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Chair: Mr. Robert Kitchen



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• (1755)

[English]

The Chair (Mr. Robert Kitchen (Souris—Moose Mountain, CPC)): I call the meeting to order.

Welcome to meeting number 17 of the House of Commons Standing Committee on Government Operations and Estimates. The committee is meeting today from 5:56 p.m. to 7:56 p.m., but if all goes well, maybe earlier. We will hear from the Information Commissioner as part of the committee's study on the government's response to the COVID-19 pandemic.

Today's meeting is also taking place in the new webinar format. Webinars are for public committee meetings and are available only to members, their staff and witnesses. Members may have noticed that entry into the meeting was much quicker than what it has been in the past and that they immediately entered as an active participant. All functionalities for active participants remain the same. Staff will be non-active participants only and therefore can only view the meeting in gallery view.

I would like to take this opportunity to remind all participants in this meeting that taking screenshots or photos of your screen is not permitted.

To ensure an orderly meeting, I would like to outline a few rules to follow.

Interpretation of this video conference will work much as it does in a regular committee meeting. You have the choice, at the bottom of your screen, of "floor", "English" or "French". Before speaking, please wait until I recognize you by name. When you are ready to speak, you can click on the microphone icon to activate your mike. When you are not speaking, your mike should be on mute.

To raise a point of order during the meeting, committee members should ensure their microphone is unmuted and state "point of order" to get the chair's attention.

In order to ensure social distancing in the committee room, if you need to speak privately with the clerk or analysts during the meeting, please email them at the committee email address.

For those people who are participating in the committee room, please note that masks are required unless you are seated and when physical distancing is not possible.

I will now invite the Information Commissioner to make her opening statement.

Ms. Caroline Maynard (Information Commissioner of Canada, Office of the Information Commissioner of Canada): Thank you. I will be brief.

Thank you for inviting me to meet with you once again to discuss access to information during the COVID pandemic.

In my previous appearance before this committee, I conveyed the message I have consistently reiterated since April of last year. The right of access, a quasi-constitutional right, cannot be suspended because of the pandemic.

Government transparency is the foundation of a strong democracy and has never been more important than during this crisis. In other words, we must collectively strive to produce an access to information system in which access requests are processed in a timely manner without interruption, decisions are properly documented, and information is well managed.

[Translation]

At our last meeting, I highlighted some of the factors that can create barriers to transparency and undermine the government's accountability to Canadians.

I also indicated that this is an opportune time to make essential changes, starting with the business model of government and the culture that underpins it.

It was time for the government to show leadership and take action.

[English]

We now find ourselves approaching one year since the start of the pandemic. Has the government seized the opportunity to change? In my estimation, it has not, at least not to the extent I would have hoped and Canadians might have expected.

• (1800)

[Translation]

Nevertheless, some encouraging progress has been made since we last met. Indeed, over the summer, many institutions have regained some degree of capacity to deal with access to information requests.

I would like to take this opportunity to salute the outstanding efforts of employees in federal institutions who have worked diligently to restore access to information operations and respond to Canadians. I congratulate them for their creativity and initiative, which enabled them to make the most of a difficult situation.

In contrast, there are other signs that the direction taken by the government is not the right one and that few or no concrete measures have been adopted to improve the current situation. The fact that the launch of a new online access to information system has been delayed by one year is one example.

[English]

I was also disappointed by the news that a report on the review of the access to information regime, announced by Minister Duclos, would be submitted only next January. On February 3, during a conversation I had with Mr. Duclos, I took the opportunity to remind him that the principles of openness and reasonable timeliness must be respected. I also pointed out, as I have done more than once, that there were, and continue to be, concrete steps that can be taken immediately and that do not require any legislative change.

I have now also reached out to other ministers who oversee what I call our 15 top institutions. I asked them to speak with them about the state of access within their own institutions and to discuss how, as leaders, they must be part of the solution.

In a submission I shared with Minister Duclos and published on my website last January, I outlined some of the steps I believe could make an immediate difference. They include steps to address the following four issues: inadequate leadership and a lack of clear guidelines on transparency and disclosure expectations; a pressing need to innovate and to allocate enough resources to the access regime; the necessity to properly document decisions and to efficiently manage institutions' information; and the declassification of records in a timely manner.

[Translation]

In conclusion, let me reiterate what I have been saying for a long time: it is imperative that the government act without delay.

I will gladly answer your questions now.

[English]

The Chair: Thank you very much for your presentation.

We will now start our rounds of questions. I would suggest that due to the time today, because of the voting, we will go through the first three rounds and we won't do the fourth round.

We will start the first round with Mr. Paul-Hus.

[Translation]

Mr. Pierre Paul-Hus (Charlesbourg—Haute-Saint-Charles, CPC): Thank you, Mr. Chair.

Good morning, Ms. Maynard. Thank you for being with us today.

I greatly appreciate your honesty and transparency, as well as the way you do your job. It allows us to confirm things that have been bothering us for some time, namely the obvious lack of transparency on the part of the government.

What is also worrying is that you say in your report that the access to information system is on the brink of the abyss. It is so badly flawed that in order to get a minimum of information, the oppo-

sition is forced to take extraordinary measures, such as bringing motions to the House.

You say the system is beyond repair. What do you mean by that? I would like you to give me some concrete examples related to the management of COVID-19.

Ms. Caroline Maynard: I said that the system was on the verge of being irreparable. Of course, there are steps that can be taken.

COVID-19 demonstrated that our system was archaic. The access to information system still relies heavily on software that has not been updated for a long time and on bureaucratic processes. At the beginning of the pandemic, when people started working from home, they didn't have access to the systems that would allow them to respond to access to information requests. So they had to start really questioning how information was being managed, what systems it was stored in, how they could share it with each other, and then how it could be disclosed to Canadians.

We realized that there were a lot of institutions whose system was not up to standard. We are slowly seeing an improvement, but there are still institutions that tell us that employees have to work evenings, nights or weekends, otherwise the computer system is not fast enough for the quantity of documents to be processed.

In addition, many people told us that records managers—those who create records in programs—often refuse to come back to the office to get the records that would allow them to respond to an access to information request. Since people have been unable to get to the office or working from home, it has been very difficult to get access to documents.

We wonder why there are still so many files in paper format and why they are not being scanned. We also need to figure out how to transfer documents to Canadians without going through the post office.

There are all kinds of situations like these that persist and that the pandemic has made much worse.

● (1805)

Mr. Pierre Paul-Hus: All right, thank you.

Precisely because we are talking about personnel, you emphasize in your report a “critical need of additional qualified staff.” Have you assessed this situation in each department affected by COVID-19, such as Health Canada, Public Services and Procurement Canada, the Public Health Agency of Canada and Public Safety Canada? Do you have accurate figures on hand?

Ms. Caroline Maynard: No, I don't. I would tell you that all organizations lack qualified staff.

Mr. Pierre Paul-Hus: You also say that “the Offices of the Prime Minister and Ministers should also be subject to the Act” and that “the records they hold should be accessible to the public, with the exception of those of a personal or political nature.”

From what you say, the minutes, for example of the COVID-19 Vaccine Task Force, the key dates of negotiations of the various contracts and even the documents related to the vaccine purchase contracts should be made public. Is this correct?

Ms. Caroline Maynard: What I am saying is that many documents are not accessible because they are held by ministers' offices and ministers are not currently subject to the act. The only records they must make available are those already listed in Part 2 of the Access to Information Act, which deals with the proactive release of information. These are often documents that were already proactively disclosed in the past.

Now we see that there is a lot of correspondence between public servants and employees in ministers' offices. However, all of this is protected by cabinet confidence or is part of the documents held by ministers' offices.

Mr. Pierre Paul-Hus: Are the discussions of the COVID-19 Vaccine Task Force also protected?

Ms. Caroline Maynard: I don't have any particular information on this group. I am sorry.

Mr. Pierre Paul-Hus: In addition, you say that "the culture of complacency and the downplaying or tolerance of delays must end."

Was that well received by the President of the Treasury Board, Mr. Duclos? Does he understand the problem that currently exists within the organizations?

Ms. Caroline Maynard: During our conversation, he assured me that he understood very well that this was a serious problem. Of course, we are still waiting for the government to act.

As I mentioned earlier, a project was to be put in place to make the processing of access to information requests much easier: a new online system where Canadians could have received information directly, instead of using all kinds of other means. However, that project has been put on hold for another year, which is disappointing.

The ministers are aware of this, but they must show us with clear and concrete actions that they are serious and that they want to change the situation.

Mr. Pierre Paul-Hus: Thank you.

