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# Standing Committee on Access to Information, Privacy and Ethics

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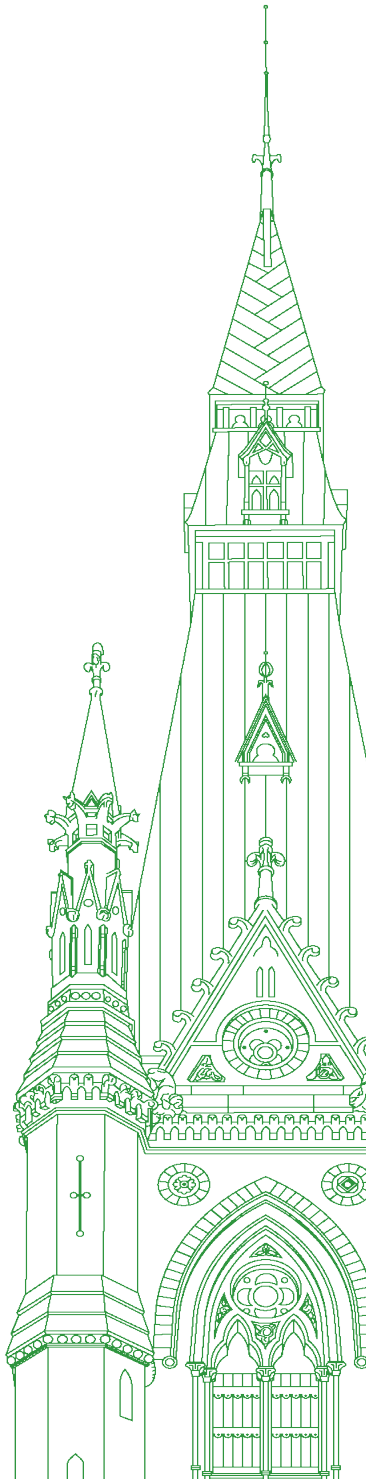

Chair: Mr. John Brassard

# Standing Committee on Access to Information, Privacy and Ethics

**Wednesday, November 23, 2022**

● (1630)

[*English*]

**The Chair (Mr. John Brassard (Barrie—Innisfil, CPC)):** I call the meeting to order. Good afternoon, everyone.

[*Translation*]

Welcome to meeting number 48 of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

[*English*]

Today's meeting is taking place in a hybrid format pursuant to the House order of June 23, 2022, and therefore members can attend in person in the room and remotely by using the Zoom application.

Should any technical challenges arise, please advise me. Please note that we may need to suspend for a few minutes as we need to ensure that all members are able to participate fully.

[*Translation*]

Pursuant to Standing Order 108(3)(h) and the motion adopted by the committee on Monday, May 16, 2022, the committee is resuming its study on the access to information and privacy system.

[*English*]

In accordance with the committee's routine motion concerning connection tests for witnesses, I'm informing the committee that all witnesses have completed the required connection tests in advance of the meeting.

I would now like to welcome our witnesses today, and this is the order in which they will be speaking.

From the B.C. Freedom of Information and Privacy Association, we have Mr. Mike Larsen, president. From the Canadian Foreign Intelligence History Project, we have Alan Barnes, senior fellow, Norman Paterson School of International Affairs. From the Canadian Immigration Lawyers Association, we have Andrew Walter Laszlo Koltun, and from the Union of British Columbia Indian Chiefs, we have Robyn Laba, senior researcher; Jody Woods, administrative director, research director; and Kukpi7 Wilson, who is the secretary treasurer.

[*Translation*]

We are pleased to have with us again today Mr. Simard, who is standing in for Mr. Villemure. Welcome, Mr. Simard.

[*English*]

Mr. Larsen, you have five minutes. The floor is yours for an opening statement, sir.

**Mr. Mike Larsen (President, BC Freedom of Information and Privacy Association):** Hello, everyone. Thank you very much for inviting us today.

My name is Mike Larsen. I am a faculty member and co-chair of the criminology department at Kwantlen Polytechnic University. I'm appearing today on behalf the B.C. Freedom of Information and Privacy Association, or FIPA, in my capacity as president.

I'm joining you from my office here on the unceded traditional and ancestral lands of the Kwantlen, Katzie, Semiahmoo and Tsawwassen peoples.

FIPA welcomes this opportunity to speak today about Canada's access to information and privacy system. We commend the members of this committee, both past and present, for launching this study and inviting representations from groups such as ours.

I would be remiss, however, if I did not comment on the quick turnaround nature of this invitation, received on Monday with scant time to prepare for a Wednesday appearance. We have heard from several allied groups that are involved in right-to-information advocacy in Canada that found the turnaround time to be unreasonable, and we think that the committee's work is poorer for the absence of their voices.

That said, my remarks are accompanied by a written brief outlining our analysis and recommendations, and they are guided by a question and by a visual metaphor.

The question for me today is, what would a strong and effective access to information system for Canada look like?

In answering this question, it is helpful to imagine the image of an onion. We all know that onions contain layers and that the health of each layer impacts the health of other layers. We also know that onions can look good on the outside while concealing rotten layers when you open them up.

Just like a healthy onion, a strong and effective access to information system for Canada would have several layers. At the core, we would see a robust duty to document embedded in legislation and backed by enforcement measures. All of the other layers of our transparency system depend on the production of complete and accurate documentation of decisions made and processes followed by government.

Moving outwards, the next layer of our transparency onion would be a clear and well-resourced information management framework that makes it possible to efficiently locate and retrieve records. Such a framework would need to support organized record management within government while also serving as the basis for an accessible and public-facing road map of information holdings of public bodies, like a finding aid.

Building upon the core components of a duty to document and an effective records management framework, the next layer of the transparency onion would be an updated and modern Access to Information Act. Such an act would need to be informed by a deep commitment to the idea that the right to information is integral to the functioning of a democracy. It would need to be broad in scope and encompass the full spectrum of government organizations, including ministers' offices and entities substantively funded or controlled by government.

It would need to be timely and embrace the principle that access delayed is access denied, by imposing clear caps on the length of request extensions. It would need to be accessible, without tollgate application fees or vast in-process fee estimates that function as barriers for transparency. It would be guided by a strong public interest clause that would act as an override for all exemptions in cases where the public interest in disclosure outweighs the interests of secrecy.

Beyond this, it would truly limit the application of exceptions and exemptions, ensuring, for example, that over-broad interpretations of policy advice do not allow important information to be withheld from the public. Importantly, such an act would need to be supported by an Office of the Information Commissioner with strong investigative, order-making and enforcement powers.

The next layer of the transparency onion would be a thriving access culture characterized by sincere commitments to transparency at the highest levels of government, by the effective resourcing of access to information and privacy offices within public bodies and by adequate training. Senior leadership would need to set the tone by taking responsibility for transforming organizational cultures of secrecy that treat access to information as a risk to cultures of transparency that recognize access to information as a right.

Finally, we get to the outer layer of the onion, a proactive disclosure framework that builds upon all of the layers below by requiring public bodies to routinely and proactively disclose categories of records that are frequently requested and records whose release is a matter of public interest. Such a framework could do much to alleviate systematic delays and backlogs by satisfying the need for transparency without relying on a request-response dynamic.

I have sought to briefly describe the features of a strong and effective access to information system and to do so in a way that emphasizes their interconnected nature. Our existing access to information system, alas, bears little resemblance to this vision. It lacks a legislated duty to document. It does not encompass the full terrain of government. It is characterized by delays and backlogs and by exemptions for cabinet confidences, policy advice and more and by fees that inhibit transparency. It is underfunded, under-resourced and undermined by a culture of secrecy. There is, to stretch this metaphor, a lot of obvious rot in this onion.

● (1635)

In closing, I urge the committee to be bold and aspirational and to call for robust and much-needed reforms to the laws governing the right to information in Canada.

Thank you.

**The Chair:** Thank you, Mr. Larsen.

Next we are going to Mr. Barnes.

Thank you for joining us in person. You have five minutes.

**Mr. Alan Barnes (Senior Fellow, Norman Paterson School of International Affairs, Canadian Foreign Intelligence History Project):** Mr. Chairman and members of the committee, thank you for this opportunity to address you on the important subject of access to information.

I would like to raise a topic that has received little attention so far, which is the difficulty of accessing historic government records. The discussion of access to information has largely focused on problems of accessing current records, but there are also major impediments to obtaining government records that are many decades old. The access system was never designed to deal with such historical records. When the act was first implemented, it was not intended to replace existing mechanisms for accessing government records, but in practice, that is what's happened.

Today there is no mechanism for the declassification and release of government records after a certain period of time. The so-called 30-year rule does not exist in Canada. Canada is the only member of the Five Eyes intelligence alliance that does not have a system for declassifying historic records.

My particular field of study is intelligence history, but this problem affects a wide range of historical records on intelligence, security, international affairs and defence. Most Canadian government records on intelligence and international affairs since the 1950s will therefore remain closed until someone makes a specific request for them via ATIP. These requests are then reviewed through the same process that is used for current records. Reviewing officers have no knowledge of the historical context of the records and generally apply the same considerations of what to redact, even though any sensitivity has diminished substantially over time.

The government has no mechanism to track the historic records that have already been released, so departments spend considerable time re-reviewing records that have been released elsewhere. Frequently, this review takes years to complete and in many cases results in complaints to the Information Commissioner because of unreasonable redactions.

The current system creates a major problem for Library and Archives Canada because it means that the great majority of government records on intelligence, international affairs and defence will never be accessible to researchers, who are forced to use the ATIP process. This means that they can only nibble at the edges of the vast quantity of government records held by LAC.

The problem also affects other departments, which continue to hold substantial archives of historic records, including the Privy Council Office and Global Affairs. These records have not yet been transferred to LAC, even though most of them are decades old. For example, the Privy Council Office still holds records from the Second World War.

