



National
Defence

Défense
nationale

CORPORATE SECRETARY

DIRECTOR ACCESS TO INFORMATION AND PRIVACY



OLC Systemic Investigation National Defence

TBS Community Meeting February 26, 2021

Canada



PURPOSE

- Provide an overview of the OIC's Systemic Investigation into the processing of Access to Information requests at National Defence
- Overview of Timeline
- What we did & How we did
- The Action Plan
- ATI Performance
- Next Steps & Lessons Learned





OVERVIEW

- Factors that led to the systemic investigation
- DND context
- Investigation process

Access at issue: Nine recommendations regarding the processing of access requests at National Defence

Special Report to Parliament from the
Office of the Information Commissioner of Canada

July 22, 2020

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With this special report to Parliament, I share the results of my recent systemic investigation into how the Department of National Defence (DND) processes and responds to access to information requests.

Introduction

I initiated this investigation into DND's overall processing of access to information requests further to serious allegations made during the pre-trial hearings of Vice-Admiral Mark Norman, together with findings that I had made in an earlier investigation involving the Office of the Judge Advocate General, that DND had inappropriately withheld information in response to a request. The concerns raised by these findings and allegations warranted immediate action and compelled me to investigate further.

This report reviews nine distinct issues that I found were having a significant impact on DND's ability to process access requests.

Information also came to my attention during the investigation that, in my view, was evidence of the possible commission of an offence under the Act during the processing of an access request related to Vice-Admiral Norman. Since I do not have the authority to investigate such offences, I disclosed this information to the Attorney General of Canada in February 2019.

In pursuing this investigation and releasing this report, I seek to give not only the DND clear direction on steps they can take to improve how they process access requests but also to other large, decentralized institutions that are subject to the Act.

As the government begins to recover from the impact on operations of the pandemic, and looks to how it will work in the future, my findings should have added relevance to institutions across government. It will be imperative, going forward, that all institutions follow sound information management practices and make smart use of technology.

Senior leadership is key to influencing corporate culture change. Information management practices and internal communications protocols in order to ensure compliance with the Act. Indeed, as a result of my investigation, the Minister of National Defence and his deputy minister are now aware of some of the tools and practices needed to support and deliver on their access to information responsibilities. These leaders should see it as their responsibility to champion a new approach, and to adopt these tools and practices in order to effect the necessary changes within the department - Canadians expect as much.

