



Office of the Chief Electoral Officer

For the period ending March 31, 2010

Annual Report on the *Access to Information Act*

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Introduction

The purpose of the *Access to Information Act* is to extend the present laws of Canada to provide a right of access to information in records under the control of a government agency, according to the principles that government information should be available to the public, that necessary exceptions to the right of access should be limited and specific, and that decisions on the disclosure of government information should be reviewed independently of government.

The Office of the Chief Electoral Officer became subject to the *Access to Information Act* on April 1, 2007, and this is its third annual report submitted to Parliament according to section 72 of the Act. The report presents an overview of its activities and describes how the Access to Information and Privacy (ATIP) Directorate carried out its responsibilities under the *Access to Information Act* during the reporting period of April 1, 2009 to March 31, 2010.

Mandate of the Office of the Chief Electoral Officer

The Office of the Chief Electoral Officer, commonly known as Elections Canada, is an independent, non-partisan agency that reports directly to Parliament. Its mandate is to:

- be prepared at all times to conduct a federal general election, by-election or referendum
- administer the political financing provisions of the *Canada Elections Act*
- monitor compliance with and enforce electoral legislation
- conduct voter education and information programs
- provide support to the independent commissions in charge of adjusting the boundaries of federal electoral districts following each decennial census
- carry out studies on alternative voting methods and, with the approval of Parliament, test electronic voting processes for future use during electoral events

In fulfilling its mandate, Elections Canada appoints, trains and supports 308 returning officers and retains the services of 30 field liaison officers across Canada. It also maintains the National Register of Electors, which it uses to prepare preliminary lists of electors at the start of electoral events, as well as electoral geography information, which provides the basis for maps and other geographic products used during electoral events.

The agency also:

- registers political entities, including political parties, electoral district associations, candidates, leadership contestants, third parties that engage in election advertising and referendum committees
- administers the allowances, reimbursements and subsidies paid to eligible candidates, registered political parties and auditors

- monitors compliance with the *Canada Elections Act*, including compliance with political financing rules, during and between elections
- discloses information on registered parties and electoral district associations, nomination contestants and leadership contestants of registered parties, candidates, third parties and referendum committees, including their financial returns
- recommends to Parliament amendments to the *Canada Elections Act* for its better administration. This is done by submitting a recommendations report after a general election as well as by providing expert advice when Parliament studies electoral reform.

In addition, the Chief Electoral Officer appoints the Commissioner of Canada Elections, whose mandate is to ensure that the provisions of the *Canada Elections Act* and the *Referendum Act* are complied with and enforced.

Structure of the Access to Information and Privacy Directorate

The ATIP Directorate is part of the Legal Services Sector and is managed on a full-time basis by the agency's ATIP Coordinator, to whom the Chief Electoral Officer has delegated his authority under section 73 of the *Access to Information Act*. A copy of the delegation order setting out the responsibilities under that Act appears in Appendix 1 to this report.

The ATIP Directorate was allocated the financial resources for six full-time equivalent positions. Due to staffing difficulties that stemmed primarily from a lack of qualified personnel, not all of these positions were filled. During the fiscal year covered by this report, three indeterminate employees accepted opportunities in other federal institutions. Consequently, a variety of short-term measures were implemented to ensure the continued provision of services, including the use of students, casual employees and consultants. One indeterminate position was filled through a collective staffing action. A staffing process was ongoing at the end of the fiscal year, and several new staffing actions will be undertaken in the near future.

The ATIP Directorate is responsible for the following activities:

- processing requests under the *Access to Information Act* and the *Privacy Act*
- responding to consultation requests from other government institutions
- providing ongoing legal and business advice as well as guidance to senior management and agency staff on access to information and privacy legislation and related matters
- monitoring institutional compliance with the aforementioned Acts, regulations and relevant procedures and policies
- acting on behalf of Elections Canada in dealings with the Treasury Board of Canada Secretariat, the offices of the Information Commissioner and Privacy Commissioner of Canada and other government institutions regarding the application of the above legislation as it relates to Elections Canada

- preparing annual reports to Parliament, in addition to other statutory reports and material that may be required by central agencies
- developing and delivering awareness training to Elections Canada managers and employees to ensure departmental responsiveness to the legal obligation imposed on them by both Acts and regulations
- coordinating the annual update of the descriptions of the agency's organization and its record holdings for inclusion in the Treasury Board of Canada publication *Info Source*
- representing Elections Canada by participating in ATIP community forums, such as the Treasury Board Secretariat's ATIP Community meetings
- providing advice regarding privacy issues and privacy impact assessments
- developing and implementing internal policies

Report on the Administration of the *Access to Information Act*

This section provides information about the processing of requests under the *Access to Information Act*. Appendix 2 provides a statistical summary of the access to information requests received and/or finalized in 2009–2010.