The answer to this situation is obvious. Canada should establish a declassification framework, separate from the overtaxed ATIP process, that would proactively review and release records after a set period of time. Our allies have already shown how this can be done. In fact, some limited steps have been taken in this direction. Public Safety Canada is leading an interdepartmental declassification project looking at ways to make historic documents on intelligence and security available to the public. So far, however, this effort has not resulted in the release of any records.

I believe this committee should consider inviting officials from Public Safety Canada to provide testimony on the work being done by the declassification project and on the prospects for making more historical records on intelligence and security available to Canadians.

The government has rightly emphasized the importance of transparency concerning intelligence and security matters in order to build public confidence in the work of these agencies. Making more historical records available would help to enhance such transparency.

Canadians deserve a sound understanding of their history, including in the fields of intelligence, international affairs and defence. Proper access to historical records is vital to such an understanding, but these records are currently being kept hidden by an act of Parliament so restrictive that researchers cannot do their work.

Thank you. I look forward to your questions.

● (1640)

**The Chair:** Thank you, Mr. Barnes. You were under time, which is great.

Next we are going to Mr. Koltun, from the Canadian Immigration Lawyers Association.

Sir, you have five minutes for your opening statement.

**Mr. Andrew Koltun (Canadian Immigration Lawyers Association):** Thank you, Mr. Chair and members of the committee, for the opportunity to appear before you.

My name is Andrew Koltun, and I am appearing on behalf of the Canadian Immigration Lawyers Association, or CILA.

CILA advocates improvements to immigration-related policies and departmental operations and represents hundreds of immigration lawyers across the country.

I'm here today to explain that for immigration applicants, the ATIP system is broken. It's broken by lengthy and unreasonable delays. These delays obstruct access to justice and are overburdening the federal court system. The solution is to impose a statutory 30-day time limit on extensions.

My submissions today will cover four parts: one, how immigration applicants use the system; two, the problems they encounter; three, how these problems impose access to justice barriers; and four, recommendations.

This brings me now to section one.

Immigration, Refugees and Citizenship Canada, IRCC, is the federal department that receives the most access to information requests. Approximately 75% of all ATIP requests in the federal government go to IRCC. However, unlike other departments, 98.9% of these ATIP requests are for an individual's personal data held by the department. Immigration applicants are often requesting their immigration files and officers' notes on those files. This is because when IRCC refuses a decision, IRCC does not provide the reasons for the refusal. These must be obtained either by an ATIP request or by challenging the decision, often in Federal Court.

This brings me to section two. There are two main problems that immigration applicants encounter within the ATIP system.

The first problem is an increasing failure by IRCC to process ATIP requests within the statutory 30 days and a failure to even seek extensions.

Historically, the majority of ATIP requests for the refusal reasons were processed within the statutory 30 days. During COVID, this slipped to beyond 60 days. However, over the last few months, a worrying trend has arisen. IRCC has both stopped meeting the 30-day deadline and stopped even sending extension notices when the deadline cannot be met. Instead, IRCC merely does not provide the results, and applicants are left wondering if their ATIP will be processed at all.

This brings me to problem two. Even when an extension is provided, it's often lengthy and beyond all justification. In many cases, IRCC imposes blanket 365-day extensions to provide a copy an applicant's complete immigration record. Such an extension is often divorced from the actual time needed to produce that record. When the same request for the same application documents is made by the Federal Court to IRCC, IRCC can produce a copy within one to two weeks.

This brings me to section three.

The delays and extensions by IRCC impose steep barriers for access to justice for immigration applicants. There is currently the highest volume of immigration cases at the Federal Court of any time in its history.

When IRCC does not provide the reasons for refusal by ATIP within the statutory 30 days, applicants are often forced to challenge the refusal at the Federal Court, merely to use the court's power for requests of records to obtain the reasons for refusal. Through its ATIP processing complacency, IRCC is turning Federal Court judges and clerks into ATIP processing officers.

This all comes at great expense. It's expensive for the applicant, who has to pay for court fees and legal fees, and it's expensive for the Federal Court, which often requires more registry staff than ever to handle the increased volume.

This brings me to section four, our recommendations. To address issues with delays, we recommend that the act be amended to impose a strict 30-day limit on the length of an extension that can be applied. As many other witnesses have identified to this committee, access delayed is access denied.

This concludes my opening remarks, and I welcome your questions.

● (1645)

**The Chair:** Thank you very much, Mr. Koltun.

All of these opening remarks are under time, which is great. It will give us more time for questions.

Next, from the Union of British Columbia Indian Chiefs, I would like to welcome Robyn Laba, Jody Woods and Kukpi7 Wilson, secretary treasurer.

I understand, Kukpi7, that you'll be speaking.

You have five minutes for opening remarks. Please go ahead.

**Chief Judy Wilson (Secretary Treasurer, Union of British Columbia Indian Chiefs):** Thank you.

I'm calling from the Tseil-Waututh, Musqueam and Squamish nations, and I give territorial acknowledgement. I'm the secretary-treasurer of the Union of B.C. Indian Chiefs and co-chair of the B.C. specific claims working group. I'm going to speak about how federal access to information affects first nations' access to justice in the resolution of specific claims against Canada.

Specific claims are historical grievances brought against the federal government by first nations when Canada fails to fulfill its lawful obligations, as set out in statutes, treaties, agreements or the Crown's reserve creation policies. The federal specific claims process and specific claims tribunal require first nations to submit documentary evidence to support their claims against the Crown. Most of this evidence is controlled by federal government departments and institutions, such as Crown-Indigenous Relations, Indigenous Services Canada, and Library and Archives Canada.

First nations must rely on the Access to Information Act and Privacy Act to obtain records held by the federal government in order to meet the specific claims policy requirement for filing claims. Since first nations are required to obtain thousands of records held by federal government departments to substantiate their claims against the Crown, the right to access to information is a fundamental component of first nations' access to justice.

Just and fair redress for historical losses—a right articulated in article 28 of the United Nations Declaration on the Rights of Indigenous Peoples—is a political imperative if we are to move toward reconciliation. Reconciliation has been deemed by the courts and all levels of government to be of public interest and a political priority. First nations have unique rights to data sovereignty that are supported by the UN declaration and embedded within first nations laws, protocols and governance structures.

Among the types of information included in the accepted definition of “first nations data” is information about first nations reserve and traditional lands, waters, resources and the environment. The federal government has a legal obligation, through the United Nations Declaration on the Rights of Indigenous Peoples Act, to ensure that all necessary measures are taken to uphold the UN declaration and meet its objectives.

The Prime Minister's December 16, 2021, mandate letters to the ministers direct each of them to implement the UN declaration and work in partnership with indigenous peoples to advance their rights. This entails upholding the honour of the Crown in all dealings with first nations. Ensuring first nations have full access to records they require to substantiate their claims is necessary to uphold the law and serve the public interest.

Specific claims arise when Canada fails to fulfill its legal obligations to first nations. Canada's specific claims policy requires first nations to substantiate their claims with documentary evidence. Most of the historical evidence first nations require to support their claim is controlled by Canada and federal government institutions. Since Canada controls access to the evidence, first nations are required to substantiate their historical claims against the Crown through the Access to Information Act and Privacy Act. This is an unfair and untenable conflict of interest. Canada's conflict of interest is the overarching barrier to first nations' full and equitable access to justice. Systemic problems with access to information processes that impede first nations' access to justice include delays, broad or inconsistently applied exemptions and ineffective legislative remedies.

Canada's commitment to meaningfully engage with first nations has fallen far too short of expectations and minimum standards for obtaining first nations' free, prior and informed consent, as articulated in article 40 of the UN declaration. Human rights principles—such as self-determination, respect for first nations rights and title-holders, and obtaining first nations' free, prior and informed consent—must be incorporated into, and underpin, all processes for developing, reviewing and amending federal access to information legislation and associated regulatory administrative processes.

Canada's conflict of interest in controlling first nations' access to records must be fully eliminated. The Treasury Board and the Department of Justice must work in full partnership with first nations and their respective organizations toward developing a new information management regime. This information management regime must uphold first nations' rights, as articulated under the UN declaration.

In the interim, Canada must recognize its duty to full disclosure and uphold the honour of the Crown by working in full partnership with first nations to develop a mechanism of independent oversight that ensures first nations' full and timely access to records.

● (1650)

Canada must make first nations claims researchers' requests for access to information a priority by hiring additional dedicated staff to expedite existing and impending requests.

Canada's information analysts and staff must be informed about first nations-specific claims and first nations' right of redress and information rights, as well as imperative Crown-indigenous reconciliation.

Canada must make meaningful and direct dialogue with first nations and their representative organizations a priority from the outset of all future policy work.

Thank you.

**The Chair:** Thank you, Kukpi7 Wilson.

[*Translation*]

We will now begin the rounds of questions.

Mr. Gourde, you will be starting things off. You have six minutes.

Go ahead, Mr. Gourde.

**Mr. Jacques Gourde (Lévis—Lotbinière, CPC):** Thank you, Mr. Chair.

Thank you to all the witnesses for being here today.

My first question is for Mr. Barnes.

I'm fascinated by the historical records aspect and the 30-year rule. Do our neighbours to the south have any practices we can look to? How long do they wait before declassifying records?

[*English*]

**Mr. Alan Barnes:** The American declassification system is really quite complicated and there are various categories, and I'm not as familiar with that system as I am with the British system. In the British system, there is a legislated requirement that government records be reviewed after 30 years and in large part declassified and transferred to their National Archives. There are some exceptions for materials to be retained for longer than that, but it's a general practice that once they're 30 years old, they are transferred to the archives.

The difference in the U.K. is that when they're transferred to the archives, they're automatically open, whereas in Canada, many of the government records that are transferred to the archives are still restricted. Therefore, LAC has to consult with the originating departments on whether they can be released. It's a much more complicated process.