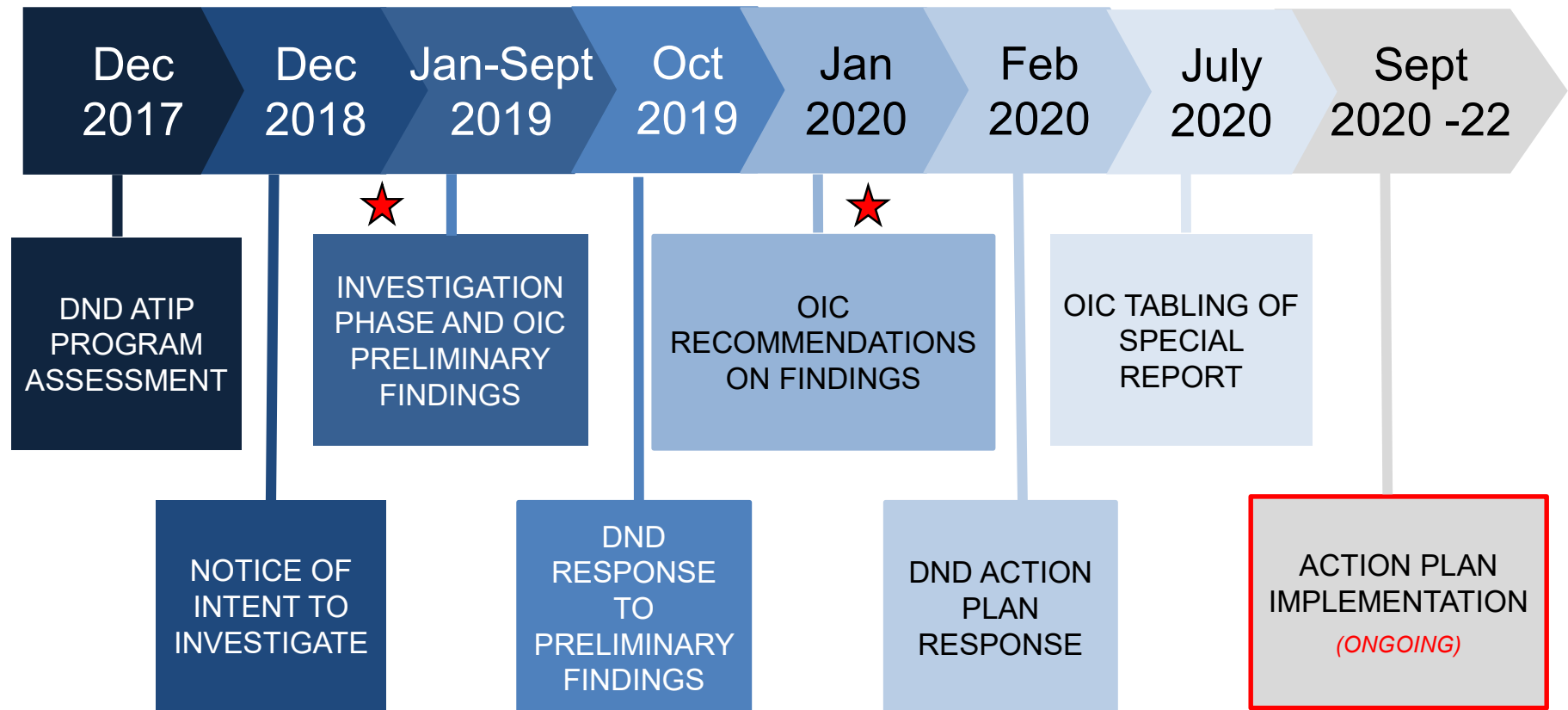
note that collaboration at the working level during my office's investigations is very important, and throughout this investigation DND officials showed a genuine willingness to address gaps in their access to information procedures.

Such improvements are essential to helping ensure that Canadians' ability to exercise their quasi-constitutional right to access government information is not compromised.