Number of Requests

Elections Canada received 59 formal requests for information under the *Access to Information Act* during the period from April 1, 2009 to March 31, 2010. In addition, there were 5 requests that had not been fully processed during the previous reporting period. Therefore, a total of 64 formal requests required action.

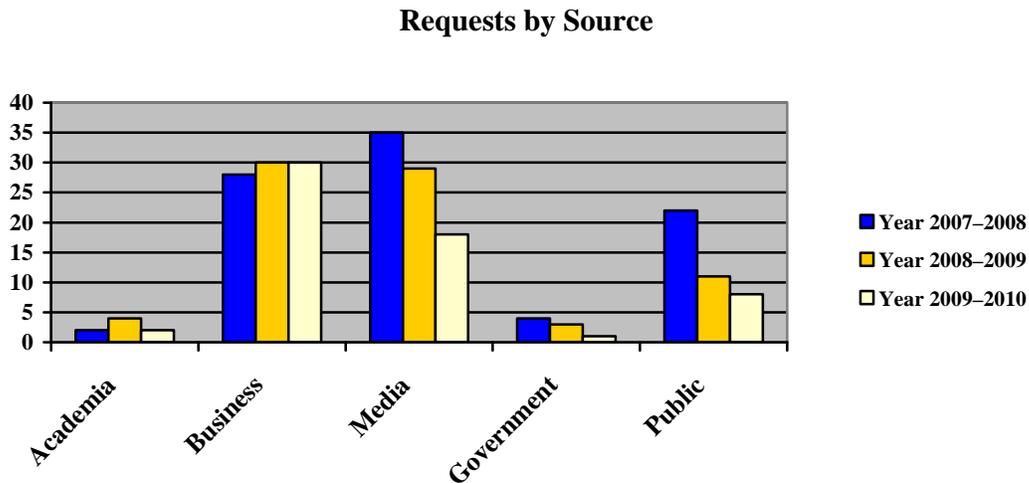
By the end of the fiscal year, the ATIP Directorate had completed a total of 58 requests, leaving 6 requests outstanding, which it carried forward into the 2010–2011 fiscal year. One of the requests required a consultation with a third party, while another required a consultation with another federal government department. Elections Canada received the last four requests in the final days of March; therefore, their legislated due date was in the next fiscal year.

The total number of requests received represents a slight decrease from the previous reporting period: in 2008–2009, Elections Canada received 77 new requests. We note, however, that a general election occurred during the 2008–2009 reporting period. The 2008 general election is the first and only general election held since Elections Canada has been subject to the *Access to Information Act*. The agency will be better able to evaluate the effect of general elections on the volume of requests received after a few of these events have taken place.

Sources of Requests Received

The 59 new formal requests received in 2009–2010 came from five sources, with 30 requests (51 percent) originating from business sources, 18 requests (30.5 percent) from the media, 8 requests (13.5 percent) from the public, 2 requests (3 percent) from the academic community and 1 request (2 percent) from the federal government or other orders of government.

The following graph categorizes the number of requests received by source for the reporting period as well as those received in fiscal years 2007–2008 and 2008–2009.