[*Translation*]

**Mr. Jacques Gourde:** As far as historical records are concerned, are there any sectors or aspects of Canadian history that are still fairly well hidden?

We don't have access to records that would prove certain events, for instance.

● (1655)

[*English*]

**Mr. Alan Barnes:** Yes, exactly.

There are wide ranges of history that are still restricted. I broadly categorize those as intelligence, security, international affairs and defence. Essentially, it's any of those areas of history that are affected by section 15 of the Access to Information Act, which allows for exemptions for anything that could be harmful to Canadian international affairs, defence and so on.

A very wide range of historical matters remain restricted, including events in most of the Cold War and since the Cold War. There are many other diplomatic issues and so on for which it's much more difficult to get records.

[*Translation*]

**Mr. Jacques Gourde:** Thank you, Mr. Barnes.

My next question is for Mr. Koltun. It has to do with immigration.

Do certain immigrants experience—or will they experience—almost irreversible harm as a result of waiting too long for their applications to be processed?

When they submit an access to information request to have their file reviewed as a way to remedy fairly minor issues, sometimes a document or signature is missing. Can that hurt people who wanted to immigrate to Canada?

[*English*]

**Mr. Andrew Koltun:** Thank you. That's an excellent question.

Not having access to their immigration file and specifically to the documents that IRCC already holds can have many negative impacts when an applicant is doing a subsequent application.

When an applicant submits an application online using the CIC portal, they are not given a copy of what they submitted. Once it's in government hands, it stays with the government.

Increasingly, when you have digital applications, hard drives crash, computers are exchanged and applicants can easily lose track of what they have submitted. When an applicant cannot access their previous files, they can't understand why their application was refused. Without notes, they don't know what the officer's reasoning is without access to the files to do their own due diligence and review whether a signature was missed. They can't determine that.

Thus, when there's a very long delay and an applicant is refused, they have to wait the entirety of the delay until they can apply again so that they can make a strong application that will overcome the reason for refusal.

[*Translation*]

**Mr. Jacques Gourde:** The wait times have actually grown longer in the past two or three years. A 30-day deadline would be good. As members, we help a lot of people with immigration issues at our constituency offices. Sometimes, people wait six months, a year or a year and a half. It has even taken some four years to go through the whole process, before they can immigrate to Canada.

Do you see the same wait times on your end?

[*English*]

**Mr. Andrew Koltun:** Yes, we see it on our end as well.

In particular, when applicants receive, for example, procedural fairness letters from IRCC asking them to explain a discrepancy between the new application and the old application, IRCC does not provide a copy of the old application. It falls to the applicant to make an ATIP request for their old application, and then to continually seek extensions to respond to IRCC's letter by saying, “I have not received my ATIP request. I cannot respond to your letter right now.”

[*Translation*]

**Mr. Jacques Gourde:** I have one last question for you. If you could wave a magic wand to find a way to streamline or shorten the process at IRCC, what would you do?

[*English*]

**Mr. Andrew Koltun:** There would be two parts, one that falls within the purview of this committee and one that actually falls within the purview of the immigration committee.

The first part would be the 30-day timeline that says that extensions cannot go beyond 30 days. That would help many immigration applicants, because often there's a time limit to respond to refusals and challenge them. A 30-day extension limitation would keep them within that time limit.

Second—and you could discuss this with your colleagues on the citizenship and immigration committee—the solution is for IRCC to automatically provide the reasons for refusal in their refusal letters. IRCC promised that they would explore this initiative when they responded to the Information Commissioner's systemic investigation back in 2018 through 2020. That result has not yet appeared.

Similarly, IRCC has not consulted with stakeholders or immigration lawyers on making that a reality—

● (1700)

**The Chair:** Thank you, Mr. Koltun. I'm sure this issue will come up again through questioning.

[*Translation*]

Thank you, Mr. Gourde.

[*English*]

Next we're going to go to Mr. Bains for six minutes.

**Mr. Parm Bains (Steveston—Richmond East, Lib.):** Thank you, Mr. Chair.

Thank you to all of our guests for taking the time to join us today on our committee.

My questions are coming from the traditional territories of the Musqueam. My first question is to Mr. Barnes.

You talked a little bit about the history. What other aspects of Canada's information laws are preventing researchers from studying Canada's history?

**Mr. Alan Barnes:** There are various aspects of the current arrangements that make it very difficult to access historical records.

A large part of that is that the government really doesn't know what it has already released. These records are in various different departments. In some cases, I've been able to obtain records, and then I've asked for a similar file from another department. They have no way of tracking what has already been released by a different department, so they're spending an awful lot of time re-reviewing these records that have already been released. They're just not aware of what's already out there, and they still have a very narrow view of what they think can be released.

That's a problem when departments are complaining that they're overwhelmed with work when they're essentially creating additional work for themselves.

The other fundamental problems are more linked to information management and so on, but that feeds into the access process, because if the researcher isn't aware that a particular file exists, they can't really ask for it. Requests for general information on a given subject are very awkward. It doesn't usually provide useful information. It's much more effective to request a specific archival file, but as I said, if the researcher isn't aware that it exists, then a specific request can't be made.

**Mr. Parm Bains:** Okay. Thank you.

To Mr. Koltun, we heard early in this study that IRCC now receives most of the requests under the access to information system. Were you encouraged by the report by the Information Commissioner that they are adopting improved methods to expedite requests?

**Mr. Andrew Koltun:** In practice, those methods have yet to materialize. Right now, as I understand it, IRCC opened its ATIP modernization office in 2020. It has yet to release a minimum viable product that proactively produces refusal reasons to applicants and proactively releases the entirety of the refusal reasons and GCMS notes.

I'm encouraged that IRCC recognizes that there are problems; I am discouraged by the pace of which they are responding to them.

**Mr. Parm Bains:** I appreciate that.

The next question is to our representatives from the Union of British Columbia Indian Chiefs.

Indigenous peoples should have ready access to information and data relevant to them without the need to submit ATI requests. Do you have any suggestions on how to best implement this practically?

I believe you're on mute.

**Chief Judy Wilson:** I'm sorry. Can you rephrase that, please?

**Mr. Parm Bains:** I was saying the indigenous peoples should have ready access to information and data relevant to them without the need to submit ATI requests. Do you have any suggestions on how to best implement this in a practical manner?

**Chief Judy Wilson:** Could I defer that to Jody or Robyn? Thank you.

**Ms. Jody Woods (Administrative Director, Research Director, Union of British Columbia Indian Chiefs):** I might call on Robyn to take that one.

**Ms. Robyn Laba (Senior Researcher, Union of British Columbia Indian Chiefs):** Thank you.

It's a complicated question, because one thing that's really important, especially under the UN declaration, is recognizing indigenous rights to data sovereignty when it comes to developing a process whereby first nations would be able to obtain their own information, especially for legal processes such as specific claims. One thing that's currently being worked on right now is an independent centre for the resolution of specific claims. That announcement was made last week, or a couple of weeks ago, I think. One thing that is being contemplated is a means by which information would flow freely to first nations that are involved in this process without having to be vetted by Canada, which is a party to a claim.

Issues around data sovereignty are a more complex question. Here, first nations governing bodies have to be involved at all stages, because they're the ones that own the information.

It's a complex process, but at the very least there needs to be some kind of independent oversight in the interim that ensures that first nations involved in these legal processes, particularly against the Crown, have full access to information made available to them.

● (1705)

**Mr. Parm Bains:** Thank you.

Chair, do I have any more time?

**The Chair:** You have about 30 seconds or so, Mr. Bains.

**Mr. Parm Bains:** I will go to Mr. Larsen.

British Columbia recently introduced a fee of $10 to discourage vexatious requests and fund the system. Do you agree or disagree with the change implemented by the B.C. government?

**Mr. Mike Larsen:** Thank you very much for the question.

This question really occupied us through last fall of this year. We were fighting quite actively as an organization to oppose what we call the tollgate fee.

We see this as a barrier to access. We think that while there are a small handful of what could be called vexatious users or overusers of the system, there are a lot of people who lack the means to meet the $10 threshold. I can say to you as a professor that when I'm trying to teach my students how to use access to information law, I want them to use access to information law. Asking people who are already pretty strapped for cash to spend $10 as part of the process is right there a considerable barrier for people.

**The Chair:** Thank you, Mr. Larsen.

[*Translation*]

Go ahead, Mr. Simard. You have six minutes.

**Mr. Mario Simard (Jonquière, BQ):** Thank you.

Mr. Barnes, you said in your opening statement that there was no mechanism to release historical records. That means there is currently no rule for releasing historical government records to public policy-makers or members of civil society.

[*English*]

**Mr. Alan Barnes:** If government departments transfer records to LAC as open records, then those records can be accessed by researchers. However, many government records, particularly in the areas I'm interested in, are transferred to LAC as restricted, so those all require access requests. There's no other mechanism.

[*Translation*]

**Mr. Mario Simard:** You spoke about security intelligence, international affairs and defence. Unless I'm mistaken, you then alluded to section 15. What specifically interests me are the records that have political value in an international context. One example of this is the process that led to the repatriation of the Constitution in 1982.

I'm a university researcher and I would like to obtain information about the deliberations surrounding that issue, but there is no mechanism that allows me such access, even though more than 30 years have gone by since the event.

[*English*]

**Mr. Alan Barnes:** I can't comment specifically on that area of the document as it isn't one on which I've been working, but essentially the same principles apply. If they are being held in a classified form, right now there is no other mechanism besides going through the very cumbersome process of asking for an ATIP release to get access to those records.

In those cases, there may be exemptions that apply that are different from the ones I'm constantly dealing with, but again the principle is the same.