Caroline Maynard
Information Commissioner of Canada

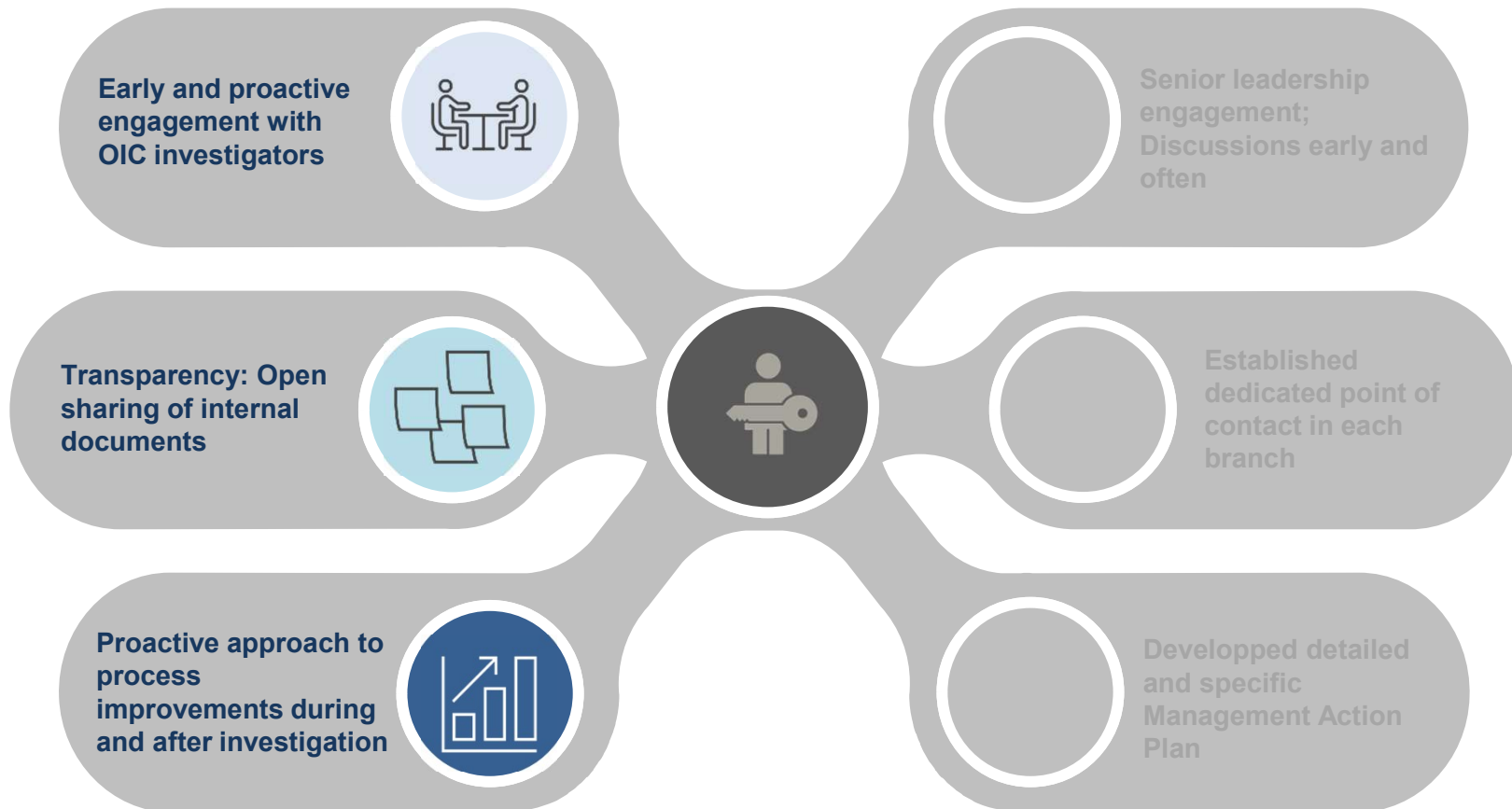


OVERVIEW OF TIMELINE



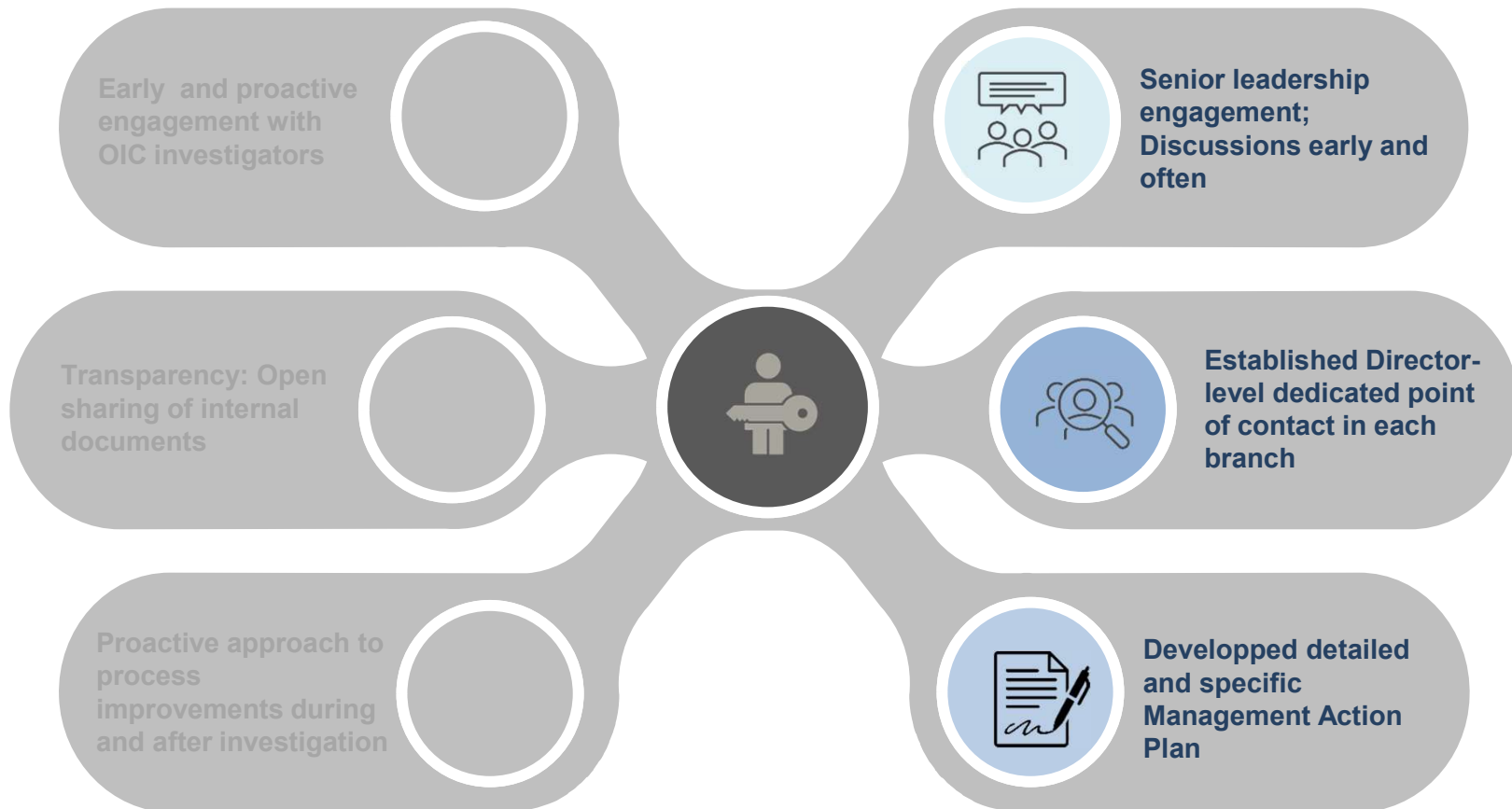


WHAT WE DID – *the investigation*





HOW WE DID IT – *the implementation*





THE ACTION PLAN



OIC Systemic Investigation: Management Action Plan

TOPIC	COMMISSIONER'S RECOMMENDATIONS	DND COMMITMENTS	ACTION ITEM	OPI	TARGET DATE	PROGRESS	VERIFIABLE EVIDENCE / COMMENTS
1. Splitting and re-scoping requests	Establish clear criteria to safeguard the original intent of the request during the proposed "check back" step Share the SOP with OIC by April 2020	1.1 Develop a standard operating procedure (SOP) that includes a "check back" step to ensure that the original intent of the request is met	1.1.1 Develop SOP that clearly establishes criteria to ensure the safeguard of the original intent of the request during the proposed "check-back" process.	Corp Sec/DAIP	Apr, 2020	CLOSED 100% complete	DAIP SOP has been updated and provided to analysts for reference/use.
		1.2 Implement the new SOP by March 2020	1.2.1 Provide SOP and implementation plan to the OIC.	Corp Sec/DAIP	Apr, 2020	CLOSED 100% complete	SOP was implemented. A copy of SOP and Implementation plan provided to OIC on 29 April, 2020.
			1.2.2 Communicate updated SOP and expectations for ensuring the original intent of the request is retained to DAIP staff.	Corp Sec/DAIP	Aug, 2020	CLOSED 100% complete	Communique to Staff and link to SOP: https://gcdocs.gc.ca/forces/llisapi.dll/link/29639777