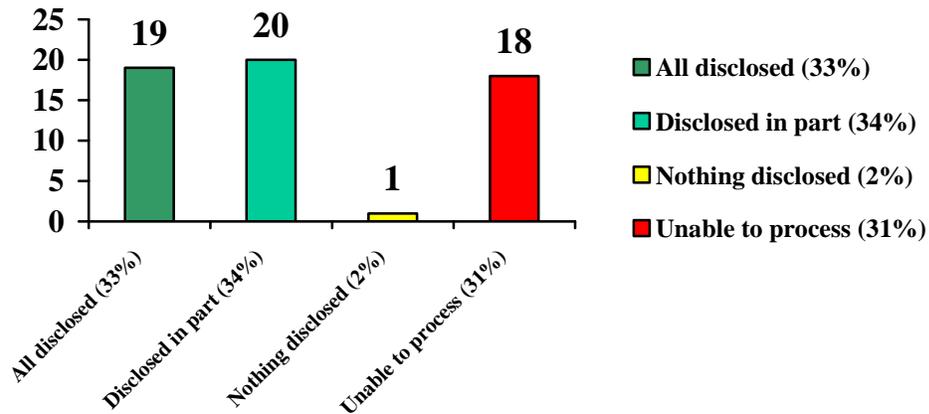


Disposition of Completed Requests

Of the 58 requests completed during the reporting period, the disposition was as follows:

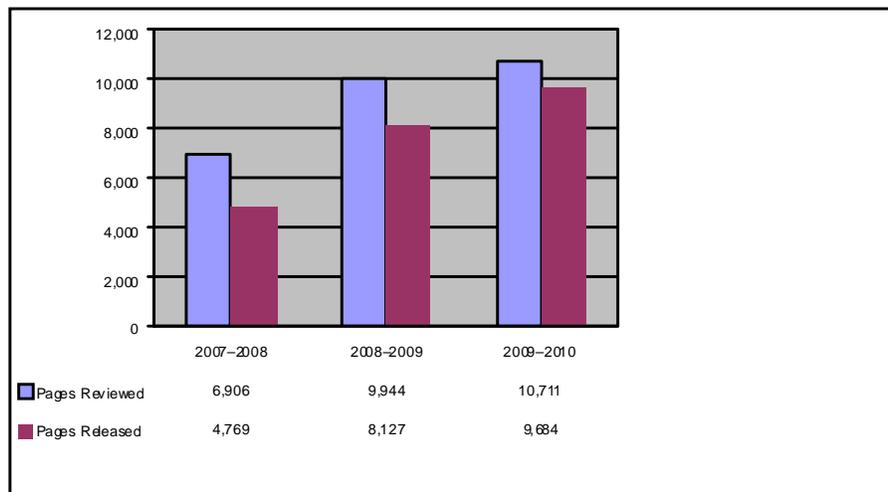
- **All disclosed:** In 19 cases (33 percent), applicants were granted access to all of the records requested.
- **Disclosed in part:** In 20 cases (34 percent), applicants were granted access to portions of the records.
- **Nothing disclosed (exempt):** In one case (2 percent), no records were disclosed, as exemptions were invoked.
- **Unable to process:** The ATIP Directorate was unable to process the requests in 18 cases (31 percent), as the documents requested did not exist.

The following graph shows the disposition of requests completed in fiscal year 2009–2010.



Volume of Pages Reviewed

A total of 10,711 pages of records were reviewed during the reporting period, compared to 9,944 for the previous year; this represents an increase of 767 pages, or 8 percent. The percentage of pages released has also increased steadily over the last three reporting periods, reaching 90 percent of the pages reviewed in the 2009–2010 fiscal year.



Exemptions Invoked

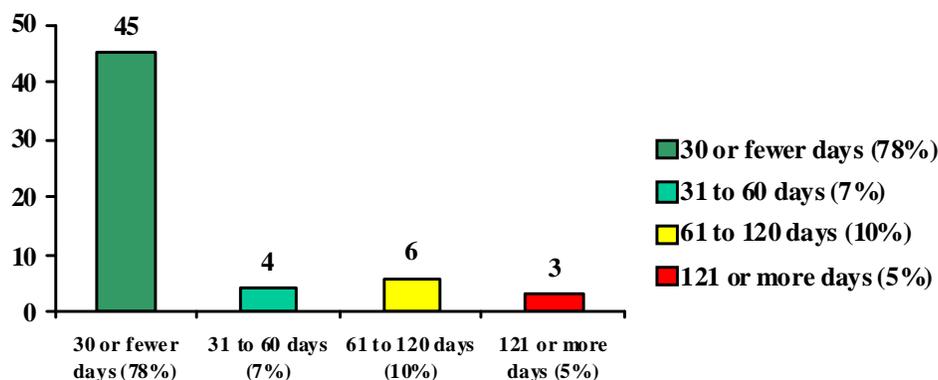
The Access to Information Statistical Report 2009–2010 (Appendix 2) includes the number of requests for which the agency invoked specific types of exemptions and provides details on these exemptions. If an exemption is invoked several times within the same request, it is reported only once.

