

ANNUAL REPORT TO PARLIAMENT ON THE APPLICATION OF THE ACCESS TO INFORMATION ACT 1 APRIL 2016 TO 31 MARCH 2017



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Annual report to Parliament on the application of the *Access to Information Act* 2016–17

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Le présent rapport est également disponible en français.

Place du Centre 200 Promenade du Portage 4th Floor Gatineau, Quebec K1A 1K8

09 June 2017

The Honourable Karina Gould, P.C., M.P. Minister of Democratic Institutions and President of the Queen's Privy Council for Canada House of Commons Ottawa, Ontario K1A 0A6

Dear Minister:

In accordance with section 72 of the *Access to Information Act*, the Transportation Safety Board of Canada is pleased to submit to Parliament this report on its activities relating to the application of the Act for the period 1 April 2016 to 31 March 2017.

Sincerely,

Kathleen Fox Chair



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1.0 Introduction

Pursuant to section 72 of the Access to Information Act, the Transportation Safety Board of Canada (TSB) is pleased to table in Parliament this report on its activities relating to the application of the Act. The report covers the period from 1 April 2016 to 31 March 2017.

The purpose of the *Access to Information Act* is to provide a right of access to information to records under the control of government institutions such as the TSB.

The Canadian Transportation Accident Investigation and Safety Board Act provides the legal framework that governs TSB activities. Our mandate is to advance transportation safety in the marine, pipeline, rail and air modes of transportation by:

- conducting independent investigations, including public inquiries when necessary, into selected transportation occurrences in order to make findings as to their causes and contributing factors;
- identifying safety deficiencies, as evidenced by transportation occurrences;
- making recommendations designed to eliminate or reduce any such safety deficiencies; and
- reporting publicly on our investigations and on the findings in relation thereto.

More information on the TSB is available at <u>www.bst-tsb.gc.ca</u>.

The TSB's administration of its Access to Information and Privacy (ATIP) activities is in accordance with the government's stated principles that government information should be available to the public with only specific and limited exceptions. Furthermore, the TSB treats personal information in compliance with the code of fair information practices expressed in the Privacy Act.

2.0 ATIP Office organization

During 2016-17, the General Counsel had the responsibilities of the ATIP Coordinator. The remainder of the ATIP Office consisted of five full-time positions, one term position and a casual position.

The ATIP Office centrally administers both formal requests made pursuant to the Act and informal requests, and provides functional advice and guidance to managers and employees concerning the release of information and protection of privacy. In addition, ATIP analysts are required to exhibit strong consultative and negotiating skills when dealing with requesters, third parties, TSB personnel, and representatives of the Office of the Information Commissioner.

The majority of access to information requests made to the TSB pertains to transportation occurrences. Such requests present many challenges for the TSB ATIP Office. In many cases, requests are for a copy of the complete investigation file. Depending on the nature and scope of the investigation, there may be many thousands of often complex records in a variety of media. For example, an investigation file can contain data records, voice recordings, witness statements, laboratory reports, and third-party records of the transport operator, the manufacturer of components, maintenance logs for engines and pilots' logs, etc. Considering the volume of records and required consultations, the time required to process such requests is extensive. The status of the investigation itself also affects the access to records and when information may be released under the Act.

As considerable expertise is required in the processing of requests, the TSB ATIP function is organized so that ATIP analysts are responsible for centrally reviewing and severing all records. This requires that the analysts remain current with the investigation operations of the various transportation modes and their particular activities, as well as maintain good working relationships with the investigators and a multitude of stakeholders.

3.0 Delegation of authority

As required by the legislation, a delegation of authority is in place. For the purposes of the Access to Information Act, the "head of the institution" as defined in section 3 of the Act is the Chair of the TSB. The incumbents of the positions of General Counsel, Chief Operating Officer and the Senior ATIP Analyst have been delegated powers by the Chair deemed appropriate for the effective administration of the Act. These employees ensure that the TSB meets all its obligations fairly and consistently. The delegation authority was updated in 2016-17. A copy of the Delegation Order is attached as Appendix A.

Disposition of requests 4.0

4.1 Formal requests

One hundred and nineteen (119) new requests were received under the Access to Information Act in 2016–17 and twenty-four (24) requests were brought forward from the previous fiscal year, for a total of hundred and forty-three (143) active requests. Of these, one hundred and nineteen (119) requests were completed during the current reporting period, and twenty-four (24) were carried forward to the next fiscal year. The following table shows the increase in workload over the past few years.