2. Reference material for tasking	Create and maintain reference documents, with a common format, about departmental programs to assist TLOs Add maintenance of these documents to the responsibilities of the TLOs.	2.1 Develop and maintain a reference document listing that explains the programs and mandate of each branch/OPI, as well as key areas of interest	2.1.1 Develop document reference template that will capture L1 programs and mandate information	Corp Sec/DAIP	Apr, 2020	CLOSED 100% complete	The ATIP L1 Reference Document template was developed. Template_L1 Reference doc for tasking (EN/FR) https://gcdocs.gc.ca/forces/llisapi.dll/link/29670592 https://gcdocs.gc.ca/forces/llisapi.dll/link/30043536
			2.1.2 Template will be completed by Corp Sec first to be used as a sample for L1s to create their respective documents in 2.1.3	Corp Sec/DAIP	Sept, 2020	CLOSED 100% complete	FINAL_ Corp Sec reference doc for tasking (EN/FR) https://gcdocs.gc.ca/forces/llisapi.dll/link/29057170 https://gcdocs.gc.ca/forces/llisapi.dll/link/30095272
			2.1.3 L1s to complete the reference document and maintain this document; update as changes occur and inform DAIP of changes	L1s	Oct, 2020	CLOSED 100% complete	Sept 15 2020 message to L1s re ATIP L1 Reference Document.msg https://gcdocs.gc.ca/forces/llisapi.dll/link/30199804 2020 L1 Tasking Reference document for tasking https://gcdocs.gc.ca/forces/llisapi.dll/link/29810562 2020 L1 Tasking Reference Documents (pdf versions) https://gcdocs.gc.ca/forces/llisapi.dll/link/30109304



Performance Measurement

 National Defence
Défense nationale
Deputy Minister
Sous-ministre
National Defence Headquarters
Ottawa, Ontario
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Quartier général de la Défense nationale
Ottawa (Ontario)
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LETTER OF AGREEMENT: COMPLIANCE WITH THE ACCESS TO INFORMATION ACT