[*English*]

The Chair: Thank you, Mr. Paul-Hus.

Now we'll go to Mr. Drouin for six minutes.

• (1810)

[*Translation*]

Mr. Francis Drouin (Glengarry—Prescott—Russell, Lib.): Thank you very much, Mr. Chair.

I would like to thank Ms. Maynard for staying with us much longer than expected.

I have some questions about the increased number of requests.

In 2018-2019, there were a total of 125,060 access to information requests. In 2019-2020, there were 149,570. In your report,

Ms. Maynard, you indicate that in 2018-2019, 73.1% of requests were responded to within the prescribed time frame. In 2019-2020, that figure dropped to 67.4%.

Do you attribute this decrease of 5.7 percentage points to COVID-19?

Have you had discussions with government departments to find out why they have not processed all requests on time, other than the increase in the number of requests?

Ms. Caroline Maynard: In fact, the statistics you are referring to are one year old. We do not yet have the statistics for 2020-2021. That said, COVID-19 will undoubtedly have had an even greater impact on the processing of access to information requests.

The biggest problem is that the number of access to information requests continues to increase by approximately 25% per year, while the resources allocated to processing these requests are not increasing in the same proportion. This is, of course, problematic.

Moreover, when I talk about resources, I am not only talking about money. It's also about finding people who are well trained and who want to work in this field. It's not an easy job. Organizations have a very hard time finding people who want to come and work for them. Some even steal analysts from each other.

Mr. Francis Drouin: Yes, I can imagine.

Do you analyze the nature of requests?

I, for one, had to wait almost two years before I received a response to an access to information request I had made. That was 11 years ago. Lawyers had to intervene in the file to see if there were any legal issues.

Do you know a little bit about the nature of the requests? Do you know why the number of requests increases by 25% from year to year?

Ms. Caroline Maynard: In Canada, there is now a culture that makes people really want to know on what basis the government makes its decisions and where their money goes.

In Canada, 65% of access to information requests come from the public. We often think of journalists, who are certainly important clients. There are also many historians and professors. On the other hand, the average person now asks a lot of questions. For example, people want to know what the policies are, how decisions are made, and where the money has been sent. This is one of the reasons why the number of requests will always increase. Canadians know they have a right to access information and they are asking for it.

Mr. Francis Drouin: You have discussed the issue with Minister Duclos. On the one hand, the number of requests is increasing. On the other hand, you said it was difficult to recruit staff and that this was a problem.

You also mentioned that the systems were archaic and that the implementation of a new computer system was planned.

In your opinion, once the new online system is in place, will this reduce response time and allow the institutions to meet the deadlines, or is this something that remains to be seen?

Ms. Caroline Maynard: Even if today's system is improved, it will never be able to meet the demand. The government needs to show leadership by doing voluntary disclosure, because that is where the problem lies. I'm not talking about proactive disclosure; that's a different thing. People should have access to information that is in the public interest, especially when it comes to important issues such as COVID-19, health or the environment. If this information were available without having to request it, it would reduce the number of access to information requests. It would be a step forward.

Of course, better systems will certainly help to improve the situation, but there will never be enough human resources to meet the demand.

• (1815)

Mr. Francis Drouin: Regardless of the computer system, access to information requests that require legal analysis will always take some time because of the required checks.

Ms. Caroline Maynard: Of course, institutions must determine whether the requested information is protected. Usually, lawyers can easily determine whether information about litigation or legal opinions is protected. It is not these cases that pose a risk, but rather discretionary exemptions or exclusions. Where people have a discretionary exclusionary power, they will rarely decide to disclose the information. Rather, they will attempt to redact the information for fear that it may be misinterpreted or cause embarrassment. It is these cases that require the most interaction between analysts and institutions.

Mr. Francis Drouin: There is also consultation with third parties who—

[*English*]

The Chair: Thank you very much.

[*Translation*]

Mr. Francis Drouin: I think we talked about this last time.

Thank you.

[*English*]

The Chair: Thank you very much, Mr. Drouin.

We'll now go to Ms. Vignola for six minutes.

[*Translation*]

Mrs. Julie Vignola (Beauport—Limoilou, BQ): Thank you very much, Mr. Chair.

Ms. Maynard, thank you for being back with us.

The disclosure of information is an important part of your job, but there is also the part that concerns the protection of identity or privacy online.

Some recipients of the CERB, the CRB or other benefits had their identity stolen. Some 15-year-olds have just received a T4 slip stating that they had received—

The Chair: Excuse me, Mrs. Vignola.

[*English*]

Could you hold the microphone up a bit higher towards your mouth?

[*Translation*]

Mrs. Julie Vignola: Is it better now?

[*English*]

The Chair: I've stopped the clock for a second.

[*Translation*]

Mrs. Julie Vignola: Is it better if the microphone is at that height, Mr. Chair?

[*English*]

The Chair: That's good. Thank you.

[*Translation*]

Mrs. Julie Vignola: All right.

I won't start again from the beginning. In fact, I would like to know whether, to your knowledge, there are mechanisms to prevent identity theft when a person goes to a government website to change their contact information, for example, or to apply to receive a cheque. Have measures been adopted to prevent identity theft?

Ms. Caroline Maynard: Mrs. Vignola, I will just say that I am the Information Commissioner. It is my colleague Mr. Daniel Therrien, privacy commissioner, who sees to everything that concerns privacy and the protection of personal information. So I suggest that you invite him, because he certainly has a lot to say on this subject. I know that he works very hard to ensure that incidents like this are prevented and that the situation improves.

Unfortunately, this does not fall within my mandate.

Mrs. Julie Vignola: All right. Thank you very much.

So let's come back to the issue of access to information.

You know that Canada is a member of the Open Government Partnership and that, as a member of its steering committee, it is expected to be a leader in the field.

Do you find it worrisome that Canada, a country that is considered a leader in transparency, can act as it is currently doing with respect to disclosure of information, particularly with respect to contracts and vaccines in the context of COVID-19?

Ms. Caroline Maynard: Is it troubling? There's no doubt that our government has responsibilities and obligations, and I want it to live up to them. There are provisions in the legislation.

I believe that the government now has an opportunity to show much more leadership in this area by adopting the principle of voluntary disclosure, as I said earlier.

It's true that contracts may contain confidential clauses or clauses protected by law, but there are definitely ways to make disclosures without violating these conditions. The government must keep this in mind when entering into contracts with third parties. We talked about that last time. Contracts can be drafted in such a way that it is clear that certain clauses will be confidential and not disclosed and that others will be publicly available.

I can't give you any more details because there are ongoing investigations into these matters. Still, the Canadian government has a great opportunity to show leadership in this area.

• (1820)

Mrs. Julie Vignola: Thank you.

Through the Supplementary Estimates (B), 2020-21, the Office of the Information Commissioner of Canada requested \$2.2 million for permanent resources for a viable and sustainable investigation program and \$600,000 to support access to information.

Are these amounts sufficient to help you in your duties and meet the demand?

Ms. Caroline Maynard: Yes. I admit that I was very happy to see that an amount that had been given to us temporarily for four years was finally given to us permanently. This allows us to hire, train and retain people, in other words, have a retention program. This will make a huge difference.

Now, I would like the institutions to have the same support so that they can respond to us. In fact, even though I have more investigators, the institutions don't have more analysts right now. It's more difficult to do our investigations in these circumstances.

Mrs. Julie Vignola: I understand that some institutions have greater needs, but on average how many analysts do you think are needed in each institution to properly support access to information and assist you in your work?

Ms. Caroline Maynard: It's very difficult to answer that question. As you said, the number of requests processed and the size of the files varies from one institution to another.

For example, we arranged a meeting with representatives from Immigration, Refugees and Citizenship Canada to get a clear understanding of their situation. This department receives 100,000 access-to-information requests a year, but each request takes 10 to 30 minutes to process. In other words, even if little time is spent on each file, it takes a lot of analysts.

However, the Canada Revenue Agency processes files that are 10,000 pages long. It takes financial auditing experts to process these files.

Each institution has different challenges. My recommendation to the institutions would be that they look on an annual basis what the demands and difficulties were, so that they can adjust afterwards. What we're seeing is that institutions don't adjust from one year to the next.

I would also recommend the establishment of a process whereby an ad hoc group of analysts trained by the Treasury Board could assist in emergency situations. That would be ideal. It would provide

a group of people who could go to work in institutions that receive more urgent requests.

At present, institutions receiving requests related to COVID-19 are certainly seeing an increase in the number of requests, but they don't have more resources to process access-to-information requests. It's as simple as that.

[English]

The Chair: Thank you very much.

Thank you, Ms. Vignola.

