE ACCESS TO INFORMATION ACT

Sections and Powers, Duties or Functions	
7(a)	Written notice to requestor
8(1)	Transfer request to another institution or accept transfer from another institution
9	Extend time limits
10	Where access is refused
11(2)(3) 11(4)(5) 11 (6)	Charge additional fees
12(2)(3)	Language of access or alternative format of access
13	Exempt information obtained in confidence
14	Exempt information pertaining to federal-provincial affairs
15	Exempt information pertaining to international affairs and/or defence
16	Exempt information pertaining to law enforcement and investigations

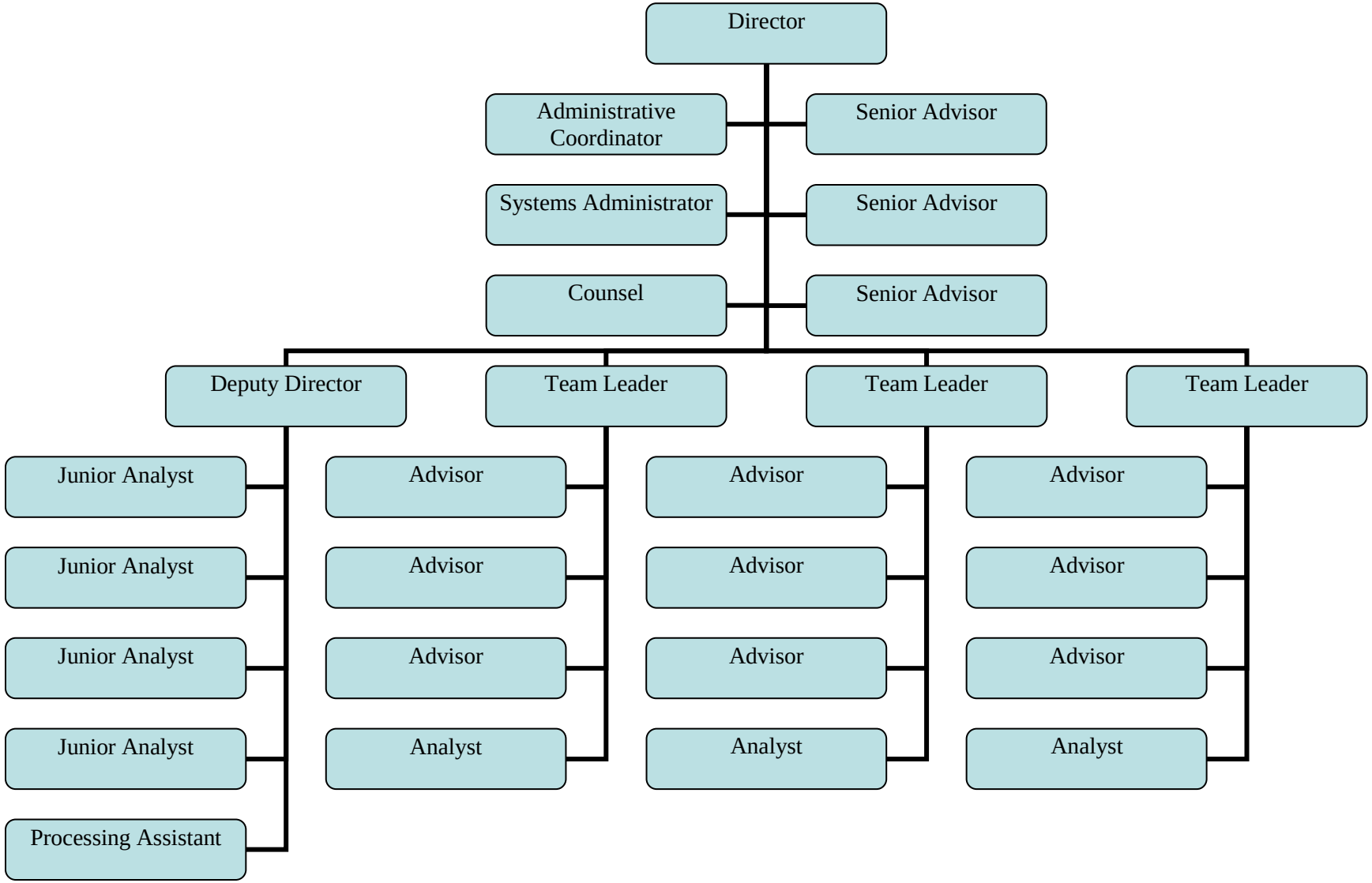
17	Renseignements protégés sur la sécurité des individus	17	Exempt information pertaining to the safety of individuals
18	Renseignements protégés sur les intérêts économiques du Canada	18	Exempt information pertaining to the economic interests of Canada
19	Renseignements personnels	19	Exempt personal information
20	Communication ou refus de communication de renseignements de tiers	20	Exempt or disclose third party information
21	Renseignements protégés sur des avis, des décisions prises par le gouvernement, des projets ou des positions envisagées dans le cadre de négociation, etc.	21	Exempt information pertaining to advice, decision-making processes of government plans and positions etc.
22	Renseignements protégés sur certaines opérations comme les essais et les épreuves	22	Exempt information pertaining to testing procedures
23	Renseignements protégés en raison du secret professionnel qui lie un avocat à son client	23	Exempt information pertaining to solicitor-client privilege
24	Renseignements protégés en raison des prescriptions de la loi	24	Exempt information subject to statutory prohibitions
25	Prélèvement de l'information	25	Sever information
26	Refus de communication en cas de publication	26	Exempt information to be published
27(1)(4)	Avis au tiers	27(1)(4)	Third party notification
28(1)(2) 28(4)	Recevoir les observations de tiers; prendre une décision quant à la communication des renseignements ou d'une partie des renseignements; et aviser les tiers de leur droit d'interjeter appel à la Cour fédérale	28(1)(2) 28(4)	Receive third party representations; make a decision as to whether to disclose the record or part thereof; and, notify third party of right to appeal to Federal Court