Your direct support is required in fulfilling departmental accountabilities and statutory obligations as they relate to the *Access to Information Act* (ATIA). The Department's civilian and military workforce are equally responsible for upholding both the spirit and letter of the ATIA. All DND employees and CAF members must be aware of their respective obligations. DAOD 1001-1, *Access to Information Act Requests* (attached) identifies your specific L1 responsibilities. We must all exercise adequate oversight to ensure compliance. Your direct involvement and direction to your staff in this matter are required.

As a senior leader of the Defence team, I, the undersigned, commit to:

- Provide all relevant records within the deadlines set by DAIP and include appropriate rationales. This includes rationales for any nil returns as well as identifying sensitivities;
- Support the resolution of any issues or challenges that arise in the processing of ATI requests;
- Contribute to meaningful improvement regarding the percentage of on time responses, assessments, retrievals, and files returned due to quality issues;
- Ensure deadlines for ATI requests are monitored, with appropriate follow-up and escalation;
- Provide leadership in the review of processes and procedures to identify areas for improvement; and
- Assist in the conduct of the search process by ensuring that searches are comprehensive within my organization and consider both the letter and the intent of the request.

Compliance with the expectations articulated above will be assessed regularly by way of a monthly ATI dashboard, and you will be held individually responsible for non-compliance as clearly identified in paragraph 10 of the above mentioned DAOD.