We will now go to Mr. Green for six minutes.

Mr. Matthew Green (Hamilton Centre, NDP): Thank you very much, Mr. Chair.

I'm going to start off with a bit of a summary in terms of how I have understood the briefing by Commissioner Maynard, and then I'm going to ask the commissioner to let me know how she feels about that assessment. The takeaway is that this government claims to be open by default, but the access to information system had already entered into a critical phase before the pandemic and, if I understand correctly, could soon be beyond repair if certain serious problems are not resolved. It came off as very alarming. The overall message that I took is the commissioner has identified the following issues as key in improving our country's access to information.

You've stated quite clearly, I think, here today—and I thank you for your candour—that there's inadequate leadership and a lack of clear guidelines on transparency and disclosure expectations, that there is a pressing need to innovate and to allocate enough resources to the access to information system, and that there is a necessity to properly document decisions and to efficiently manage institutions' information. The fourth point I took away is that records need to be declassified in a timely manner.

Does that accurately represent your briefing to this committee?

• (1825)

Ms. Caroline Maynard: Those are the four pillars that I find are key for the system to operate better and to be a better access system for Canadians. These are actions that the government does not need legislative changes in order to put in place.

Better legislation would definitely go a long way. I think a lot of people know that Canadian legislation did change a little bit last year, but it's still mainly 34-year-old legislation. We did better with the changes, but it's not perfect, so those will definitely be welcome.

For the steps that you mentioned—having better leadership and directives and not accepting delays—it's almost as if now the 30-day timeline is just a suggestion.

Mr. Matthew Green: It's a suggestion.

I really do appreciate your candour. This is really important. Again, this is a government that claims to be open by default and almost all of whose mandate letters give directions to ministers to be open by default, and yet we hear time and time again not just from you but from the public as well about the challenges that have been presented. We heard extensive testimony and suggestions around whistle-blowers in previous aspects.

When I look to the south, to the American example, we like to pretend our government is much further advanced in comparison, but theirs has multiple ways for proactive disclosure to happen that we do not have here as it relates to lobbyists and as it relates to just the way in which these files are managed.

At the beginning of the pandemic, the Treasury Board Secretariat tracked the operation status of the federal institutions' ATIP offices and found that 46 out of the 265 offices could operate at full capacity and that all but one were operating at partial capacity.

To what extent has the federal government kept you informed of the status of ATIP offices within federal institutions?

Ms. Caroline Maynard: I have been receiving the updates, and they do a survey with all the institutions every couple of months, or maybe monthly. The only problem with those updates is that they don't say to what capacity. When they say partial capacity.... We've noticed with respect to the complaints we've been dealing with that there were analysts in the beginning who had only cellphones. They didn't have access to their server. They didn't have access to their files.

Now most of them have access through a laptop from home, but they maybe don't have access to secret or top secret files, or they don't have access to paper files, so those partially accessible files for ATIP units can go from 10% to 90%. It's hard to know exactly what it means, but the Treasury Board is sending us the results every month, or every couple of months.

Mr. Matthew Green: You're unclear about why some offices were able to operate at full capacity or partial capacity, while others were not at all. What is the reason and the rationale they're providing you for these inadequacies?

Ms. Caroline Maynard: Every one of them has different challenges.

If you talk to somebody like Library and Archives, they are dealing with an enormous number of paper files, because they're historical files. When these people were told they could not access the office, they had a huge challenge in front of them to respond to access requests. There were other groups who were dealing with very secret documents, or classified documents. Again, nobody—or a very limited number of people—can work from home on secret documents.

There are also departments where, like I said earlier, the OPI, the people who have access to the documents you are asking for as a Canadian, don't see ATIP as their primary activity. It's not part of their work. That's why I talk about culture change. We need our public servants to see this as their responsibility. It's not just the analyst at the ATIP office who needs to work on ATIP files. It's all of our job. We are all responsible.

When I create a document, I need to know that that document will be accessible. If somebody asks for it, I have to know where it is and I have to be able to provide it to my ATIP analyst in a very timely manner, because they have 30 days to respond to that request. If you and I spend 10 days finding it, that takes 10 days out of the 30 days. That's where I think the leadership directive and the guidance need to come down from the top of every institution.

• (1830)

Mr. Matthew Green: I strongly agree and I appreciate your candour.

Thank you.

The Chair: Thank you, Mr. Green.

Thank you, Ms. Maynard.

We'll now go to our second round.

Mr. McCauley, you have five minutes.

Mr. Kelly McCauley (Edmonton West, CPC): Thanks, Mr. Chair.

Ms. Maynard, welcome back and thanks for the information.

You were mentioning in your opening talk that Treasury Board President Duclos needed to take concrete steps, or that there were concrete steps to take immediately. Have you actually seen concrete steps taken, besides more virtue signalling and “I guess we will get better”?

Ms. Caroline Maynard: At the beginning of the pandemic, I saw a letter that Mr. Duclos sent to the institutions reminding them—

Mr. Kelly McCauley: That letter does nothing. Let's be honest. Has anything concrete been done, in your view?

Ms. Caroline Maynard: Not to my knowledge.

Mr. Kelly McCauley: Okay.

You mentioned 15 primary departments. Has there been any follow-up from your department, or from you, about those identified departments?

Ms. Caroline Maynard: Last Friday I sent an invitation to the ministers responsible for those 15 institutions and I asked to meet them personally.

I don't think they know what's going on. I really think the leaders of these institutions are often kept in the dark, or they don't want to know what's happening.

Mr. Kelly McCauley: What did you ask in that letter to those 15 departments? Did you say, “I want this, this and this”, or “We'd like to see this, this and this”?

Ms. Caroline Maynard: I asked for a meeting so I can tell them, because for each of them it's different. They all have different challenges. I want to be able to tell them which ones they are responsible for.

Mr. Kelly McCauley: You commented to Mr. Green that the government needs to take leadership in disclosure in ATIPs. How and who? We've seen the Treasury Board...he's appeared before us, but then nothing seems to get done apart from empty promises.

What needs to be done? What leadership has to be taken by the government and by whom?

Ms. Caroline Maynard: They need to take risks. They need to change their software. They need to look at innovation systems. They need to tell their people that they are responsible for access requests. They need to put it maybe in their performance evaluations, and that's going to be leading to the performance pay at the end. A manager needs to know that it's part of their job and that they have to motivate their people to respond.

Mr. Kelly McCauley: This also has to come from the ministers to start it off—

Ms. Caroline Maynard: That's it. Exactly.

Mr. Kelly McCauley: —with the deputy ministers and the ADMs.

On the comment about not accepting delays, my office submits quite a few ATIPs a year. Almost every one of them is past the 30 days. On every one of them, we file a complaint with your department and we receive a note back saying that, yes, the department is in breach of the Access to Information Act, but nothing gets done from there.

What is the point of all this? Is it just to make MPs feel good with, "Oh look, they were in breach"? Is there any accountability for the departments that continually breach? This goes back long before COVID, so I don't accept any of the excuses from the departments that it's COVID. This goes back long before that.

Ms. Caroline Maynard: I agree, and COVID is just one more excuse, as you say.

Under the old act, unfortunately, my office and I only had the authority to make recommendations. If somebody was in breach of the timeline, I could recommend that they meet a new timeline. Now, I do have the authority to order an institution to respect a certain timeline. I've started doing that, and it has shown some changes.

Mr. Kelly McCauley: How do we follow up and get that order, then? We submitted an ATIP recently and got a note back saying that it would take eight years. All we asked for were emails on one specific contract and five low-level employees who were grading the contract. It came back as eight years.... How do we get your department to force Public Works to do its job instead of what appears to be hiding?

Ms. Caroline Maynard: The only thing I can say is that if it is a complaint that was submitted before June 2019, I did not have the authority to make orders. It's any complaints that have been filed since June 2019 that we now have the power to enforce.

Mr. Kelly McCauley: Okay. We should just follow up.

I'm running out of time, so let me ask you this.

At our last OGGO meeting, we had a collection of whistle-blowers. We were looking at this situation. Canada has very weak whistle-blower protection. How is our lack of a proper access to infor-

mation laws perhaps affecting whistle-blowers and their ability to come forward or our ability to protect them?

• (1835)

Ms. Caroline Maynard: I don't know. It's a very good question.

To me, I think whistle-blowers need to be able to access the information and people have to be able to know what's going on, so that's where the link is, but between my office and what the legislation is, I am really only responsible for making sure you're getting the information, and I'm trying to do that as quickly as possible.

The Chair: Thank you.

Thank you, Mr. McCauley.