29(1)	Communiquer les renseignements sur la recommandation du commissaire à l'information	29(1)	Disclose information on recommendation of Information Commissioner
33	Transmettre au Commissaire à l'information le nom du tiers visé par une demande d'accès à l'information	33	Advise the Information Commissioner of any third party involvement
35(2)	Présenter des observations au Commissaire à l'information pendant une enquête	35(2)	Make representations to the Information Commissioner during an investigation
37(4)	Communiquer les renseignements au plaignant	37(4)	Give access to complainant
43(1)	Informer un tiers que le demandeur a présenté un avis de recours en révision	43(1)	Issue a notice to a third party of an application for Court review
44(2)	Informer le demandeur du recours en révision du tiers	44(2)	Issue a notice to an applicant that a third party has applied for Court review
52(2)(3)	Règles spéciales concernant les auditions	52(2)(3)	Request special rules for hearings
69	Exclusion des documents confidentiels du Cabinet	69	Exclude Cabinet Confidences
71	Consultation et exclusion de renseignements des manuels	71	Inspection and exemption of information in manuals
72(1)	Établissement du rapport annuel à présenter au parlement	72(1)	Prepare Annual Report to Parliament
77	S'acquitter des responsabilités dévolues au chef de l'institution par suite de règlement pris en vertu de l'article 77 qui porte sur des aspects dont il n'est pas question ci-dessus	77	Carry out responsibilities conferred on the head of the institution by the regulations made under section 77 which are not included in the above

Appendix A

ORGANIZATIONAL CHART

ATIP Office


Director
Administrative Coordinator
Senior Advisor
Systems Administrator
Senior Advisor
Counsel
Senior Advisor
Deputy Director
Team Leader
Team Leader
Team Leader
Junior Analyst
Junior Analyst
Junior Analyst
Junior Analyst
Processing Assistant
Advisor
Advisor
Advisor
Analyst
Advisor
Advisor
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