Formal requests	2013–14	2014–15	2015–16	2016–17
Received during reporting period	73	72	89	119
Outstanding from previous period	24	30	29	24
Total requests in-process during reporting period	97	102	118	143
Completed during reporting period	67	75	94	119
Carried over to next reporting period	30	27	24	24

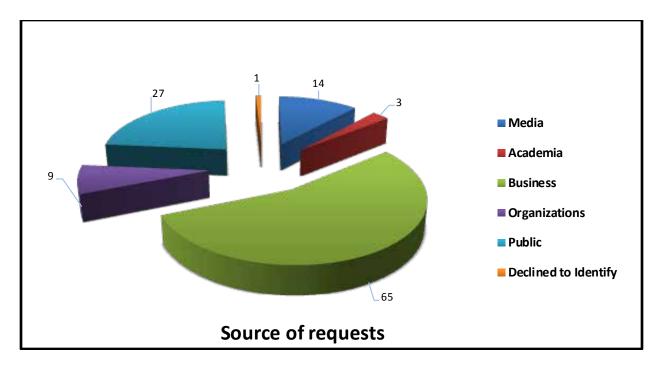
Of the one hundred and nineteen (119) requests completed during the current reporting period, records were fully disclosed to sixteen (16) applicants. Records did not exist for eight (8) requests, one (1) request was transferred to another institution, while twenty-two (22) requests were abandoned by their requester at various stages of the process. Records pertaining to sixtysix (66) requests were released with some portions exempted, and records for six (6) requests were fully exempted.

A breakdown of the exemptions and exclusions exercised in the reporting period is as follows:

Exemption	Exemption description	Number of times applied
13	Obtained in confidence from other levels of government	23
14	Federal–provincial affairs	0
15	International affairs and defence	1
16	Law enforcement & investigation (Security)	16
17	Safety of individuals	0
18	Economic interest of Canada	4
19	Personal information	64
20	Third-party information	76
21	Operations of government	37
22	Testing procedures	1
23	Solicitor-client privilege	7
24	Statutory prohibitions	3
26	Information to be published	0
68	Published material	5
69	Cabinet Confidences	0

4.2 Clients

As shown in the chart below, sixty-five (65) new requests came from business/legal firms representing clients affected by or involved in transportation occurrences. Other requesters are: twenty-seven (27) members of the public, fourteen (14) media sources, nine (9) organizations, three (3) academia, and finally one (1) requester declined to identify his category.



4.3 *Processing of requests*

The number of new requests received in 2016–17 increased by thirty-three percent (33%) compared to the previous reporting period. These new requests were mainly generated by high profile investigations such as the Lac-Mégantic train derailment and the ORNGE air ambulance helicopter crash.

The ATIP Office makes every possible effort to process requests within the 30-day time limit as required by legislation. However, many of the requests received by the TSB involve a large volume of records and also pertain to third-party information, which requires consultations, both domestically and internationally, before the information can be released.

The TSB increased the human resources dedicated to ATIP in 2016–17 by 0.4 full time-employee compared to 2015-16. The number of completed requests in 2016-17 also increased by twentyfive (25) to a total of one hundred and nineteen (119), or 27% more than in the previous fiscal year 2015–16. The TSB was able to respond within 30 days or less in 71 (60%) of the 119 completed cases. The completion times for the remaining requests are depicted in the table below. It is important to note that the deadlines for many of these requests were legally extended under the Act.

Completion time	2014–15	2015–16	2016–17
30 days or less	42%	70%	60%
31–60 days	11%	9%	17%
61–120 days	11%	3%	8%
121–180 days	9%	3%	6%
181–365 days	16%	10%	3%
Over 365 days	11%	5%	6%

Table 1. Requests by completion time, fiscal years 2014–15, 2015–16, and 2016–17

The average time taken to process a request during the 2016–17 reporting period was 82 calendar days, compared with last year's average of 75 calendar days. The longer processing time is primarily explained by a number of requests that involved a larger number of records.