Now we'll go to Mr. Weiler for five minutes.

Mr. Patrick Weiler (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.): Thank you, Mr. Chair.

Thank you, Commissioner Maynard, for joining our committee again today.

For my first question, we have heard that there has been a sharp increase in the number of requests coming in this year. Why is there such an increase this year?

Ms. Caroline Maynard: Actually, this year, I think because of COVID, the demand has been less. I think Canadians have other concerns, especially their health.

The demands seem to have been increasing from December. I've seen an increase lately, but we don't have statistics, because, as I was saying earlier, for Treasury Board, their statistics are always based on the previous year, which is something that I recommend in my submission to Treasury Board to change, so that we have relevant statistics that are taken every couple of months. I have a colleague in Scotland who does that, and it's a lot more useful when you know exactly what's going on in the system.

This year, based on our complaints, it seems to have slowed a bit, but last year, in 2019-20, there was an increase. It's just like I said earlier: Canadians just need to know. They ask for the information they know they have a right to access, and they won't stop asking for the information when they believe they are entitled to it.

Mr. Patrick Weiler: With respect to the increase last year, could some of that be as a result of the increased amount of proactive disclosures? How would you account for the increase for 2019-20?

Ms. Caroline Maynard: We saw a slight increase with some disclosures like briefing notes. For proactive disclosures people have to provide a list of titles of their briefing notes issued during the month. But it was always requested before, so that's not new. I think what really increases the demand is any new crisis or any new decision. We see that now with the contracts for vaccines. A lot of people are asking for that information. As soon as something hits the news and it's really important for Canadians...for instance, CERB. How much money is being spent on this? How many Canadians are getting it? What are we doing with our students?

That is what brings the access. One incident can create a huge surge of demand, and it's really difficult to know exactly what. That's why I think we need a surge in analysts to deal with those, too, because institutions are not equipped to respond to those surges.

Mr. Patrick Weiler: Certainly, I sense the heightened interest and thirst for information these days, and I can understand that.

To build off one of the points my colleague made, when you received the additional funding, the \$2.2 million, as part of the supplementary estimates (B), how was this funding used? How many new analysts have you been able to hire to help you in the work you're doing?

Ms. Caroline Maynard: Unfortunately, we only received the money by December. It was great news, but it took a process to get the actual funds. We were able to start hiring people. We are right now in the process of doing a selection process for 25 new investigators. I also hired 12 more last year.

Unfortunately, COVID has slowed down the process. It's more difficult, but it's still possible, so we're doing it. We have a pool right now of 500 candidates who are willing to come and work for me. That's very encouraging, but we still have to do the testing and the interviews. Hopefully, I can use that pool to help other institutions get their analysts too. I'm trying to make good use of this time that we're going to be spending on hiring people.

Yes, the majority of the money, 90%, is going into hiring new investigators.

• (1840)

Mr. Patrick Weiler: You identified some of the challenges with the older or archaic systems that we're operating with. I'm wondering if you've made specific suggestions for the type of software the federal government should look at adopting that could help speed up the process.

Ms. Caroline Maynard: Unfortunately, we don't have the technical experience with the different software. There are many of them. I think they did a search for a contract at the TBS level. We've been saying to look at what other institutions are doing. For example, Transport Canada is doing really, really well with managing their information electronically. Between the institutions, we will refer them to other institutions and tell them to go find out from them and talk to their IT people and managers to see how they're dealing with this.

For example, following the special report with the RCMP—you may be aware of this—there were a lot of issues with the RCMP process. They are also in contact with DND, which has made a lot

of changes. I think between them there are good practices they can learn from each other. If we can help, we will. We put them in contact. However, we don't have the expertise ourselves.

The Chair: Thank you, Mr. Weiler and Ms. Maynard.

We'll now go to Ms. Vignola for two and a half minutes.

[*Translation*]

Mrs. Julie Vignola: Thank you very much, Mr. Chair.

I'm sorry for the lag caused by the interpretation. However, I must say that the interpreters are doing an excellent job, and I thank them for it.

Ms. Maynard, you said that the \$2.2 million allowed you to hire 25 investigators, but that the departments need more analysts.

On average, how much more money do you think the departments would need to hire analysts?

Ms. Caroline Maynard: Once again, it's very difficult to say because each department is different.

There are also significant differences between departments in the classification of analyst positions. This is a problem in itself, because departments treat analysts differently, with some classifying them in administrative services and others in program administration. As a result, the transfer of knowledge and skills can sometimes be difficult. The Canada Revenue Agency has excellent on-line training for its own analysts, but it can't be offered to analysts at National Defence, for example, because it doesn't deal with the same type of information at all.

It's very difficult to know how many analysts departments and agencies need. Each year, each has its own statistics. So it's possible to know how many requests each has received per year, how many of these have been fully answered, and how many still need to be processed. If the number of outstanding requests continues to increase, that's when alarm bells should ring, because it means we're not going in the right direction.

Sometimes it's enough to have additional resources for a year. Consultants can work for us, and that's a great help, but it goes without saying that this is a temporary solution.

Mrs. Julie Vignola: Could you tell me which government departments or agencies seem to be the most resistant to transparency? Are there any specific reasons, if I can put it that way? I'm trying to find the right words so as not to offend anyone.

Ms. Caroline Maynard: Once again, it's difficult to say.

[*English*]

The Chair: Ms. Maynard, could you answer that very quickly, please.

[Translation]

Ms. Caroline Maynard: This is really related to the leadership of the institution. We've found that when deputy ministers get involved in access to information, there really is a lot more transparency. The whole institution sees the direction it's taking.

• (1845)

[English]

The Chair: Thank you very much. Two and a half minutes goes by very quickly.

Mr. Green, you have two and a half minutes.

Mr. Matthew Green: I want to build on the really solid questions of my colleague from the Bloc, Ms. Vignola. We've assumed that everything would stay the same, but from your position, based on the gold standards around the world, if we were to apply a true open by default measure, in your opinion, how would that offset the need for all of the current levels of ATIPs? For instance, if we had proactive disclosure, if we had better systems of transparency, in your opinion, how would that help us offset the current need that we have or that we're facing as a crisis?

Ms. Caroline Maynard: I think it would go a long way. There's nothing better, I think, than voluntary disclosure. One of the best examples I think I gave you last time was that of Australia. When it has three requests on one subject, it's automatically proactively disclosed afterward.

We have Health Canada, which told us they always had the same types of requests pre-COVID, regarding the results of testing of medication. Once you know that, why not make it public? Why wait for an access request? PCO is getting the same types of requests. CSIS is getting the same types of requests. CSIS has very specific, very high-level secret documents, so they have to be careful, but still, they know how to manage their information so that when there is an access request, they can provide the information without disclosing what must be protected.

Mr. Matthew Green: It's not lost on me that we have a Minister for Digital Government; we have a minister whose job this is for digital government, and yet here we are.

I want to talk about the doomsday scenario. What would happen if, after COVID, the access to information regime was beyond repair, just completely haywire? What would the implications be?

Ms. Caroline Maynard: Canadians will lose complete trust in their government. This is—

Mr. Matthew Green: I would agree.

Ms. Caroline Maynard: Access is to give information so Canadians can count on their government and they can hold it to account, really make it responsible for decisions and trust it. If you don't have information, if you can't trust your government, democracy is at question, and I think that would be a very sad day.

Mr. Matthew Green: I think it's incumbent on us to heed these words and, as a committee, to come up with a way in which we can get to a proactive disclosure scenario and really poke and prod this government to do what it said it was going to do, which is to be open by default.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Green.

Now we'll go to Ms. Harder for five minutes.

Ms. Rachael Harder (Lethbridge, CPC): Perfect. Thank you so much.

You opened by saying that it is actually quasi-constitutional. That's the term that you used, and you've used it before as well, of course, to describe access to information.

If it's quasi-constitutional, then I would say it would be deemed an essential service and if it's deemed an essential service, then shouldn't those individuals who are responsible for accessing that information that has been requested be able to go into their offices and then find that information and make it available? Again, quasi-constitutional, that seems to be essential. So why are these documents, why is this information, being held up simply because it's in the office and not available to them at home? Why are they being prevented from doing their job?

Ms. Caroline Maynard: It's really difficult to answer that question because I believe that our government institutions are trying to respect the health information and the restrictions that have been imposed by the provinces. We see, however, that a lot of managers and coordinators themselves will go into the office but they don't feel they have the support or the responsibility or the authority to ask their employees to go.

Ms. Rachael Harder: Would you be able to encourage them that perhaps that should be considered an essential service, given that it's quasi-constitutional?