● (1710)

[*Translation*]

**Mr. Mario Simard:** To your knowledge, are there many countries in the world that operate this way with respect to their national history? I know that it's your field of specialization, but I wouldn't want to refer you back to intelligence, international affairs and defence. Are there many countries that are not prepared to release records concerning their national history and the past political decision-making process.

[*English*]

**Mr. Alan Barnes:** Clearly each government has its own regulations, and certainly those kinds of political issues, as well as national defence issues, are potentially more sensitive. As I mentioned, all of our allies have instituted procedures for actually dealing with that and for allowing for the release of those records that are less sensitive while still maintaining necessary controls on those that are much more sensitive.

The problem with Canada is that there's no such mechanism. Essentially, everything is treated as though it's just as sensitive as it was the day it was created. Of course, many of these records are overclassified to begin with and perhaps weren't so sensitive even when they were created, so it's a problem today.

[*Translation*]

**Mr. Mario Simard:** Thank you.

I'm going to continue with Chief Kukpi7 Wilson.

To support legitimate political claims you might have, are the historical records available, or is it a struggle to get access to them? If so, that must make things very difficult for you.

Have there been any recent instances for which you couldn't obtain official historical records about certain events to support your claims.

[*English*]

**Chief Judy Wilson:** Jody, could you...?

**Ms. Jody Woods:** Sure. You're muted, but I think you asked me to address this.

**Chief Judy Wilson:** Yes.

**Ms. Jody Woods:** I will, and then I may ask if Robyn wants to add anything.

Certainly it makes it difficult, and we actually never have any sense of certainty that we are able to provide all of the documents that are available. This is often proven true when Canada reviews the specific claims that we submit and sends back some documents that we were never able to find or access, usually without any context, honestly.

Also, in terms of data, we are currently experiencing two huge delays—like hundreds of days. One was projected to be years because of the scope of the ask, which is necessary for the type of work that we do. Delays are the norm in this process. They represent very clearly the barriers to accessing justice for first nations.

Robyn, do you want to add anything to that?

**Ms. Robyn Laba:** The only thing I'll add, just very quickly, is to echo what Mr. Barnes was saying about access to historical documents.

In particular, Crown-Indigenous Relations has told us that their policy is not to transfer historical records. I'm talking about records that are over 100 years old by this point. It's not to transfer records to Library and Archives Canada if a “business case” can been seen for retaining them in the department. We have no idea what is there because we're not given access to their file lists. We don't even know what they have.

Occasionally, as Jody mentioned, when Canada reviews these claims, we'll just get arbitrary records back. If we don't know what exists, we certainly can't do due diligence on behalf of first nations that are filing legal claims against the Crown.

There are these huge gaps in the historical record. First nations have no choice but to just submit these incomplete reports. It prejudices their claim because they don't have the full picture.

**The Chair:** Thank you.

[*Translation*]

Thank you, Mr. Simard.

[*English*]

Next is Mr. Green. You're up for six minutes, sir.

● (1715)

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

I'd like to take a moment to welcome all of the witnesses.

My first line of questioning will be to Kukpi7 Wilson and colleagues.

I want to carry on with some of the lines of questioning. Perhaps, for the record, I'll provide you with the opportunity to give a little bit more understanding to the specific claims that you all have.

**Chief Judy Wilson:** Are you asking for an overview of some of our specific claims and work?

**Mr. Matthew Green:** That's correct. Give some of the examples of the specific claims that you're advancing as a national issue.

**Chief Judy Wilson:** Jody, can you do that? It's technical.

Thank you.

**Ms. Jody Woods:** Sure, it's no problem.

UBCIC houses one of the largest specific-claims research programs in Canada. We have about 220 claims on our work plan that are active from B.C. first nations, who provide us with the mandates.

B.C. is in a unique historical situation in that we don't have a lot of historical treaties here. Our claims usually don't relate to things like failure to fulfill treaty promises. They usually relate to the illegal alienation of lands or resources or the failure to protect or reserve lands or resources that should have been protected or reserved according to colonial law. That's one aspect of our work.

Another aspect of our work is claims reform advocacy. We use ATI processes in that work as well. With respect to accessing historical documents, it's the claims research.

Robyn, did you want to add anything?

**Ms. Robyn Laba:** No, I'm sorry. Go ahead.

**Mr. Matthew Green:** I would like to continue along that line.

I would put to the committee that this particular and special nation-to-nation relationship provides a higher duty of care legally, quite frankly, than it does with the regular average citizen or non-citizen who might be applying to the government for bureaucratic information.

I'm wondering if you can talk about the first nations principles of ownership, control, access and possession—more commonly known as OCAP—and how federal access to information affects the ability of first nations to apply these principles in practice. Is that a legal or technical consideration that you all have to bring into play?

**Chief Judy Wilson:** That's definitely a question for Robyn.

**Ms. Robyn Laba:** Current federal legislation—and provincial legislation, for that matter—doesn't incorporate those principles in any way.

There have been discussions with the First Nations Information Governance Centre around trying to make those changes to federal legislation. These are changes that would actually recognize the self-determination of first nations in Canada. Along with that is the first nations' right to data sovereignty, which incorporates the principles that you mentioned.

**Mr. Matthew Green:** I'm reflecting on the earlier comments of Mr. Larsen, who talked about this notion of risk versus a right, and the culture of the government. When I hear you reflect on how some of these departments consider the historical records by a business case, I find that language—I'll say, on the record—quite offensive when it comes to what's really at stake here in terms of justice, the pursuit of justice and ultimately the sovereignty of these nations in question and under legal action against the state.

Given all of the fanfare and congratulations this Liberal government heaped upon itself when it moved the United Nations Declaration on the Rights of Indigenous Peoples, I'm wondering if you could reflect on how some of the barriers you may have faced in your processes, nation to nation, might have prevented first nations from being able to use this information for redress mechanisms to obtain fairness.

**Ms. Robyn Laba:** Kukpi7, do you want to answer that?

**Chief Judy Wilson:** One comment would be to talk to the First Nations Information Governance Centre. As we're implementing the UN declaration both federally and within the province, it needs to also be implemented in the information act and all the different records. I think that's what the uniqueness of our presentation is today.

Jody, do you have any more to add on that?

**Mr. Matthew Green:** Kukpi7, could I ask you a follow-up question to that statement?

Have you been consulted provincially on that process? If you have, has the access to information issue been presented to our provincial counterparts in B.C.?

● (1720)

**Chief Judy Wilson:** We did a presentation to the province.... Was it last year, Jody? Do you remember when it was?

We do have the presentation. I'm not sure how far the province has gone with our presentation to them about the information act and privacy and ethics. It's been really slow going in regard to changes in legislation, but we have to continue to do what we do because there's such a backlog of specific claims both nationally and provincially. We have about 50% of that in our province. That's why we felt it was so important to be here today to make our presentations and our clarifications, a lot of which Jody and Robyn spoke to.

Does that help?

**Mr. Matthew Green:** Yes, and I want to thank you for availing yourselves here today. I appreciate that you've now had the opportunity to put this on the record. I'll just give you my commitment that, as we contemplate the final stages and draft, I'll make sure that your comments are adequately reflected in any final reports, given the serious and elevated nature of the claims.

**The Chair:** Thank you, Mr. Green.

**Ms. Jody Woods:** It's a little backwards, but you were talking about contemplating and draft. Would you mind explaining the process?

**Mr. Matthew Green:** At the end of a study, we draft recommendations. Your testimony has now been put on the record procedurally. Then, when the recommendations come out, I'm committing to you as a member that I will highlight and elevate these recommendations in my work to ensure that the federal government takes responsibility and ownership over their unfair dealings, quite frankly, in negotiations and in contemplation for the land claims.

**Ms. Jody Woods:** Thank you.

**The Chair:** Okay, thank you.

I allowed a little extra time on that one because it was a fair question, Jody, and it needed a response from Mr. Green.

That concludes our first round of questioning.

We're now going to move into the five-minute rounds and the two-and-a-half minute questions.

I'm going to start with Mr. Kurek for five minutes.

Mr. Kurek, you have the floor.

**Mr. Damien Kurek (Battle River—Crowfoot, CPC):** Thank you very much, Chair.

I appreciate the expertise around the table, both in person and virtually.

Let me start by acknowledging and thanking you all for that expertise and the feedback here today.

As a practical matter, the testimony you provide, as Mr. Green mentioned, goes into our writing a report and making recommendations. Because we have limited time in this meeting, if there's anything further you would like to add—specific recommendations you maybe didn't have a chance to address during the course of the meeting—please feel free to send them to the committee, as that also gets considered.

I'm going to ask all four of our witnesses the same questions I've asked each panel.

There are two questions, and the first requires just a yes-or-no answer, and then I'll get into some more substantive items.

My question is, how important is a good, accessible access to information system for a modern democracy and everything that entails, including things like understanding our history, reconciliation and that sort of thing?

I'll start with Mr. Koltun—yes or no?

**Mr. Andrew Koltun:** Yes.

**Mr. Damien Kurek:** Okay.

Go ahead, Kukpi7 Wilson.

**Chief Judy Wilson:** Are you saying that, for a modern information system, there are substantive changes required?

**Mr. Damien Kurek:** Yes, and how important a functioning system is for our democracy and for things like reconciliation.

**Chief Judy Wilson:** Yes.

I would also add the legal obligations, as we just mentioned in our last discussion, the inherent legal obligations Canada has. Above reconciliation, it's about relationships, but I think it's about the legal obligation too.

Thank you.

**Mr. Damien Kurek:** Thank you.

Next is Mr. Barnes.

**Mr. Alan Barnes:** A well-functioning access regime is absolutely essential to a functioning democracy.

**Mr. Damien Kurek:** Mr. Larsen, you're next.

**Mr. Mike Larsen:** Absolutely. It's vitally important

**Mr. Damien Kurek:** Okay.

For my next question, I'd again ask for a yes or no or a very short explanation, because time is precious.