During this period, the ATIP Office was involved in the search, preparation and review of 121,224 pages of information (73,983 pages in 2015-16) and the reproduction and release of 60,571 pages of information (43,724 pages in 2015-16), including reprints of photographs, video and audio recordings.

5.0 Fees and costs

The TSB collected \$440 in fees during 2016–17 and waived \$145 in application fees. The TSB maintains the right to waive the application fees.

The ATIP Office incurred an estimated \$501,737 in costs to administer the Access to Information Act in 2015–16. These costs include salaries, overtime, goods and services, and professional services contracts for temporary help staff but do not include the resources expended by other areas of the TSB to meet the requirements of the Act.

6.0 Other requests

The ATIP Office received twenty-two (22) consultation requests from other departments and agencies in 2016-17, compared with nineteen (19) in 2015-16. This 16% increase in the number of consultation requests received represents a significant increase in the number of pages reviewed, (1746 pages) this fiscal year compared to (384 pages) in 2015-16.

Twenty-five (25) informal requests were also received during the reporting period, compared with fifty-two (52) last year. These figures do not include other information requests responded to directly by the Communications Branch, the Operational Services Branch, and other areas of the TSB. In addition, many publications – such as investigation reports, safety studies, statistical reports, occurrence database extracts, communiqués, investigation updates, and annual reports, including ATIP reports to Parliament – are readily available on the TSB website.

7.0 Training and education

The TSB has an orientation program in place for new employees, which includes training on ATIP awareness. In addition, the TSB has now made it mandatory for all staff to attend more comprehensive ATIP training sessions given by the ATIP Office. During 2016-17, the ATIP Office provided twelve (12) standalone training sessions to one hundred and eighteen (118) employees at headquarters and regional offices. Further, two (2) sessions were offered as part of the new employee orientation program to nineteen (19) participants. The ATIP Office also continues to provide advice and guidance upon request to individuals and small groups of employees.

Given the responsibilities and knowledge requirements of the TSB ATIP Office, there is a long learning curve for its staff. Continuous on-the-job training is provided to ATIP staff to ensure sound and current knowledge of ATIP requirements and procedures, as well as TSB operations. In this context, ATIP staff attended two (2) ATIP Community Meetings organized by the Treasury Board Secretariat. These Community Meetings provided ATIP staff with valuable information on trends and best practices within the ATIP circle, updates on recent complaints and court cases, and tools to help improve service standards within the field. Additionally, an outside authority on the Act shared his considerable experience on the application of exemptions and exclusions within the context of the TSB.

Policies, guidelines, and procedures 8.0

There was no change to the policies, guidelines, and procedures for 2016–17.

9.0 Complaints and investigations

Four (4) new complaints were received by the Office of the Information Commissioner of Canada (OIC) during 2016–17 and two (2) complaints were outstanding from a prior year. Two (2) complaints were closed during 2016–17.

One of the complaints received by the OIC alleges that the TSB has improperly applied exemptions, so as to unjustifiably deny access to records, or portions thereof, requested under the Access to Information Act. The TSB provided records to the OIC, and the complaint is pending.

The other three (3) complaints allege that records should exist but, the TSB had no records related to these specific requests. The TSB provided a copy of the processing file to the OIC, and the complaints are awaiting decisions.

A complaint received in 2015-16 by the OIC alleged that the TSB had improperly applied exemptions, so as to unjustifiably deny access to records, or portions thereof, requested under the Access to Information Act. The complaint also alleged that the TSB failed to respond within the time frame set out by the Act. The complaint was investigated by the OIC during 2016–17. Following discussion with the OIC investigator, the TSB disclosed additional information to the requester, but also maintained protections on portions of the records being requested. The OIC recorded the complaint to be well-founded and resolved.

Finally, a complaint received within the reporting period by the OIC alleged that the TSB had improperly applied exemptions, so as to unjustifiably deny access to records, or portions thereof, requested under the Access to Information Act. The complaint was investigated by the OIC during the reporting period. Following discussion with the OIC investigator, the TSB disclosed additional information to the requester, but also maintained protections on portions of the records being requested. The OIC recorded the complaint to be well-founded and resolved.

10.0 Monitoring process

The TSB monitors the time to process access to information requests, through weekly bilateral meetings between the General Counsel (ATIP Coordinator) and the Senior ATIP Analyst during which the status of outstanding requests are reviewed. Any significant issues, such as the need for assistance in processing a particularly complex request, are raised and discussed with the Chief Operating Officer on an ad hoc basis.