Ms. Caroline Maynard: I have been saying that since April.

Ms. Rachael Harder: What is the response that you received from the ministers?

Ms. Caroline Maynard: At this point, I haven't been able to talk with the ministers yet. I have a few meetings lined up, hopefully, but the units, the coordinators, the managers, the really low level, who are responsible for the units, they really feel that it's their responsibility. Often, like I said, they will go themselves into the office—we've seen that—so that the files are moving and the employees can get the information to continue to work on files.

They do take it to heart but they need the support from higher up, yes.

• (1850)

Ms. Rachael Harder: Ms. Maynard, are there some ministers who are more willing to work with you than others?

You indicated that you'd like to meet with them but it seems to be difficult for you.

Ms. Caroline Maynard: No, I sent an invitation last Friday. I already have had two responses, from the Minister of Health and the Minister of Heritage.

Ms. Rachael Harder: Two out of how many?

Ms. Caroline Maynard: Two out of 13 so far.

Ms. Rachael Harder: Okay, and so—

Ms. Caroline Maynard: I think it's very encouraging.

Ms. Rachael Harder: Well, that makes one of us.

Ms. Caroline Maynard: I sent it three days ago.

Ms. Rachael Harder: Two have responded and 11 have not.

Ms. Caroline Maynard: Not yet.

Ms. Rachael Harder: Okay. Do you expect a response from the other 11?

Ms. Caroline Maynard: I will follow up with them if they don't respond.

Ms. Rachael Harder: In how much time do you expect a response?

Ms. Caroline Maynard: Actually, my goal is to talk to most of them and to also talk to the Prime Minister, if I can at some point, because I think that's the top. That's what I'm saying, leadership.

Ms. Rachael Harder: Right.

Ms. Caroline Maynard: We need the ministers and we need our Prime Minister to all say the same thing and to show it through action. I do believe—

Ms. Rachael Harder: Not to mention that he put in his letter to every single minister that he expected them to be open and transparent, but it doesn't seem that this is the case, does it?

We've been talking a little bit about the culture of delay or the culture of complacency. It would seem that the system actually allows for this because it has no teeth. You're saying that they can miss their deadline and there's no problem. They might get a courtesy call from you or a courtesy email from you, but then beyond that, there's really nothing that can be done.

Is that correct?

Ms. Caroline Maynard: Actually, under the act now, I can make orders, so yes, there are more teeth and I can also publish those orders, which seems to have had a lot of publicity lately. Unfortunately, it takes that, but actually it has a very positive movement once you start also including the leaders in the problem. That's why I say they are the solution. Most of them don't know until you raise the issue to their level. That's what I'm doing in the next month.

Ms. Rachael Harder: Okay. Thank you. I can appreciate that and I know that you're working very hard, but it's exactly your point. It does start with leadership and leadership at the highest level is the minister. The ministers are really the ones who need to communicate expectations and clearly they have not taken their mandate letters seriously enough to be able to say to their department officials that they want to be open, that they want to be transparent, that they want to be honest with Canadians. That's really unfortunate. Mostly, it's unfortunate because Canadians deserve access to information. They deserve to know that democracy is being upheld in every single corner of government departments.

You said that with every crisis it's common that there would be an increased demand. Now with COVID, you said not so much, but nevertheless, there are very important questions that are being asked during this time. That's what I would say.

Are there some questions that should be given priority over others?

Ms. Caroline Maynard: I do believe that anything with a public interest should be at the top of their priority list. This is something I also recommended, that the act itself be amended. One purpose of

the act is that we're doing this for the greatest public interest, so if there is something that usually would be protected but there is a real public interest, for something like vaccines, the environment or health, it should definitely be something they should keep in mind.

The Chair: Thank you.

Thank you, Ms. Harder. Five minutes go by just as quickly as two and a half, it seems.

We'll now go to Mr. Kusmierczyk for five minutes.

Mr. Irek Kusmierczyk (Windsor—Tecumseh, Lib.): Thank you very much, Chair.

Thank you very much, Commissioner, for your responses. I've been following this discussion quite intently. Most of my questions are nuts-and-bolts questions.

I read the most recent ATIP statistical report that was put out, and I noticed that about 74.8% of requests are directed at one ministry, which is the Ministry of Immigration, Refugees and Citizenship. Can you explain why and give us a sense of the kinds of requests that are being made of the IRCC?

Ms. Caroline Maynard: Yes, and you will be very pleased that in the next month or two, I will be issuing a special report with respect to what's going on at Immigration. I won't be able to give you too much detail, because we're finalizing our systemic investigation. I have to say that Immigration has been a key player and very collaborative in our systemic investigation, because they also want to see if there's a solution to what you just said. They received 120,000 requests last year, mainly from people who were asking for status reports on their immigration or refugee claims. There is a portal that gives some information but not all of the information that they need to understand decisions, so these are the types of requests they receive, mainly.

• (1855)

Mr. Irek Kusmierczyk: Okay. I get it.

Most requests emanate from businesses. Can you explain that? How does that relate to the fact that, again, 75% are directed at IRCC? Can you give us a sense of what businesses are asking for? I'm just curious.

Ms. Caroline Maynard: The businesses, I believe, appear because a lot of non-Canadians will use agents or lawyers or a company composed of experts in immigration files, and part of that process involves access requests.

Mr. Irek Kusmierczyk: That's what I thought. I just wanted to have that confirmed. That is interesting.

The number of pages processed increased dramatically, both in 2017 and then also last year, from about 15 million to 32 million. That's an increase of 17 million pages.

In 2017, there was one report that was responsible for 14.8 million pages produced. Can you explain to us what type of request would require 14.8 million pages?

Ms. Caroline Maynard: I know exactly which one, but I can't tell you, because it was part of an investigation. But prior to 2019, there was nothing in the act that would allow an institution to refuse to process an access request that was frivolous, made in bad faith, or completely unreasonable in terms of the impact on the institution. Since the amendments to the act, there is now a possibility to refuse to act as long as the institution asks permission, which we have done once. We've received about six requests so far. Typically those requests involve somebody asking for—I can give you an example that's not that one—all emails of all the public servants working for this department from 2002 to 2020. That would amount to millions of pages of documents. We've had, fortunately not too often, people make that kind of request, which is very broad and vague and involves a huge number of files.

Mr. Irek Kusmierczyk: When people or groups of people make these types of broad requests for these documents, what does it do to the system, and what does it do to our ability to complete the ATIPs that are required and that are important?

Ms. Caroline Maynard: It really stalls the institutions sometimes. Sometimes it's very easy to pull the information and it's not information that is hard to treat or process. Sometimes the number of pages is due to a lack of good management of information, which unfortunately we're seeing, too, so it's not just the type of request. Better management would definitely reduce the number of pages in a lot of cases.

On what we do with those type of requests, we talk to the requester and we try to scope down. We try to explain what it means. We try to explain how it's going to impact the other requesters, that they're not the only one. Sometimes it works and sometimes it's more of a negotiation. Sometimes we'll see institutions in those cases asking us to not have to act on those requests because they're unreasonable.

Mr. Irek Kusmierczyk: I have a million other questions, but I think I'm out of time.

Ms. Caroline Maynard: Thank you.

The Chair: Thank you, Mr. Kusmierczyk for your diligence and staying so close to the time.

We'll now go to Mr. Paul-Hus for five minutes.

[*Translation*]

Mr. Pierre Paul-Hus: Thank you, Mr. Chair.

Ms. Maynard, as you know, contract management for vaccines a hot topic. If I were to make an access-to-information request, would I be entitled to receive this information in a timely manner?

Ms. Caroline Maynard: You should receive the information. Based on the act, the institution will carefully review the information to determine what should be protected. It may also release additional information to you at its discretion.

In principle, you should receive a response within 30 days of your request, however, you may not receive all the information you require.

• (1900)

Mr. Pierre Paul-Hus: Thank you. We'll take care of that.

On page 11 of the French version of the report, you talk about “the culture of delay.” That intrigues me. We've talked a lot today about COVID-19 and the impact of the crisis on staff. In your report, it says that since the change in government—

Mrs. Julie Vignola: A point of order, Mr. Chair. I'm sorry to interrupt Mr. Paul-Hus, but I'm hearing the interpreter speak in English, while I'm using the French channel. So I'm not hearing what the member is saying. It would be interesting and important that I hear it.

[*English*]

The Chair: Ms. Vignola, there appeared to be a small translation issue. I believe it's been corrected at this point, has it not?

[*Translation*]

Mrs. Julie Vignola: It's working now. Thank you. Let's hope that it will still be working when Mr. Paul-Hus takes the floor again.