Lieutenant-General
M. N. Rouleau
Vice Chief of the Defence Staff


Jody Thomas
Deputy Minister

Canada

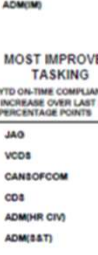
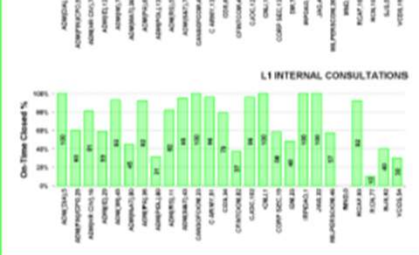
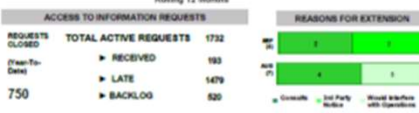
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ATIP DASHBOARD - September 2020

FOR THE REPORTING PERIOD
September 1-30 2020



ACCESS TO INFORMATION



PRIVACY



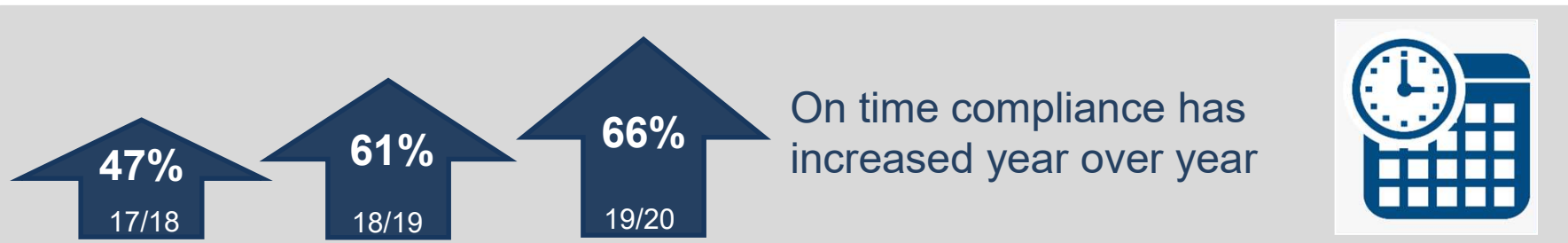
KEY UPDATES

- **OIC SYSTEMIC INVESTIGATION:** On July 22, the OIC issued a special report to Parliament. The report identifies nine (9) distinct issues that the Information Commissioner found were having a significant impact on DND's ability to process access to information requests. The areas of improvement cover ATIA tasking, record searches, prioritized consultations, reprocessing, training and experience. DAIP has engaged with L1s and are meeting with L1s Points of Contact in response to the Management Action Plan to further explain areas of improvements and actions required. DAIP expects to meet with all L1 POC by the end of October.
- **L1 REFERENCE DOCUMENT FOR TASKING:** In response to the OIC systemic investigation item number 2, a tasking reference document template was circulated to L1s on September 14 to obtain mandates, programs and key areas of interest to each Branch to assist TLs in identifying and determining relevant program areas to task.
- **PRIVACY IMPACT ASSESSMENTS:** As part of a broader initiative to ensure personal information protection in DND/CAF, DAIP is working collaboratively with CPM/COM to complete PIAs for Cefene Intelligence activities as well as conducting assessments on an ad hoc basis where departmental priorities are indicated.
- **DND/CAF SEXUAL MISCONDUCT CLASS SETTLEMENT:** The period to submit claims started on May 26, 2020, and will continue for 18 months. DAIP is participating and will provide review and redaction support for claimant's records as required.



ATI PERFORMANCE

Snapshot comparing performance between “Red Alert” and FY 19/20



SUPPORTING TRANSPARENCY

1461 BN Titles posted on Open Government





NEXT STEPS

- Complete MAP activities; on track for completion by 2022
- Continued emphasis on ATIP process improvements
- Monitor, evaluate and report performance at senior-level governance committees
- Transparency: Publish final report on improvements



LESSONS LEARNED

- Collaboration is key!
- Senior leadership engagement and support is essential to success
- Implement improvements as early as possible
- Weekly coordination meetings assisted to keep activities on track
- Consult a sample of OPIs/Stakeholders for feedback **before** implementing action items



COMMENTS & QUESTIONS