Statistics required by Treasury Board

The statistics required by the Treasury Board Secretariat are found in Appendix B.

Appendices

Appendix A – Delegation order



5 January 2017

Our file Notre référence

Designation Order - Access to Information Act

The Chair of the Transportation Safety Board of Canada, pursuant to section 73 of the Access to Information Act, hereby designates the persons holding the positions set out in the table below, or the persons occupying on an acting basis those positions, to exercise the specified powers and perform the related duties and functions of the Chair as the Head of a government institution under the Access to Information Act.

This designation replaces the designation dated 1 June 2015.

Positions	Sections of the Access to Information Act
Chair	All sections
Chief Operating Officer	All sections
General Counsel	All sections
Senior ATIP Analyst	Section 8(1) – transfers Section 9 - extensions

Ka - / Kathleen Fox

Chair

Canad'ä

Appendix B – Statistical report

*	Government	Gouvernemen
T	of Canada	du Canada

Statistical Report on the Access to Information Act

Name of institution: Transportation Safety Board of Canada

Reporting period: 2016-04-01 2017-03-31

Part 1: Requests Under the Access to Information Act

1.1 Number of requests

	Number of Requests
Received during reporting period	119
Outstanding from previous reporting period	24
Total	143
Closed during reporting period	119
Carried over to next reporting period	24

1.2 Sources of requests

Source	Number of Requests
Media	14
Academia	3
Business (private sector)	65
Organization	9
Public	27
Decline to Identify	1
Total	119

1.3 Informal requests

	Completion Time									
1 to 15 Days										
15	4	1	4	1	0	0	25			

Note: All requests previously recorded as "treated informally" will now be accounted for in this section only.

TBS/SCT 350-63 (Rev. 2011/03)

Part 2: Requests Closed During the Reporting Period

2.1 Disposition and completion time

	Completion Time							
Disposition of Requests	1 to 15 Days	16 to 30 Days	31 to 60 Days	61 to 120 Days	121 to 180 Days	181 to 365 Days	More Than 365 Days	Total
All disclosed	7	8	1	0	0	0	0	16
Disclosed in part	15	13	17	10	6	3	2	66
All exempted	5	0	0	0	0	1	0	6
All excluded	0	0	0	0	0	0	0	0
No records exist	2	5	1	0	0	0	0	8
Request transferred	1	0	0	0	0	0	0	1
Request abandoned	12	3	1	0	1	0	5	22
Neither confirmed nor denied	0	0	0	0	0	0	0	0
Total	42	29	20	10	7	4	7	119

2.2 Exemptions

Section	Number of Requests	Section	Number of Requests	Section	Number of Requests	Section	Number of Requests
13(1)(a)	9	16(2)	2	18(a)	2	20.1	0
13(1)(b)	2	16(2)(a)	0	18(b)	2	20.2	0
13(1)(c)	8	16(2)(b)	0	18(c)	0	20.4	0
13(1)(d)	4	16(2)(c)	5	18(d)	0	21(1)(a)	4
13(1)(e)	0	16(3)	0	18.1(1)(a)	0	21(1)(b)	30
14	0	16.1(1)(a)	0	18.1(1)(b)	0	21(1)(c)	1
14(a)	0	16.1(1)(b)	0	18.1(1)(c)	0	21(1)(d)	2
14(b)	0	16.1(1)(c)	0	18.1(1)(d)	0	22	01
15(1)	1	16.1(1)(d)	0	19(1)	64	22.1(1)	0
15(1) - I.A.*	0	16.2(1)	0	20(1)(a)	11	23	7
15(1) - Def.*	1	16.3	0	20(1)(b)	37	24(1)	3
15(1) - S.A.*	1	16.4(1)(a)	0	20(1)(b.1)	0	26	0
16(1)(a)(i)	1	16.4(1)(b)	0	20(1)(c)	26		<u> </u>
16(1)(a)(ii)	1	16.5	0	20(1)(d)	2		
16(1)(a)(iii)	0	17	0			•	
16(1)(b)	0			•			
16(1)(c)	7						
16(1)(d)	0	* I.A.: Inter	rnational Aff	airs Def.: Defence of Ca	anada S.A.: S	Subv ersiv e Activities	