[*English*]

The Chair: I had stopped the clock for you, Mr. Paul-Hus, if you want to restart.

Thank you.

[*Translation*]

Mr. Pierre Paul-Hus: Thank you, Mr. Chair.

So I'll resume my question.

On page 11 of your report, you talk about the “culture of delay.” Further on, there's a table showing that every year since 2014-15, there have been delays in responding to access-to-information requests. As I said earlier, COVID-19 has nothing to do with this delay, since the statistics go up to 2018-19.

In your report, you say several times that ministers and the Prime Minister should show leadership. Do you think that direction has been given as early as 2014-15 to slow down the process and, ultimately, hurt access to information? Would the leadership have manifested itself in this way?

Ms. Caroline Maynard: No, I don't think so.

It's rather the opposite. There's been a failure to respond to the needs of institutions and public servants to meet their access to information obligations and responsibilities. The requirement to meet the 30-day response time hasn't been emphasized. It appears that, each year, the 30-day time limit seems to be getting further and further away from being met.

Mr. Pierre Paul-Hus: So there's a kind of laxness in leadership. Basically, no one cares and thinks that there's no hurry.

Ms. Caroline Maynard: That's it. People don't think it's important.

Mr. Pierre Paul-Hus: That's interesting.

Besides, you were talking about technological changes. In your opinion, could texting be a tool that's used to hide and therefore escape the process of access to information?

We know that written documents and emails are covered, but I believe text messages are not.

Ms. Caroline Maynard: Text messages are covered, actually. When you make an access-to-information request, text messages from business phones provided by the institution to its officials are definitely covered. The only problem is that it's much more difficult to save these documents. It depends on the institution's computer system.

We don't encourage the use of texting and chatting for work at all. However, if people do use them, we believe it's imperative that they take steps to retain work-related information of importance to government.

There is currently no legal obligation to do so. They are simply guidelines. Establishing this legal obligation is another one of my recommendations.

Mr. Pierre Paul-Hus: That's perfect. Thank you.

I have one last question for you. Could you give me a list of the five worst departments, in your opinion? I know Canadian Heritage has been blamed lately, but which other departments are causing you the most problems?

Ms. Caroline Maynard: The departments that are on my list of 15 are included because of the number of complaints received. Immigration, Refugees and Citizenship Canada is definitely the first. There is also the Department of National Defence and the Canada Revenue Agency.

Earlier, I had the table in front of me that would have allowed me to give you the statistics. I'm trying to find the information.

Whatever the case, it's often the same departments that come back. It's not necessarily because they're not doing a good job, but because they get a lot of requests. That's often the reason for delays and, as a result, more complaints.

Mr. Pierre Paul-Hus: Okay.

Thank you very much.

[*English*]

The Chair: Thank you, Mr. Paul-Hus.

We will now go to Mr. MacKinnon for five minutes.

• (1905)

[*Translation*]

Mr. Steven MacKinnon (Gatineau, Lib.): Thank you very much, Mr. Chair.

Good evening, Madam Commissioner. Thank you for being with us this evening.

I'd like to address the issue of trade secrets and intellectual property.

Of course, procurement issues are topical. I'd like to hear your thoughts on the idea that a company might be more reluctant to pro-

vide patented materials, services or methods, for example, to a government with an overly open access-to-information regime.

Have you thought about this issue?

Ms. Caroline Maynard: Of course, even in the context of more permissive legislation, there are factors that justify the desire to protect certain information. In such situations, the act provides certain exceptions for third party information, meaning companies doing business with the government. For example, certain clauses of a contract could be excluded.

Now, what we often hear is that it should be all or nothing. Personally, I think there's a happy medium. If companies were told exactly which clauses would be accessible and which ones would be protected, they would be more open.

We are currently operating on a consultation system. When an institution receives an access to information request about a contract it has signed with a third party, the third party is always consulted and can object to the release of the information. In my view, third parties have a right to be consulted, and this is something that can never go away.

Mr. Steven MacKinnon: Do you think these exemptions or provisions are therefore justified?

Ms. Caroline Maynard: I believe this is justified in situations where there could be real prejudice to commercial value or trade secrets. The problem that is often mentioned is that, since it involves a danger of prejudice it's difficult to demonstrate. In any event, the protections offered by the act in this regard are entirely justified.

Mr. Steven MacKinnon: In this day and age, intellectual property is often the only bargaining chip for some companies. You may therefore find it appropriate for our access-to-information regimes to protect such intellectual property or trade secrets.

Ms. Caroline Maynard: Yes.

Mr. Steven MacKinnon: I can't think of a more topical and commercially interesting subject than vaccines, anywhere in the world. In your opinion, it would therefore be justified to withhold certain information at the insistent request of companies.

Ms. Caroline Maynard: We should see what information is being requested to be redacted. There are always ways to release information while protecting the merchant's secret information.

Mr. Steven MacKinnon: What are some ways to protect this information?

Ms. Caroline Maynard: Right now, when an institution receives an access to information request, it has an obligation to disclose information. That is the first obligation. Then, it must determine which parts of the information must be protected and which could be protected. Often people think of information that could be protected as information that must be protected. Discretion is rarely used to disclose the information. When we receive a complaint, we are able to negotiate, but the first reaction is often to protect the information.

Access to information software allows you to carefully check information and redact what should not be disclosed. So people will often receive a document in which information has been blacked out. That is a possibility.

Mr. Steven MacKinnon: The commercial entity or the third party therefore often has the discretionary power to require that the information not be disclosed. If the government absolutely needs a unique, one-of-a-kind product or service, you think it is appropriate to withhold that information.

• (1910)

Ms. Caroline Maynard: It's hard to say. I have to be careful, because there could be a complaint or an investigation about this.

What I am saying is that provisions in the act allow information to be disclosed, just as provisions allow for information to be protected. You would have to refer to the contract in question. Just because there is a confidentiality clause does not mean that the entire contract must be protected.

Mr. Steven MacKinnon: To your knowledge—

[*English*]

The Chair: Thank you, Mr. MacKinnon. I was being very lenient with you today, so I appreciate that.

Mr. Steven MacKinnon: Thank you, Mr. Chair. I appreciate that.

The Chair: We'll now go to Ms. Vignola for two and a half minutes.

[*Translation*]

Mrs. Julie Vignola: Thank you very much, Mr. Chair.

Ms. Maynard, in the course of your work, have you ever been contacted by whistleblowers in the public service?

Ms. Caroline Maynard: We sometimes receive questions from people who want to know how to deal with wrongdoing under the Access to Information Act. For example, it's a criminal act to destroy or hide existing information, to pretend that it does not exist, or to use codes to avoid disclosing it. People who work in access to information may bring those sorts of allegations to our attention, but we do not receive allegations that relate to any other area.

Mrs. Julie Vignola: Do these people submit this type of request to you more than once?

Ms. Caroline Maynard: In the last two and a half years of my mandate, only one person has contacted my office anonymously to find out how to bring potential wrongdoing to our attention. Otherwise, we are the ones who come across that sort of information when we are looking at files.

Mrs. Julie Vignola: Earlier, you talked about an information management problem. That also made me think about the management of archives. In the past, I've dealt with companies with ISO 9000, 9001, 9002, 9014 and so on.

Does Canada have an ISO rating for handling its information? Does Canada archive its information properly?

If not, how can this be improved to ultimately improve your own work?

Ms. Caroline Maynard: It would improve not only my work, but also of those working in access to information.

The general answer is no, we don't manage information properly. People keep everything. That's the new philosophy of electronic work. Having email exchanges 500 pages long is no surprise.

What we would like people to do is to sort information intelligently in order to keep what's important. Someone has to be responsible for managing email or email chains, especially if they lead to decisions or changes in policies or guidelines. That's mostly how it works now, instead of holding meetings. It is important that people know their responsibilities in that regard.

I have actually published a guideline with nine pointers on how to manage information properly, especially information in emails. It may help people at least to manage their email well, but it applies to all information. We used to have file folders with numbers and topics. Now people no longer have file folders, but they have electronic folders in their—

[*English*]

The Chair: Thank you, Commissioner.

Ms. Caroline Maynard: I'm sorry.

The Chair: Thank you very much, Commissioner. I'm sorry for interrupting you.

We will go now to Mr. Green for two and a half minutes.

Mr. Matthew Green: Thank you.

I mentioned earlier that I thought in comparison the U.S. has some better policies in place for access to information. I would like to get a more general input on our competitors. How does Canada compare to other G7 countries in terms of our access to information policies?