Do you think the status quo is adequate in this country?

I'll go in the other direction this time.

Mr. Larsen, is the status quo for the ATIP system acceptable?

**Mr. Mike Larsen:** Absolutely not.

**Mr. Damien Kurek:** Is it, Mr. Barnes?

● (1725)

**Mr. Alan Barnes:** No.

**Mr. Damien Kurek:** Next is Kukpi7 Wilson.

**Chief Judy Wilson:** It's not acceptable in upholding the inherent and treaty rights of our people and also working towards improving our relationship under reconciliation, but also, it's not adequate in upholding the legal obligations of the federal government, the Crown, to our indigenous people.

Thank you.

**Mr. Damien Kurek:** Okay.

Last is Mr. Koltun.

**Mr. Andrew Koltun:** The status quo is unacceptable.

**Mr. Damien Kurek:** Okay.

Mr. Koltun, you made a point about how departments are more than able to fulfill court reporting obligations but are unable to provide timely fulfillment of ATIP requests. I think that's an incredibly important element to this conversation, because I have filed a number of ATIP requests as a member of Parliament, and sometimes the years and long delays that are associated with that....

Could you highlight, specifically in your area of expertise—but I think that can be expansive across government—the need to ensure timely access for citizens or, in the case of immigration, those who are endeavouring to become Canadians, and the importance for this system to work? Could you highlight that?

**Mr. Andrew Koltun:** For immigration applicants, the importance cannot be overstated. To do a credible, robust, complete immigration application requires a full understanding of everything you have submitted and everything that is happening to your application as it moves through the process.

**Mr. Damien Kurek:** You talked a lot about the system just not working well for historical documents. We've heard a number of times reference to “open by default”. I would suggest that this too is a concept that should be translated across government and that maybe the onus needs to be reversed.

Would you care to expand on some of the ways you think we could solve some of these concerns? I have only about 15 or 20 seconds for that.

**The Chair:** You have about 30 seconds.

**Mr. Damien Kurek:** Please state it in 30 seconds.

**Mr. Alan Barnes:** Yes, I'll certainly find you that.

Certainly I think the system should be more biased in that direction of open by default; however, as a former member of the intelligence community, I do recognize that there are legitimate reasons that some records do need protection. I think the philosophy behind the system needs to change so that it is much more of an expectation of open by default, with clearly delineated exceptions if that's not going to be the case.

**The Chair:** Thank you, Mr. Barnes. That was nice and succinct, the way we like it.

Mr. Kurek, thank you.

Mr. Fergus, you have five minutes.

[*Translation*]

**Hon. Greg Fergus (Hull—Aylmer, Lib.):** Thank you very much, Mr. Chair.

Before beginning, I too would like to acknowledge that we are gathered here on the unceded territory of the Algonquin people of the Anishinabe nation.

I have two questions.

Mr. Barnes, I'd like to get back to what you just said.

On the one hand, you worked in the world of security intelligence in Canada, and you also did research into matters related to Canadian history and some of the decisions that were taken. You said that the United Kingdom had adopted a system almost by default. As soon as records are transferred to their national archives, the information in these records becomes public. Nevertheless, for reasons of national security, some records are kept separately.

Can you tell us about your experience as it relates to what happens in the United States? It would be useful to compare Canada's practices to what others do.

[*English*]

**Mr. Alan Barnes:** I'll certainly try to do that.

Having come from government and now working on the outside, I've ended up learning a lot more about the access to information process than I ever wanted to know.

Most of my work has been on Canadian files. I have not done work in British or American archives, so I'm not as familiar with the details of their arrangements.

The American system is quite complicated. There are several layers. They have a freedom of information act similar to the ATIP act in Canada, but they also have other mechanisms for the release of material proactively. For example, the various intelligence organizations have historical offices, and they will release batches of records proactively. For example, on the anniversary of the Cuban missile crisis or some other specific historical event, they will release a large batch of records, and they will often have an academic conference to support that. That concept is just totally foreign to Canada.

In the U.K. they have a different system. There, materials are much more regularly released after 30 years and go right to the archives, where they are all open. There are some limits to that, but even the British intelligence services have been much more proactive in supporting official and authorized histories of the various intelligence agencies and so on, which have been very helpful for expanding knowledge of how those organizations have operated.

That hasn't happened in Canada.

● (1730)

[*Translation*]

**Hon. Greg Fergus:** Given your experience in Canada, your experience outside government and with the best practices you picked up from the United States and the United Kingdom, do you feel we should have a better system while documents are still active and that they should be more accurately filed to make things easier when the files are transferred to Library and Archives Canada after a certain period of time?

[*English*]

**Mr. Alan Barnes:** Absolutely, and there are various mechanisms to do that. Clearly, it's recognized that many documents are overclassified. That's been recognized for many years, but the practice still continues.

I'm not sure what practical steps can be taken. It really is a policy decision to reinforce the actual classification process.

[*Translation*]

**Hon. Greg Fergus:** Actually, I want to talk about the filing of documents.

[*English*]

I wanted to say to better sort documents when they are actually being stored or archived or dealt with in current time before the 30 years have elapsed.

**Mr. Alan Barnes:** That gets to very complicated questions of file management and that sort of thing.

As a researcher, I would appreciate that. I think it would be very difficult, given the size of the organizations and the range of records. I don't have any easy fix for how this information would be managed. I could possibly give some greater thought to it, but there's no obvious way.

There are steps that have been taken. The declassification project that Public Safety has started has conducted a pilot study looking at a large batch of records from the 1950s and 1960s from the Canadian Joint Intelligence Committee. The officials involved in reviewing them determined that most of those records could be released. However, the departments that own those records are still trying to figure out what they're going to do with them. They are not yet ready to accept those kinds of recommendations. They still have this culture of secrecy, of overprotection for records that really are no longer as sensitive as they might have been at one time.

**The Chair:** Thank you, Mr. Barnes.

Mr. Fergus, thank you.

[*Translation*]

The next member to take the floor will be Mr. Simard.

You have the floor for two and a half minutes, Mr. Simard.

**Mr. Mario Simard:** Thank you very much.

Mr. Koltun, you pointed out earlier that there was some type of backlog in the courts. People requesting access to IRCC, their files and officers' notes are being refused access to their documents.

On what grounds are people who make refugee claims denied access to their files?

[*English*]

**Mr. Andrew Koltun:** I'd like to clarify that point. When applicants are refused, they're not refused access to their records in ATIP; they're refused their immigration applications. They're seeking the reasons for refusal.

The reason immigration applicants are going to the Federal Court is that the Federal Court offers an end way around the ATIP system. Whereas an ATIP will often take more than 60 days, or more than 90 days, or sometimes up to a year, when you go to the Federal Court and your application for leave is approved, the Federal Court will make an order and will ask IRCC to produce that record for you. Similarly, when you file a notice of application for leave and judiciary review, automatically the Federal Court will request from IRCC the production of the reasons for refusal.

That is why applicants are going to the Federal Court. In many cases, once they obtain those reasons, they then discontinue the application itself. They're not interested in pursuing the refusal. They're interested in using the court to obtain the reasons for refusal.

● (1735)

[*Translation*]

**Mr. Mario Simard:** All right. In other words, if I want to know why a claim has been rejected, I can't go through IRCC. I need to go through the courts, which causes delays. Is that it?

[*English*]

**Mr. Andrew Koltun:** You can go through IRCC and you will be waiting months. When the deadline to challenge your refusal is 15 days or 60 days, you're waiting beyond the time you can take to challenge an unjustified refusal.

[*Translation*]

**Mr. Mario Simard:** People like asylum seekers, for example, have likely returned to their country without knowing why their claim was rejected.

[*English*]

**Mr. Andrew Koltun:** I will clarify that for asylum seekers it is very different. When they have their hearing at the Immigration and Refugee Board, the IRB will provide reasons. For immigration applications, it's primarily outside-of-Canada applicants, such as visas, work permits and study permits, and also in-Canada equivalents for those same types of applications.

[*Translation*]

**Mr. Mario Simard:** Thank you.

I'd like to ask you a very quick question. Yesterday, Kirk LaPointe—

**The Chair:** Please make it very quick.

**Mr. Mario Simard:** Okay.

Kirk LaPointe appeared before this committee. He told us that, for the past 12 years, he has had his students do an exercise where they requested documents, and no documents have ever been provided to them within the 90-day deadline.

Have you ever received documents you've requested within the 90-day deadline? Could you simply answer yes or no, please?

[*English*]

**The Chair:** Give a short answer, please.

**Mr. Mike Larsen:** I'm sorry. I missed the first part of that question, but I think it was addressed to me.

I have in some instances, yes, but not sufficiently to make it a pedagogically viable exercise within the scope of a semester. Quite often, people get the experience of filing and getting some correspondence but not the satisfaction of being able to analyze the results and follow up.

**The Chair:** Thank you, Mr. Larsen, for being quick on that.

[*Translation*]

Thank you, Mr. Simard.

[*English*]

Next we go to Mr. Green for two and a half minutes.

Go ahead, Matthew.

**Mr. Matthew Green:** Thank you very much.

I want to reference an article from March 2022 by author Andrea Conte, who talked about the delays in access to information as being a form of "administrative sabotage". I know that's a loaded term, but I want to allow the witnesses to provide their response on whether they believe these delays are part of administrative sabotage.

Mr. Larsen, I'll begin with you.

**Mr. Mike Larsen:** Thank you for the question.

I think one thing, just to rephrase this a little bit, is to think about the whether the delays we have in the system are a bug or a feature, and from whose perspective.

Right now, the idea that there are systemic delays works in the interest of keeping information from the public, especially when it pertains to timely matters. I'm very sympathetic, as a historical researcher, to the challenges of getting access to historical records, but quite often we need timely records.