2.3 Exclusions

Section	Number of Requests	Section	Number of Requests	Section	Number of Requests
68(a)	5	69(1)	0	69(1)(g) re (a)	0
68(b)	0	69(1)(a)	0	69(1)(g) re (b)	0
68(c)	0	69(1)(b)	0	69(1)(g) re (c)	0
68.1	0	69(1)(c)	0	69(1)(g) re (d)	0
68.2(a)	0	69(1)(d)	0	69(1)(g) re (e)	0
68.2(b)	0	69(1)(e)	0	69(1)(g) re (f)	0
		69(1)(f)	0	69.1(1)	0

2.4 Format of information released

Disposition	Paper	Electronic	Other Formats
All disclosed	1	15	0
Disclosed in part	8	58	0
Total	9	73	0

2.5 Complexity

2.5.1 Relevant pages processed and disclosed

Disposition of Requests	Number of Pages Processed	Number of Pages Disclosed	Number of Requests
All disclosed	2332	2332	16
Disclosed in part	73975	52092	66
All exempted	90	0	6
All excluded	0	0	0
Request abandoned	44827	6147	22
Neither confirmed nor denied	0	0	0

2.5.2 Relevant pages processed and disclosed by size of requests

	Less TI Pag Proce	jes	Pag	-500 ges essed	501- Pag Proce	jes		-5000 rocessed	Pag	nan 5000 ges essed
Disposition	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed
All disclosed	12	223	3	849	0	0	1	1260	0	0
Disclosed in part	34	917	14	2029	4	2352	9	9116	5	37678
All exempted	6	0	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0	0	0
Request abandoned	17	0	0	0	1	558	2	773	2	4816
Neither confirmed nor denied	0	0	0	0	0	0	0	0	0	0
Total	69	1140	17	2878	5	2910	12	11149	7	42494

2.5.3 Other complexities

Disposition	Consultation Required	Assessment of Fees	Legal Advice Sought	Other	Total
All disclosed	3	0	1	0	4
Disclosed in part	42	1	1	0	44
All exempted	1	0	0	0	1
All excluded	0	0	0	0	0
Request abandoned	9	0	0	0	9
Neither confirmed nor denied	0	0	0	0	0
Total	55	1	2	0	58

2.6 Deemed refusals

2.6.1 Reasons for not meeting statutory deadline

Number of Requests Closed	Principal Reason				
Past the Statutory Deadline	Workload	External Consultation	Internal Consultation	Other	
16	13	3	0	0	

2.6.2 Number of days past deadline

Number of Days Past Deadline	Number of Requests Past Deadline Where No Extension Was Taken	Number of Requests Past Deadline Where An Extension Was Taken	Total
1 to 15 days	3	0	3
16 to 30 days	0	0	0
31 to 60 days	0	2	2
61 to 120 days	0	3	3
121 to 180 days	0	0	0
181 to 365 days	1	1	2
More than 365 days	2	4	6
Total	6	10	16

2.7 Requests for translation

Translation Requests	Accepted	Refused	Total
English to French	0	0	0
French to English	0	0	0
Total	0	0	0

Part 3: Extensions

3.1 Reasons for extensions and disposition of requests

	9(1)(a)	9(′ Cons	9(1)(c)	
Disposition of Requests Where an Extension Was Taken		Section 69	Other	Third-Party Notice
All disclosed	0	0	0	1
Disclosed in part	11	0	23	17
All exempted	0	0	0	0
All excluded	0	0	0	0
No records exist	0	0	0	0
Request abandoned	5	0	4	3
Total	16	0	27	21

3.2 Length of extensions

	9(1)(a)	9(′ Cons	9(1)(c)	
Length of Extensions	Interference With Operations	Section 69	Other	Third-Party Notice
30 days or less	5	0	4	13
31 to 60 days	4	0	10	4

61 to 120 days	4	0	12	4
121 to 180 days	3	0	1	0
181 to 365 days	0	0	0	0
365 days or more	0	0	0	0
Total	16	0	27	21