• (1915)

Ms. Caroline Maynard: If you compare the legislation itself, there is a group that does an evaluation of the legislation in all the countries every year. Canada finished 52nd in 2018 and 50th last year so I guess the changes we have made with Bill C-58 brought us back by two ranks, but this is only looking at what the legislation allows. It's not evaluating how it's being applied in practice.

Mr. Matthew Green: I have a practical question that's very important.

Practically speaking, it's my opinion that the disclosure of contracts helps us have a better understanding and shed light on potentials for improprieties as it relates to procurement.

In your opinion, within your legislation, how important is it for us to have the ability to disclose contracts with the government?

Ms. Caroline Maynard: Like any information it is very important to be able to provide at least some information. I agree that there is some information... It's like cabinet confidence. There is a purpose there. But you need to be able to see those clauses that have an impact. I think there is definitely a public interest. I think there is a way to conduct our procurement exercise that will allow more information to be provided.

There's also proactive disclosure.

Mr. Matthew Green: I only have 30 seconds, so quickly, on the issue of cabinet confidentiality, which has been a bit of a bugaboo of mine, it feels like everything they put through the cabinet all of a sudden becomes confidential. In that regard, if everything is confidential, then is anything confidential?

Is our government currently using cabinet confidentiality to cloak some of their dealings from the public?

Ms. Caroline Maynard: I wouldn't be able to say because I have no jurisdiction to review cabinet confidences. That's one of the reasons I have asked for the authority, because I want to be able to tell you if they are using it properly or not.

Mr. Matthew Green: I agree. Maybe that can come as a recommendation out of this committee.

Thank you so much for your time here. It has been very refreshing.

Ms. Caroline Maynard: Thank you.

The Chair: Thank you, Mr. Green.

We will now go to Mr. McCauley for five minutes.

Mr. Kelly McCauley: Thanks, Mr. Chair.

I think what Mr. Green is getting at is we shouldn't block everything because of perhaps a small confidentiality clause in a 50-page contract, that we shouldn't be throwing out everything because of one item.

What I was getting to about the whistle-blower issue is we have very weak whistle-blower laws, but we have a broken ATIP system where we are not able to get the information out otherwise. I'm a bit concerned that we're weak in both areas. You stated that we're almost at the point of no return for ATIPs.

Mr. Chair, in light of that, I would like to table a motion from a matter at hand. I sent a copy to the clerk—we have emailed it to Paul—but I will read it: “That, in light of testimony heard in relation to the committee's study on the government's response to the COVID-19 pandemic, the committee retable the committee's 2017 ninth report, titled “Strengthening the Protection of the Public Interest within the Public Servants Disclosure Protection Act”, and call on the government to immediately implement, or undertake to implement, the report's recommendations, and that the President of the Treasury Board appear to provide an update on the progress since the initial tabling of the report.”

The reason behind that, obviously, is it was a unanimous report from all of us last time. You will recall that Treasury Board President Brison at the time committed in committee to come back—plus there was a motion—and explain the government's actions on the whistle-blower suggestions. He subsequently refused to return, and of course now he's gone. We have a new Treasury Board president. We have seen ample evidence of failures to protect whistle-blowers, but also failures within the ATIP act. I think it's a good time to retable a very valuable report that all parties supported last time around.

The Chair: Mr. McCauley, on a point of clarification, where you say “that the government retable the committee's”, are you suggesting that the committee retable? Would that be more appropriate?

Mr. Kelly McCauley: Yes. I apologize.

• (1920)

The Chair: Thank you.

You've presented the motion. Is there any debate?

I believe I see Mr. Drouin's hand up.

Go ahead, Mr. Drouin.

Mr. Francis Drouin: Can we see the text of the motion? I'm trying to get a sense from Mr. McCauley. I know that in the last meeting Mr. Green raised this particular issue about calling for this report, but we had folks from the whistle-blowing community here. I'm trying to make the link between the Information Commissioner and what we are studying with regard to whistle-blowing—two very different, separate issues.

I would have given you a pass, Mr. McCauley, if we had Joe Friday in front of our committee but—

Mr. Kelly McCauley: I think it's pretty clear that we've heard today, and we just heard the IC state, that we have very weak ATIP. It's on the brink.

Mr. Francis Drouin: They are two different acts, my friend. The Public Servants Disclosure Protection Act and the Access to Information Act are two different beasts.

Mr. Kelly McCauley: I believe it's a matter at hand. I'm sure we can go to the chair to see if it's a valid motion.

The Chair: Mr. Drouin, you still have the floor.

[*Translation*]

Mr. Francis Drouin: I would like to see the motion in French, please.

[*English*]

Mr. Kelly McCauley: It was translated as I went, so it can be tabled this way.

Mr. Francis Drouin: It's just courtesy, Kelly, that's all.

The Chair: Thank you, Mr. Drouin.

I believe, Ms. Vignola, you had your hand up.

[*Translation*]

Mrs. Julie Vignola: I did raise my hand, but Mr. Drouin asked the question that I wanted to ask.

The interpreter did a very good job and I did hear the motion in its entirety, but I just want to know whether Mr. McCauley can email us the motion, if he hasn't already done so. If not, I am prepared to discuss it quickly.

[*English*]

The Chair: Thank you, Ms. Vignola.

Mr. Kelly McCauley: I think the clerk has it, if he wants to forward it, although, again, that's not how matter—

The Chair: Go ahead.

The Clerk of the Committee (Mr. Paul Cardegna): Unfortunately, as the text.... I'm prohibited by the committee from distributing anything that isn't in both official languages. While I do have a copy of the text in English, I'm not at liberty to distribute it unless the committee decides by unanimous consent to temporarily suspend that rule and allow me to distribute it.

Thank you.

Mr. Kelly McCauley: I don't think that's required in a matter at hand motion, Mr. Clerk.

The Clerk: It's actually not.... You can move the motion, but unfortunately, I can't distribute it because it's only in English.

Mr. Kelly McCauley: Right.

The Clerk: I'm saying that, from my part, I can't distribute it.

Mr. Kelly McCauley: [*Inaudible—Editor*] confusion about whether it's a valid motion.

The Chair: Do we have unanimous consent for the clerk to distribute to everybody what he has received from Mr. McCauley in one language?

Some hon. members: No.

The Chair: Okay, we don't have that.

Thank you.

Are there any other questions?

I see Mr. Kusmierczyk.

Mr. Irek Kusmierczyk: Mr. Chair, building upon what my colleague Mr. Drouin asked, can you please rule on the appropriateness of this motion? Normally you require 48 hours' notice in advance.

Mr. Kelly McCauley: Not in a matter at hand motion.

Mr. Irek Kusmierczyk: This seems.... Matter at hand.... I think there's a very tenuous link here, if at all.

I'm wondering if the chair could rule on whether this motion is appropriate. It seems like we're debating two different acts, two different issues.

The Chair: In looking at it and as we move forward on it, we have had the whistle-blowers here presenting to this committee on this study. We have also heard today from the witness and, therefore, I see this as valid. Again, we will further continue debate.

Mr. Drouin, I see your hand up.

[*Translation*]

Mr. Francis Drouin: Mr. Chair, I cannot believe that we are debating a motion when, as a parliamentarian, I do not have it in French. The House just passed a unanimous motion to ensure that the interpreters can do their job, and I know that they are doing so. But now I don't even have the text in French.

Can you repeat the motion? Can I have the text of the motion in French? I don't want to tell Mr. McCauley what to do, but he's been here for a number of years so he should know that a motion has to be moved in both official languages.

• (1925)

[*English*]

Mr. Kelly McCauley: They're in the rules—

No, Francis.

[*Translation*]

Mr. Francis Drouin: Mr. Paul-Hus cannot accept that.

[*English*]

Mr. Kelly McCauley: No, not in a matter at hand motion that can be read in—

The Chair: I will get the clerk to—

Mr. Kelly McCauley: —and translated at the same time.

The Chair: Order.

I will have the clerk reread the motion, which will then be translated so that everyone can hear it in English and French.

Mr. Clerk.

The Clerk: Thank you, Mr. Chair.

The text of the motion is this: “That, in light of testimony heard in relation to the committee's study on the government's response to the COVID-19 pandemic, the committee retable the committee's 2017 ninth report, titled “Strengthening the Protection of the Public Interest within the Public Servants Disclosure Protection Act”, and call on the government to immediately implement, or undertake to implement, the report's recommendations, and that the President of the Treasury Board appear to provide an update on the progress since the initial tabling of the report.”

The Chair: Thank you, Mr. Clerk.

Next we have Mr. MacKinnon.

[*Translation*]

Mr. Steven MacKinnon: Mr. Chair, I am also trying to see the connection.