**Mr. Matthew Green:** Thank you, sir.

Mr. Barnes, within the same context, I think about Mr. Michael Dagg, who had a request for access to information that was estimated to have an 80-year response time. Would you consider this to be a form of administrative sabotage?

**Mr. Alan Barnes:** Yes. There are ways in which departments frequently use the mechanisms within the current process to sabotage responses. In particular, for the kind of records I'm dealing with, it involves essentially weaponizing the consultation process.

Library and Archives is basically told by other departments not to release records without consulting, and then when Library—

**Mr. Matthew Green:** I'd like to intervene, sir. I have 30 seconds left.

Are you aware that there were reports, according to a senior library archivist, that over 80% of the archives stored in the LAC are not top secret? In other words, their "top secret" vaults contain information that ought not to be top secret.

● (1740)

**Mr. Alan Barnes:** I can't comment on that directly.

**Mr. Matthew Green:** I'll go on to the question about administrative sabotage.

Mr. Koltun, do you agree with that notion?

**Mr. Andrew Koltun:** From a perspective of IRCC as it applies to immigration applicants, it's less sabotage and more complacency.

**Mr. Matthew Green:** Perfect.

Rounding it out, Kukpi7 Wilson, would you consider this to be a form of administrative sabotage?

**Chief Judy Wilson:** I believe it is, because many of our nations had delayed responses and delayed information, and then we'd get information back and it would be all blacklined.

**Mr. Matthew Green:** Thank you.

**The Chair:** Thank you, Mr. Green.

[*Translation*]

Mr. Gourde, you have the floor for five minutes.

**Mr. Jacques Gourde:** Thank you, Mr. Chair.

Mr. Larson, in your opening remarks, when you talked about the access to information issues we have with federal institutions, you mentioned a culture of secrecy and lack of transparency.

Do you feel that over the long term, this could make Canadians more cynical and distrustful of Canadian institutions?

[*English*]

**Mr. Mike Larsen:** Thank you very much for the question.

Yes, absolutely. One of the themes that our organization, FIPA, has been pushing for several years now is the idea that trust in public institutions is achieved through transparency and renewed through transparency. We live in an environment right now where people are exposed to lots of disinformation and misinformation, and having timely and accurate access to information is vitally important as an antidote to some of those narratives.

When we see that there are cultures of secrecy and when we see that there are systemic delays, for whatever reason they arise within individual institutions, I think it erodes trust in government as a whole.

[*Translation*]

**Mr. Jacques Gourde:** Mr. Barnes, can you give us examples of countries that, compared to Canada, have had very successful access to information regimes? I think we can agree that in Canada it's not going very well in that respect.

Are there any models elsewhere in the world that we can learn from?

[*English*]

**Mr. Alan Barnes:** I must say that there are problems with any of these systems in any country. I've been pointing to the U.S. system. There are still major problems with that system. I guess it's a matter of degree and relative standings.

I think the Americans are doing many of the things well. They have a proper system for declassifying records. I think the United Kingdom has a much more effective system. It's not perfect, but it is much more effective.

I think Canada can learn from our close allies. It's not a matter of reinventing the wheel. We don't have to come up with something brand new.

[*Translation*]

**Mr. Jacques Gourde:** Thank you, Mr. Barnes.

Mr. Koltun, I'd like to ask you about Canada's immigration ambitions, as it plans to increase the number of newcomers until it reaches 500,000 people a year in three years' time.

Given all the delays and all the problems, do you feel that's a realistic goal?

[*English*]

**Mr. Andrew Koltun:** If the goal is achievable from an immigration end, the increase in immigration will result in an increase of application refusals, which will result in an increase of ATIP requests and then an increase of complaints to the Information Commissioner.

If the committee is looking to restore teeth to the Information Commissioner, one of the easiest methods is to remove the reasons that immigration applicants take up 60% to 70% of immigration commissioner resources with their complaints.

[*Translation*]

**Mr. Jacques Gourde:** Thank you, Mr. Koltun.

My next question is for Chief Wilson or any other representative of her organization.

Is the lack of access to information causing any harm to certain Indigenous nations in terms of advancement of their claims or their own medium- and long-term development?

[*English*]

**Chief Judy Wilson:** Jody, can you follow that up? I can't hear very well sometimes when they are translating.

**Ms. Jody Woods:** I had a hard time understanding the question, actually. I'm so sorry. Do you think you could repeat or rephrase that a bit?

● (1745)

[*Translation*]

**Mr. Jacques Gourde:** The indigenous nations you represent are having problems accessing information in their files.

Are they experiencing harm or delays in terms of infrastructure development? Is there any other harm that we should be aware of that the regulations could help you with?

[*English*]

**Ms. Jody Woods:** With respect to specific claims, they are seeing significant delays and barriers in being able to resolve longstanding historical grievances against the Crown. The resolution of those grievances could pave the way for cultural, social and economic development in those communities, so I would say “yes”.

Kukpi7, did you want to add to that at all?

**Chief Judy Wilson:** I would say it's an ongoing conflict of interest, because a lot of the information we're asking for is in regard to Canada's unlawful taking of our lands and resources, and causing violations or breaches. There's an underlying conflict of interest in regard to how the records are managed and accessed. We don't even know what records they have for us to access, as Robyn mentioned earlier, so there are ongoing issues with that.

We need the records to be transparent so that we can access them. They shouldn't be delayed for decades, months or years, because that's typically what happens. When we do get them back, they're all blacklined, in a lot of cases.

Thank you.

**The Chair:** Thank you, Kukpi7.

[*Translation*]

Thank you, Mr. Gourde.

[*English*]

Next we'll go to Ms. Saks for five minutes.

**Ms. Ya'ara Saks (York Centre, Lib.):** Thank you, Mr. Chair. Through you, I will start with this question for Kukpi7 Wilson, or perhaps colleagues on her team.

We heard a lot today about data sovereignty, which is great framing in an era when information—whether it's on the web or accessed other ways—is almost like a form of currency. As Kukpi7 Wilson said, it's also a pathway to justice.

Currently the federal government, through the Access to Information Act, protects information obtained in confidence from other governments, including aboriginal governments. However, the current definition is only limited to nine governments.

What's the importance of expanding this definition so that it's inclusive of all indigenous governments? What would that look like?

**Chief Judy Wilson:** Robyn, could you respond to that, please?

**Ms. Robyn Laba:** Sure.

There are hundreds of nations across the country. To pick and choose a few to be granted these rights or given the ability and time to develop their own internal access to information processes, so they have a chance to work these into different agreements with the federal government, as part of a treaty agreement or something like that....

Data sovereignty is a right granted to indigenous peoples and nations, period. You can't grant a right to select people in this group. It's a human right. It should be applicable to all first nations. They have to decide what that's going to look like as it pertains to their own governance structures, indigenous laws, protocols and priorities, I would say.

**Ms. Ya'ara Saks:** I understand. Thank you for that.

Through you, Mr. Chair, I would again like to ask either Kukpi7 Wilson or the colleagues with her today.... The federal government is currently engaging with indigenous peoples in regard to the act. What do you hope will be the result of that engagement? We talked about the challenges. There are 634 first nations at varying levels of relationships. These are complex and historical. There is much to unpack.

On the path to reconciliation, what do you hope to see come out of these discussions?

**Chief Judy Wilson:** I'll just say part of it, which is the free, prior and informed consent under the UN declaration that the government must subscribe to now.

Jody, do you want to add more about how we've done these before with the different types of consultations that the government puts out, especially around this information about the Access to Information Act?

● (1750)

**Ms. Jody Woods:** Sure.

In her opening comments, Kukpi7 mentioned Canada's commitment to meaningfully engage with first nations. We engaged during Bill C-58. We provided input into DOJ's engagement materials for indigenous nations with respect to the modernization of the Privacy Act, and we have engaged with Treasury Board Secretariat on this process, but I would have to say on those experiences, despite everybody being nice and everything, those experiences have fallen way short of not only what our expectations would be but also what we believe Canada's commitment is under the UN declaration. Everything is very late, very last minute. It's honestly a little like this process, when we had two days' notice to prepare for this meeting.

It was quite similar with the engagement with TBS on the access to information legislation. In that case it was wait, wait, wait; okay, we're ready. Now you have six weeks to survey first nations from across Canada and make a submission.

It's not a partnership, and that's what we need. That is our expectation.

**Ms. Ya'ara Saks:** Thank you.

Mr. Chair, how much time do I have?

**The Chair:** You have roughly a minute or so, Ms. Saks.

**Ms. Ya'ara Saks:** I would encourage Kukpi7 Judy Wilson and your colleagues who are here with you today to do the following. We do have a habit of asking in this committee for additional written information, and I would like to know—we talked about the challenges and where it's falling short—if you would be willing to submit some of those gaps in writing and where you hope to see the results of the engagements. I and colleagues around the table certainly would want to know more.

I'm going to switch to Mr. Barnes for a moment.

In terms of historical records and archiving, I actually raised this issue at the last meeting. When current ATIPs are asking for historical records and the answer comes back that it is too long, too arduous and too difficult to deal with, do you feel that there should be another mechanism in place or a department that deals with historical requests outside of the purview of, let's say, live wire ATIPs?

**The Chair:** Ms. Saks, if you don't mind, we're going to be coming through another round and I have you on the list. Maybe Mr. Barnes can think about that answer and we can move on to the next round, because we were over the time there.

**Ms. Ya'ara Saks:** Absolutely. Thank you, Chair.

[*Translation*]

**The Chair:** Thank you.

So this ends the second round of questions.

We are now going to start the third round. Each speaker will have five minutes.

[*English*]

Mr. Kurek, you have the floor, please.

**Mr. Damien Kurek:** Thank you very much, Chair.

I'm going to start with Mr. Larsen.