Part 4: Fees

	Fee Collected		Fee Waived or Refunded	
Fee Type	Number of Requests	Amount	Number of Requests	Amount
Application	88	\$440	29	\$145
Search	0	\$0	0	\$0
Production	0	\$0	0	\$0
Programming	0	\$0	0	\$0
Preparation	0	\$0	0	\$0
Alternative format	0	\$0	0	\$0
Reproduction	0	\$0	0	\$0
Total	88	\$440	29	\$145

Part 5: Consultations Received From Other Institutions and Organizations

5.1 Consultations received from other Government of Canada institutions and organizations

Consultations	Other Government of Canada Institutions	Number of Pages to Review	Other Organizations	Number of Pages to Review
Received during reporting period	22	1746	0	0
Outstanding from the previous reporting period	1	3	0	0
Total	23	1749	0	0
Closed during the reporting period	22	687	0	0
Pending at the end of the reporting period	1	1062	0	0

${\bf 5.2\,Re\,comme\,ndations\,\,and\,\,completion\,time\,for\,\,consultations\,\,received\,from\,\,other\,\,Government\,\,of\,\,Canada\,\,institutions}$

	Number of Days Required to Complete Consultation Requests							quests
Recommendation	1 to 15 Days	16 to 30 Days	31 to 60 Days	61 to 120 Days	121 to 180 Days	181 to 365 Days	More Than 365 Days	Total
Disclose entirely	12	1	0	0	0	0	0	13
Disclose in part	3	1	0	0	0	0	0	4
Exempt entirely	1	0	0	0	0	0	0	1
Exclude entirely	0	0	0	0	0	0	0	0
Consult other institution	0	0	0	0	0	0	0	0
Other	4	0	0	0	0	0	0	4
Total	20	2	0	0	0	0	0	22

5.3 Recommendations and completion time for consultations received from other organizations

	Number of Days Required to Complete Consultation Requests							quests
Recommendation	1 to 15 Days	16 to 30 Days	31 to 60 Days	61 to 120 Days	121 to 180 Days	181 to 365 Days	More Than 365 Days	Total
Disclose entirely	0	0	0	0	0	0	0	0
Disclose in part	0	0	0	0	0	0	0	0
Exempt entirely	0	0	0	0	0	0	0	0
Exclude entirely	0	0	0	0	0	0	0	0
Consult other institution	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0

Part 6: Completion Time of Consultations on Cabinet Confidences

6.1 Requests with Legal Services

	Fewer T Pag Proce	jes	101-500 Pages Processed		501-1000 Pages Processed		1001-5000 Pages Processed		More Than 5000 Pages Processed	
Number of Days	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed
1 to 15	0	0	0	0	0	0	0	0	0	0
16 to 30	0	0	0	0	0	0	0	0	0	0
31 to 60	0	0	0	0	0	0	0	0	0	0
61 to 120	0	0	0	0	0	0	0	0	0	0
121 to 180	0	0	0	0	0	0	0	0	0	0
181 to 365	0	0	0	0	0	0	0	0	0	0
More than 365	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0

6.2 Requests with Privy Council Office

	Fewer T Pag Proce	jes	101–500 Pages Processed		501-1000 Pages Processed		1001-5000 Pages Processed		More Than 5000 Pages Processed	
Number of Days	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed
1 to 15	0	0	0	0	0	0	0	0	0	0
16 to 30	0	0	0	0	0	0	0	0	0	0
31 to 60	0	0	0	0	0	0	0	0	0	0
61 to 120	0	0	0	0	0	0	0	0	0	0
121 to 180	0	0	0	0	0	0	0	0	0	0
181 to 365	0	0	0	0	0	0	0	0	0	0
More than 365	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0

Part 7: Complaints and Investigations

Section 32	Section 35	Section 37	Total
4	4	4	12

Part 8: Court Action

Section 41	Section 42	Section 44	Total
0	0	0	0

Part 9: Resources Related to the Access to Information Act

9.1 Costs

Expenditures		Amount
Salaries		\$477,653
Overtime		\$0
Goods and Services		\$24,084
Professional services contracts	\$1923	
Other	\$22,161	
Total		\$501,737

9.2 Human Resources

Resources	Person Years Dedicated to Access to Information Activities
Full-time employees	6.18
Part-time and casual employees	0.15
Regional staff	0.00
Consultants and agency personnel	0.00
Students	0.00
Total	6.33

Note: Enter values to two decimal places.