We are doing a study on COVID-19 for which we have called the Information Commissioner to look at the government's response to the pandemic while public servants are away from their workplaces. That was the purpose of our meeting today. Suddenly, we receive a motion that does not deal with COVID-19 or the Access to Information Act, which is the topic on the agenda of our meeting today.

Mr. Chair, I would like to ask you formally whether you believe this motion is related to the topic being discussed today and whether you believe it is in order.

[English]

The Chair: Thank you, Mr. MacKinnon. I appreciate your comments. I have ruled on this, and we did have the witnesses today talking about this very subject.

We have Mr. Drouin.

No? Are you done, Mr. Drouin?

Okay. We'll go to Mr. McCauley.

Mr. Kelly McCauley: I'm sorry. I've lowered my hand.

The Chair: Mr. MacKinnon?

Okay. I see no [Technical difficulty—Editor]

We'll call for the vote on the question, Mr. Clerk.

(Motion agreed to [See Minutes of Proceedings])

Mr. Matthew Green: I'm just deeply grateful this wasn't a filibuster. I appreciate that, my Liberal friends.

The Chair: I'm just going to have the clerk speak to this for a second.

The Clerk: Thank you, Mr. Chair.

I just wanted to clarify two things, as the committee has re-adopted an old report that it's going to present to the House. That's fine.

However, if the committee does want to have a government response, it usually makes a specific request by motion, something to the effect of that, pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to the report. I just want to clarify if that is the intention of the committee.

Also, when adopting a report, members have the option to present dissenting or supplementary opinions. That's provided for in the Standing Orders. The only question that the committee has to decide on is a deadline for the submission of those. While it would seem somewhat irregular that they can present a dissenting or supplementary opinion to a report that has already been adopted, it is in the Standing Orders.

I put those two issues to the committee to ask if the committee wishes to decide on those tonight before we move forward.

Thank you.

• (1930)

Mr. Kelly McCauley: Yes, Paul, I think we should. Thanks for correcting that.

I can't imagine, after a unanimous report from all parties, that anyone would dissent to it at this point, but....

The Chair: Just for clarification, the committee agrees that we ask for a government response. Is that correct?

Mr. Kelly McCauley: Yes.

The Chair: Thank you.

On a deadline for submissions for supplementary opinions, do we want a deadline, as in a time frame, please?

Mr. McCauley.

Mr. Kelly McCauley: Next week. We all agreed unanimously the last time around. I can't imagine things have changed.

The Chair: Okay, we'll give one week then.

Mr. Francis Drouin: Can we at least ask for a standard government response? What's the standard? Is it 60 days?

Mr. Kelly McCauley: No, we're talking about, I think, the committee offering a supplementary or a dissenting report.

Am I right, Mr. Chair?

The Chair: That's correct, for a dissenting report.

We would submit it to the clerk in both official languages by Wednesday, the 24th, at 5 p.m.

Is that agreed?

Seeing no dissenting votes, we will take that as carried. Thank you.

Mr. McCauley, your time is up.

Committee, we will continue.

Commissioner, thank you for bearing with us as we dealt with the procedural matters.

We have one final round.

Go ahead, Mr. Jowhari, for five minutes.

Mr. Majid Jowhari (Richmond Hill, Lib.): Thank you, Mr. Chair.

Welcome, Madam Maynard. It's good to have you back. Thank you for the great work you're doing.

Madam Maynard, you talked about the fact the Ministry of Transport seems to be doing a good job. Can you explain what they are doing differently from the other organizations? They're under the same directive as the TBS. Is it the TBS that's doing a better job guiding them? Is it them who have a different procedure? What is it and why do you say they're doing it better than everybody else?

Ms. Caroline Maynard: I'm not saying they're doing it better than anybody else. I'm saying they are a good example of where there's a practice that has been put in place and everything is now done electronically.

This is one of the departments we have seen that has moved really quickly away from paper files. Because it's electronic, it's a lot easier for people in the unit at the access level to access those documents from all their employees and to exchange it through emails. There's no need to go into the office and look at the paper.

There's no department that is perfect under the act, but there are a lot of them that are really trying hard and finding ways to deal with the increased demand or are trying new technology, and that's one of the departments that came to mind as a good example. Fisheries and Oceans is another one that's doing really well.

Mr. Majid Jowhari: Let's take an example. Fisheries and Oceans, as well as Transport, do they use the same application or are they using a different application?

Ms. Caroline Maynard: I don't know. One of the problems is that none of the institutions are obliged or consistent in their use of technology, so there's no imposed technology on how to do their processing. There are definitely some proposed information management systems. But when you see initiatives from institutions, and they're pushing forward, like I said, new guidelines or new directives that from now on they're not doing any paper documents, that they're just going to do it electronically, this has had a huge impact on their processing access.

• (1935)

Mr. Majid Jowhari: Are the documents generated by Transport or by Fisheries and Ocean any different? Is it that all their applications are coming online? What is it that distinguishes them being able to go from a paper system to a fully electronic system that, in your opinion, the others can't do?

Ms. Caroline Maynard: I don't know if anybody can't. I really think it's a matter of will. If people decide that's how they're going to do it, sometimes it may take longer, but we definitely need directions from the top, as well as money, resources and people to say, "Enough is enough. We're changing, innovating and making decisions that are going to help us. We'll review our processes," instead of just continuing with the way it is and accepting that it's too difficult.

Mr. Majid Jowhari: In your opening remarks, you talked about the fact that the launch of the online ATIP application has been delayed. Can you explain, in your opinion, what the underlying reasons for its delay are?

Ms. Caroline Maynard: I'm told that because it's going to be used for privacy requests and also access requests, there's an issue with the authentication of the requester. There are still some technical issues with making sure that the person who's asking for the information is the right person, because, especially if you ask for personal information, they need to provide you with the information about you, not about your neighbour. They're trying to fix that. I'm just surprised and disappointed that it is taking this long and that they're still trying to fix it. It's taken them years to put together that online portal.

Mr. Majid Jowhari: Are you saying that this online portal is being developed in house?

Ms. Caroline Maynard: No, I think it's been done through a contract. They hired a company that was able to provide them with the specifications they requested but there's some issue. I think Treasury Board would be better placed to respond to you about exactly what the issue is, because they're the ones putting it together, but recently we were told that there's going to be another delay before it's implemented.

Mr. Majid Jowhari: Have they given you a timeline?

The Chair: Thank you, Mr. Jowhari.

Mr. Majid Jowhari: Thank you very much, Madam Maynard.

Ms. Caroline Maynard: It should be next year sometime.

The Chair: I appreciate that. Thank you very much.

I'd like to thank Ms. Maynard, the Information Commissioner, for appearing today and bearing with us through the votes that de-

layed our time for her and pushed her further and further back. We appreciate that.

Thank you very much for being with us today. You're welcome to go at your leisure.

Mr. Kelly McCauley: You're welcome to come back any time.

The Chair: Yes, you are welcome to come back too.

Ms. Caroline Maynard: Thank you.

The Chair: With that said, we were supposed to be going into an in camera meeting. I think what we can do in light of how long today has been is this. On Monday, we have two witnesses coming, so we will defer the majority of what we were going to go in camera for to Monday. There is one issue that we can bring up today, and I will just bring that up at this point in time.

The supplementary estimates (C) were tabled in the House on Tuesday, February 16, 2021. Some votes were referred to committee. I'm just asking if the committee wishes to study the supplementary estimates (C) and invite the President of the Treasury Board, the Minister of PSPC and the Minister of Digital Government to appear.

Some hon. members: Agreed.

The Chair: Does the committee, at the same time, wish to study the departmental results reports, which were tabled in the House of Commons on December 7, 2020?

Some hon. members: Agreed.

The Chair: Thank you very much.

I'm going to ask the clerk to comment on one other aspect first, and then we will adjourn.

• (1940)

The Clerk: Thank you, Mr. Chair.

Members will recall that we've been receiving documents from ESDC. We've received two groups of the documents already. I want to inform the committee that I have received the third and final group of documents. These are documents submitted pursuant to an order adopted by the committee on November 2, 2020. I am starting to process them. We are hoping to have them published on the committee web page and accessible to all members and the public, hopefully, by the middle of next week. A note will be sent to members to that effect when that happens. I'm prepared to answer any questions if anybody has them.

Thank you.

The Chair: Do we have any questions?

Seeing no hands up, I appreciate that.

Thank you, everyone, for being with us and bearing with the votes, etc. Hopefully by next time the votes will be on our apps and we will not be running these extra two to three hours overtime.

Thank you, and I wish you all a good night.

The meeting is adjourned.

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