You talked in your opening remarks about a public interest clause. I'd invite you—and again, time is a precious commodity here—to, in about a minute, outline what that should look like and expand a little bit on what you shared in your opening statements about that idea of a public interest clause.

**Mr. Mike Larsen:** Our remarks today are based on a comparative scan of the provincial freedom of information and access to information mechanisms, with reference to some international ones.

One of the things we find as a standard for robust and effective transparency laws is the inclusion of a public interest override that allows for information that is deemed to be in the public interest to be released—indeed, requires it to be released, in some instances proactively released—and overrides exceptions and exemptions that would otherwise apply to certain categories of information.

There are lots of instances in which this could arise, but it's been reported that this is one of the defining features of meaningful transparency laws, and we do want to see this in Canada. Right now we do have, in the Canadian Access to Information Act, a very limited public interest override in section 20 that pertains exclusively to third party information, so expanding that at bare minimum to cover all of the other grounds on which information can be withheld would be a really important step in the right direction.

**Mr. Damien Kurek:** I appreciate that.

I want to switch gears a little bit.

Mr. Larsen, technology has changed a lot, and we see a massive increase in the types of communications. Of course, it used to be files in filing cabinets and letters sent between departments via messengers and that sort of thing. Now we have a wide diversity of what communications look like, especially within government.

I am wondering if you have any comments about how access to information should be updated in light of the widening scope of types of communication and some opportunities to make access to information better when it comes to utilizing technology databases, proactive disclosure and things like that. I'm going to ask you to answer in 30 to 45 seconds.

Then I have a couple of questions for Mr. Barnes.

● (1755)

**Mr. Mike Larsen:** Excellent. I'll keep this very close.

I think it's a good idea for the committee to look at New Zealand's Public Records Act of 2005, which embeds a requirement for the documentation of government work. It requires that people who are working for government create and maintain adequate records of their activities.

There are a variety of ways to go about doing that, but I think not only a legislative requirement is needed, but also a standard, so that there isn't an ad hoc approach that deals with each new emerging kind of technology. It seems that we're always chasing new technologies rather than having a standard that we use for documentation. That would certainly be a starting point.

I think modernizing the systems we use for information management is a vital component of this entire process here, so that things are easily searchable and retrievable. Have things like an organized information architecture that incorporates new forms of technologies, including the ones we're using today. Expand the idea of "record" notionally beyond the idea of textual documents, because of course the act applies to all manner of different kinds of records. Make sure that people are easily able to not only store those records and organize them within government but actually understand what is available and be able to access them from the outside too.

**Mr. Damien Kurek:** Thank you. I apologize for having to cut you off, but time is short. If there's any further detail, please feel free to submit it, including specific recommendations.

Mr. Barnes, with your unique experience around declassification, I'd invite you to provide for the committee—in about a minute—some context on the processes you would recommend be adopted to ensure that there is an adequate and appropriate framework for declassification within Canada.

**Mr. Alan Barnes:** In fact, that's a huge question, and it's exactly what the declassification project has been working on for the last couple of years.

I think there needs to be, at the first instance, a much clearer idea within government of what is actually sensitive and what isn't. Right now there is really no guidance within the Canadian government on the classification process, which is different from our allies.

In the American situation, there are manuals of a couple of hundred pages saying what is sensitive and how it should be classified. That doesn't exist in Canada.

**Mr. Damien Kurek:** If I could just ask a quick, practical follow-up, who writes those manuals in our allied jurisdictions?

**Mr. Alan Barnes:** In the U.S., it's the Director of National Intelligence. They have a much more robust structure for organizing their community.

**The Chair:** Thank you, Mr. Kurek.

Ms. Laba has had to take some time away from the committee meeting for other business, so she's no longer on the call with us at this moment. I just wanted to make the committee aware of that.

Next I have Mr. Fergus for five minutes. I will remind Mr. Fergus that we did leave off with an unanswered question from Ms. Saks that I'm sure she would like to have responded to by Mr. Barnes.

If you want to take some time to do that, I will give you a little extra time. Thank you.

[*Translation*]

**Hon. Greg Fergus:** You're very generous, Mr. Chair.

[*English*]

Mr. Barnes, do you recall the last question from my colleague, Ms. Saks?

**Mr. Alan Barnes:** Yes. You were talking about some other mechanism for addressing large requests.

I must say that I have been somewhat critical of LAC, and I think it's for good reason. At the same time, I think LAC has been trying, with some positive steps.

With these very large requests, I think if there is discussion between the requester and the institution, there is often great scope for focusing on what is going to be most useful for the requester.

The Information Commissioner now has some scope to weigh in on the question of vexatious requests on so on. I'm not sure if your question relates to that sort of situation. There is a mechanism to address that.

I think, to a large extent, the most effective way to do that is by having a useful exchange between the requester and the institution.

● (1800)

[*Translation*]

**Hon. Greg Fergus:** Duly noted, Mr. Barnes.

[*English*]

In the same vein, in our last meeting, Mr. Wernick, the former clerk of the Privy Council, testified here. He made reference to the fact that he would want us to be very concerned about narrowing the scope of the national security exceptions to the release of information. The reason was that there could be foreign bad actors who would be quite happy to understand what the process was or what the sources were of Canada's information.

Mr. Barnes, given that you worked in the domain inside government and now you're outside seeking rightful information, I think you could provide this committee with a balanced view on this aspect. Do we have to be concerned? Is there a measure of concern that we should have in terms of narrowing down the scope of the national security provisions?

**Mr. Alan Barnes:** I think there is—

**Hon. Greg Fergus:** It's for prohibiting the release of information. Let me make sure that this is clear.

**Mr. Alan Barnes:** I think there is some room to narrow the exemptions and be much more specific, especially given the passage of time. That is sort of theoretically taken into account in the act as it stands, but it really isn't exercised to any great extent.

I certainly see a need to protect the some information, current information, because there are bad actors, but what the system seems to neglect is the fact that what might be sensitive today is much less sensitive 20, 30 or 40 years later. There has to be some mechanism to recognize that evolution and, even for information that is currently significant, I think there are probably some ways to narrow the scope of what is truly sensitive and what the bureaucracy would prefer others not know about. There's a difference between bureaucratic desire for confidentiality and true threats to national security.

**Hon. Greg Fergus:** Should time be the only factor by which you should determine whether or not material should be released?

Sometimes, as you know, history doesn't repeat, but it rhymes, and there might be some issues that were an issue at a particular time, and then, let's say 60 years later, due to the provisions of the act, it would be released, but that issue has resurfaced, and it might be sensitive at that time, or controversial. Is that just one of those things that you have to live with?

**Mr. Alan Barnes:** I mean, I think that's a possibility, but the likelihood is really quite low. You can't base decisions on releasability only in terms of time, but I think time is a very important factor in that consideration.

There certainly will be some things that continue to be sensitive over a longer period of time, but those are very narrow, and I think, when reasonable people look at it, it becomes immediately apparent. What's happening now is that a lot of these redactions are made basically on a whim, on a very subjective view, and even people within the system will disagree on whether it's sensitive or not. In my view, something that's truly sensitive should be immediately apparent to any reasonable person.

**Hon. Greg Fergus:** [*Inaudible—Editor*] for the lapse—

**The Chair:** I gave you an extra minute here.

**Hon. Greg Fergus:** I appreciate that, and I'll try to get this last question in.

If time should not be the only factor and not just releasability should be a factor, does this call for the importance of standardizing who does the evaluation of what should be released, and when, rather than leaving it up to a series of people who occupy that post within government for whatever sins they've committed in their previous careers?

**Mr. Alan Barnes:** Exactly, and I think that's why it's so important to have a systematic process for the declassification of records after a given period of time. Then you would have people who are familiar with these records and all of these issues who could handle records from a variety of departments rather than each department trying to interpret things themselves. I think that would be an important positive element of a proper declassification process.

● (1805)

**Hon. Greg Fergus:** Thank you.

[*Translation*]

**The Chair:** Thank you, Mr. Fergus.

Mr. Simard, you have the floor for two and a half minutes.

**Mr. Mario Simard:** Thank you.

Mr. Larsen, you made an analogy in your presentation to an onion, when you talked about many layers. You mentioned the duty to document, updating the legislation and developing a culture of transparency. These are all things that take a long time to achieve.

Do you have a pragmatic proposal that could be applied in the short term to improve access to information?

[*English*]

**Mr. Mike Larsen:** Yes, absolutely. I would say that the ones that you mentioned have been mentioned many times in the past, so there is a moment to start working on this, even if we won't see the results immediately.

I think that strengthening proactive disclosure is a really important mechanism, because ultimately people are seeking information and using the access to information law, not necessarily as a means of last resort but because there are no other avenues that are readily available.

There are a lot of requests for routine categories of information, and there's not as much guidance as there should be in the federal law around processes for proactively releasing certain categories and making them readily available. I do think—and we see this in some other jurisdictions—that doing this in a better way will alleviate some of the pressure on the system, and it's something that can happen right off the bat, really, if we start working on it immediately.

[*Translation*]

**Mr. Mario Simard:** I'll ask Mr. Koltun the same question with regard to IRCC.

Mr. Koltun, what could be done in the short term to improve access to information?

[*English*]

**Mr. Andrew Koltun:** I would reiterate the same recommendation I've done: a strong time limit on the length of an extension that can be imposed and, quite honestly, the proactive release of reasons for refusal to applicants when they are rejected in their immigration applications.

[*Translation*]

**Mr. Mario Simard:** I'll ask Mr. Barnes the same question, as well.

In the short term, if we want to improve access to certain historical documents, what can we do?

[*English*]

**Mr. Alan Barnes:** Many things could be done. If I had to pick one specific thing, I would say greater restraints on the weaponizing of the consultation process. Departments are using the consultation process to kick the can down the road. The department that's consulted takes years to respond, yet nothing happens. I think that needs to be tightened up.