The three most common exemptions applied were those under subsection 19(1) of the *Access to Information Act* to protect personal information, section 23 for solicitor-client privilege, and subsection 20(1) to protect information provided by a third party.

It is also worth noting that for two requests, Elections Canada invoked section 16.3 of the *Access to Information Act*, an exemption that is specific to the information obtained or created in the course of investigations, examinations or reviews conducted under the authority of the *Canada Elections Act*.

Completion Time

Of the 58 formal requests completed during the reporting period, the Directorate completed 45 requests (78 percent) within the 30-day time limit. It completed a further 4 requests (7 percent) within 31 to 60 days, 6 requests (10 percent) within 61 to 120 days, and 3 requests (5 percent) in more than 120 days.



Extension of the Time Limit

Section 9 of the *Access to Information Act* provides for the extension of the statutory time limits if consultations are necessary or if a request is for a large volume of records and processing the request within the original time limit would unreasonably interfere with the operations of the institution.

Elections Canada took a total of 10 extensions during the reporting period. The agency took seven of these extensions for additional search time or because of the volume of records. It took one because it needed to consult another government department. Finally, the agency took two extensions because it needed to consult a third party.

Of all these extensions, two of those taken for search time were for 30 or fewer days. The eight other extensions were for 31 or more days.

Fees

The fees collected by the ATIP Directorate in fiscal year 2009–2010 amounted to \$295; they were all collected from application fees.

According to Treasury Board policy, the agency's practice is to waive fees where the total owing per request amounts to \$25 or less. Elections Canada waived such fees in 2009–2010 in 36 cases, for a total of \$118.20.

In three cases, Elections Canada also waived fees where the total owing per request amounted to more than \$25, for a total of \$124.

Costs

Forty percent of the resources required for the administration of the ATIP program was allocated for the administration of the *Access to Information Act*, while 60 percent was allocated for the administration of the *Privacy Act*. This allocation takes into account the work done in various areas, including processing access requests, producing periodic reports, providing administrative or legal advice, developing and implementing policy, delivering ongoing training, conducting privacy impact assessments, and conducting routine administration. This work was performed by employees and consultants as well as by casual personnel.

For fiscal year 2009–2010, the budget to cover the salaries of employees assigned to the administration of the *Access to Information Act* totalled \$143,718, while that for consultant fees totalled \$165,145. The largest proportion of those amounts – nearly 50 percent – went toward processing access to information requests. Two other ATIP Directorate activities – delivering ongoing training and providing administrative or legal advice – accounted for over 23 percent of the budgets allocated for the administration of the *Access to Information Act*.

Complaints and Judicial Review

Elections Canada received two complaints during this reporting period.

In the first one, the complainant alleged that the agency failed to disclose all records pertaining to a request and questioned the exemptions applied.

In the second complaint, the agency denied access to records on the basis that they were published on Elections Canada's Web site and were therefore excluded from the application of the Act. The complainant alleged that the published records contained only part of the information requested.

The investigations into these complaints were ongoing at the end of the reporting period, and Elections Canada's ATIP Directorate is working with the Office of the Information Commissioner to resolve the situation to the satisfaction of all parties involved.

Consultations and Informal Requests

Consultations

Elections Canada processed five formal consultations from other institutions during this fiscal year.

Informal Requests

In addition to the formal requests, the ATIP Directorate received six informal requests for financial reports or statements that candidates had filed with the Chief Electoral Officer.

Institutional Access to Information Policies and Procedures

Elections Canada has not implemented any new and/or revised institution-specific access to information policy, guideline or procedure.

Education and Training Activities

In 2009–2010, the ATIP Directorate undertook many initiatives to increase awareness and improve client service under the *Access to Information Act* and the *Privacy Act*.

The Directorate delivered a total of 17 sessions to 202 Elections Canada staff and 82 newly appointed returning officers and assistant returning officers. This included the delivery of awareness sessions to increase knowledge and understanding of ATIP throughout the agency.

The Directorate held four refresher sessions with liaison officers of the offices of primary interest regarding ATIP internal processes, their roles and responsibilities under the legislation, the identification of sensitive information and tips regarding the handling of information.

The ATIP Directorate staff pursued training opportunities, including sessions held by the Treasury Board Secretariat, the Canadian Association of Professional Access and Privacy Administrators, and the Canada School of Public Service.

Appendix 1

Delegation of Authority Under Section 73 of the *Access to Information Act*

07-05-11 15:06 RCVD

ACCESS TO INFORMATION ACT DELEGATION ORDER

The Chief Electoral Officer of Canada, in accordance with section 73 of the *Access to Information Act*, hereby designates the person holding the position set out below, or the person acting in that position, to exercise the powers and perform the duties and functions of the Chief Electoral Officer of Canada, as the head of the government institution under the Act.

POSITION

SECTIONS OF THE
ACCESS TO INFORMATION ACT

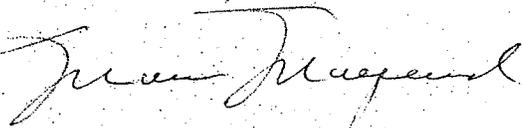
Access to Information and Privacy
Coordinator

All sections

Date:

1^{er} mai, 2007

Signature:



Appendix 2

Access to Information Statistical Report 2009–2010



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

Institution Elections Canada				Reporting period / Période visée par le rapport 2009-04-01 to / à 2010-03-31	
Source	Media / Médias 18	Academia / Secteur universitaire 2	Business / Secteur commercial 30	Organization / Organisme 1	Public 8

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	59
Outstanding from previous period / En suspens depuis la période antérieure	5
TOTAL	64
Completed during reporting period / Traitées pendant la période visées par le rapport	58
Carried forward / Reportées	6

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

1. All disclosed / Communication totale	19	6. Unable to process / Traitement impossible	18
2. Disclosed in part / Communication partielle	20	7. Abandoned by applicant / Abandon de la demande	0
3. Nothing disclosed (excluded) / Aucune communication (exclusion)	0	8. Treated informally / Traitement non officiel	0
4. Nothing disclosed (exempt) / Aucune communication (exemption)	1	TOTAL	58
5. Transferred / Transmission	0		

III Exemptions invoked / Exceptions invoquées

S. Art. 13(1)(a)	0	S. Art. 16(1)(a)	0	S. Art. 18(b)	0	S. Art. 21(1)(a)	2
(b)	0	(b)	0	(c)	0	(b)	4
(c)	2	(c)	0	(d)	0	(c)	0
(d)	0	(d)	0	S. Art. 19(1)	14	(d)	1
S. Art. 14	0	S. Art. 16(2)	1	S. Art. 20(1)(a)	1	S. Art. 22.1	1
S. 15(1) International rel. / Relations interm.	0	S. Art. 16.3	2	(b)	3	S. Art. 23	5
Defence / Défense	0	S. Art. 17	0	(c)	2	S. Art. 24	0
Subversive activities / Activités subversives	0	S. Art. 18(a)	0	(d)	2	S. Art. 26	2

IV Exclusions cited / Exclusions citées

S. Art. 68(a)	0	S. Art. 69(1)(c)	0
(b)	1	(d)	0
(c)	0	(e)	0
S. Art. 69(1)(a)	0	(f)	0
(b)	0	(g)	0

V Completion time / Délai de traitement

30 days or under / 30 jours ou moins	45
31 to 60 days / De 31 à 60 jours	4
61 to 120 days / De 61 à 120 jours	6
121 days or over / 121 jours ou plus	3

VI Extensions / Prorogations des délais

	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Searching / Recherche	2	5
Consultation	0	1
Third party / Tiers	0	2
TOTAL	2	8

VII Translations / Traduction

Translations requested / Traductions demandées		
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	39
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	\$295.00	Preparation / Préparation	0
Reproduction	0	Computer processing / Traitement informatique	0
Searching / Recherche	0	TOTAL	\$295.00
Fees waived / Dispense de frais		No. of times / Nombre de fois	\$
\$25.00 or under / 25 \$ ou moins		36	\$118.20
Over \$25.00 / De plus de 25 \$		3	\$124.00

X Costs / Coûts

Financial (all reasons) / Financiers (raisons)	
Salary / Traitement	\$ 143 718
Administration (O and M) / Administration (fonctionnement et maintien)	\$ 165 145
TOTAL	\$ 308 863
Person year utilization (all reasons) / Années-personnes utilisées (raison)	
Person year (decimal format) / Années-personnes (nombre décimal)	2.02