[*Translation*]

**The Chair:** Thank you, Mr. Simard.

[*English*]

Thank you, Mr. Barnes.

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

**Mr. Matthew Green:** Thank you.

In keeping with my rapid-fire way of going through the list of questions with the witnesses, I'm going to put the following question to those who have been at this for quite some time.

I watched with interest the government propose a minister of digital government who I thought had a mandate that was supposed to help fix some of the stuff in terms of the way IT moved across the whole of government. From July 2018 to October 2021, they had it, and then unceremoniously dumped it.

Mr. Larsen, were you ever involved in consultations with that ministry? Did you provide any feedback on ways in which they might be able to help streamline services that might ultimately include access to information?

**Mr. Mike Larsen:** The straightforward answer is that FIPA didn't consult on that particular project. We were interested in the idea of a digital charter and we saw the obvious intersections with transparency and access to information, particularly proactive disclosure, but we haven't had an opportunity to consult on that.

**Mr. Matthew Green:** It wasn't around long enough, I guess.

Mr. Barnes, how about you?

**Mr. Alan Barnes:** I wasn't involved in any of those consultations.

**Mr. Matthew Green:** Were you aware of the ministry, and, in your opinion, do you think it offered any opportunity to provide a better access to information regime?

**Mr. Alan Barnes:** I'd have to leave that to the other witnesses. It really is outside my area of expertise.

**Mr. Matthew Green:** Mr. Koltun, I'll try you.

**Mr. Andrew Koltun:** To my knowledge, CILA was not invited to those consultations. Again, we're also straying outside my area of expertise.

**Mr. Matthew Green:** Kukpi7 Wilson, obviously there would be a whole host of ways in which, theoretically, the potential minister for digital government might help improve some of the services provided through any of the ministries intersecting with first nations.

Were you or your colleagues ever consulted on this minister of digital government?

● (1810)

**Chief Judy Wilson:** To my knowledge, we were not contacted in any way, shape or form about that ministry.

Jody, can you verify that?

**Ms. Jody Woods:** Nope. I don't think I can say more than that.

**Mr. Matthew Green:** I used to be on the government operations committee, and I watched with interest and hope that the government could provide a better pathway forward for services, programs and access to information, and then it just disappeared.

I just wanted to contemplate that with my last round, and I thank all the witnesses for their subject matter expertise.

Thank you, Mr. Chair.

**The Chair:** Thank you, Mr. Green.

For those witnesses and committee members who are wondering why we're not hearing the lucid tones of Mr. Barrett today, I filed an ATIP, and he lost his voice over the weekend. It just came back, so that was quick.

Next we're going to Mr. Kurek.

**Mr. Damien Kurek:** Thank you very much, Chair.

Normally I do this after the meeting, but while I have the floor, I want to thank not only the witnesses but everybody else who makes committee proceedings possible, like the clerk, the analysts, and of course the IT and building services people. That's just a quick note here before I jump into my questions. Often that's stated after the fact, but I'm glad to get it on the record.

Mr. Koltun, I'm curious, because this is one of those unique situations involving ATIPs. Access to information is a big part of it, but it bleeds over into the functionality of a department.

Can you comment on both the access to information side of things and whether there are some practical recommendations this committee could ask the government to act on to simply change the system so that people aren't forced to file ATIPs to get basic information and don't have to refile ATIPs to get an understanding as to why ATIPs weren't disclosed or what was redacted, etc.?

If in about a minute you could expand on that, it would be great.

**Mr. Andrew Koltun:** Currently IRCC has gone through a systematic revamp of their applications in making everything digital first. At the same time, the information that applicants are seeking is digital. It's stored in the GCMS, IRCC's database. In many cases, the GCMS notes are pre-flagged for whether they're sensitive or should be excluded from an ATIP request.

There should be a very simple compatibility between IRCC's new portals and an applicant's internal application in officers' notes. An ATIP request should not be filed. Applicants should just be able to see it through their portal.

**Mr. Damien Kurek:** Thank you very much.

I would cede the rest of my time to Monsieur Gourde.

[*Translation*]

**Mr. Jacques Gourde:** Thank you, Mr. Kurek.

I'll continue along the same lines.

Mr. Koltun, in terms of immigration cases that require an access to information request, what is the failure rate for those types of requests? There are stakeholders who help people make access to information requests. My impression is that there aren't many cases where requesters can complete a request themselves. They have to use lawyers like you or deal with their MP's office to see what the problem is.

It's difficult for me to know what the success rate is, because you never hear about the files that went well. In my constituency office, we only hear about cases that don't go well.

On your side, you may know more. Are there any cases where it goes well?

[*English*]

**Mr. Andrew Koltun:** No.

**Some hon. members:** Oh, oh!

**Mr. Andrew Koltun:** To put a couple of numbers together for you, for the end of 2023, IRCC is projected to receive 223,000 ATIP requests. Of those, it's projected by the OIC that about 6,000 will result in ATIP complaints. Similarly, IRCC's office itself predicts that if 20% of all eligible applicants file an ATIP or privacy request for their information, there would be 775,000 requests by the end of 2024.

The volume is increasing. It will only increase, and it will continue to drain the resources of the OIC.

● (1815)

[*Translation*]

**The Chair:** Thank you, Mr. Gourde.

[*English*]

There has been consensus among the parties that this will be the last five-minute question.

Ms. Khalid, you have the floor for five minutes.

**Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.):** Thank you very much, Chair.

Thank you to the witnesses for their very compelling testimony today.

I'll start with the Immigration Lawyers Association and Mr. Koltun.

I understand that about 73.9% of ATI requests in the top five departments for Canada were filed in IRCC. I guess my question to you is more of a practical one: Has it just become a standard procedure for an immigration lawyer, as part of the process of providing supports to their clients, to make an ATI request as the file just progresses on a regular basis? Do you think that is clogging up the system?

**Mr. Andrew Koltun:** It's a fair question.

Increasingly, IRCC has stopped communicating with applicants. Delays in applications reach years now, because there's a an application backlog of 2.5 million. Oftentimes, the only way to get a sense of why there's a delay is to file an ATIP.

As a matter of course, are immigration lawyers filing an ATIP for every single client? Generally, yes. It's not to clog up the system; it's because there's no other information available to immigration applicants. An immigration applicant cannot go to an IRCC office and ask to speak to a front clerk like you can at Service Canada.

**Ms. Iqra Khalid:** Thanks for that. I really appreciate it.

Do you think there's a correlation between successful service delivery within departments and the number of ATI requests that are made?

**Mr. Andrew Koltun:** I would say yes. Unhappy applicants file ATIP requests to understand what went wrong.

**Ms. Iqra Khalid:** Thanks for that.

I will move on to Mr. Larsen.

Mr. Larsen, at our last meeting, we heard from Mr. Wernick and from other witnesses as well about Canada's international ranking on how open and transparent we are in comparison to other countries. I can list it. Canada is second out of 85, according to U.S. News & World Report. Open Data Watch ranks Canada at 15. A rule of law index from the World Justice Project ranks Canada on open government 13th out of 140.

What is your take, Mr. Larsen, on where Canada is in respect to the rest of the world?

**Mr. Mike Larsen:** Thank you for that. It's a good question.

I think there needs to be a differentiation between access to information and open governments. I've been really heartened by a lot of open government initiatives that I've seen the Government of Canada take over the last 10 years. A more active and proactive release of datasets I think does put us not necessarily at the head of the pack but certainly in a progressive way.

Open data is one thing. The robust access to information regime with legislated proactive disclosure is something different. In that regard, I think we have fallen behind. Canada was once regarded very much as a leader in transparency and access to information. I think we've slid. We've been complacent. We've left some systems unchanged for too long. We're no longer leading in the way that we could or should be, and we have the potential to do that.

**Ms. Iqra Khalid:** Thanks for that.

Just to carry on with that, this is obviously not just a Canadian problem. It's becoming more and more a worldwide problem with respect to misinformation, disinformation and a general mistrust of governments in general. How does that play into ATI requests or requests for information from governments, not just in Canada but elsewhere as well?

**Mr. Mike Larsen:** This is a very important question. I think people sometimes interpret the systemic delays in processes.... I had an RCMP request take five years recently. That was a record for me. FIPA often hears from people who interpret it this way: “There's something to hide. There's something sinister. There's no reason the government would withhold this information if everything was indeed above board.” Therefore, they jump to some conclusions about this.

My position is that typically there isn't necessarily some sinister or nefarious motive—although certainly these things can be weaponized—but rather that there's a lack of effectiveness in the system that creates backlogs and delays. People are free to interpret the reasons for that.

If someone is filing their very first request, as many of the people we work with do, since they're not frequent users, and they hit a brick wall with filing an access request and lose faith in the system, that can only amplify other concerns they have, legitimate or otherwise, around the functioning of our democracy.

● (1820)

**Ms. Iqra Khalid:** Thank you very much.

Thank you to all the witnesses.

Thank you, Mr. Chair.

**The Chair:** Thank you.

First, I want to thank all the witnesses who were here on Zoom and in person. I found today's information extremely valuable. I'm sure it will form a big part of our report.

I also want to thank those of you who reached out to us asking to be part of this study. We will continue this study on December 5 and December 7.

The input you've given us today, as I said earlier, has been extremely valuable.

Kukpi7, I do see your hand.

**Chief Judy Wilson:** I just wanted to note an important study we did entitled *Full Disclosure: Canada's Conflict of Interest in Controlling First Nations' Access to Information*. That was in November 2022. It was submitted by the National Claims Research Directors and Union of BC Indian Chiefs. It was a discussion paper respecting a one-year review of the Access to Information Act and modernization of the Privacy Act.

I just wanted to make sure that it was on record and that we mentioned that it was conducted.

Thank you.

**The Chair:** I do appreciate that, Kukpi7. Thank you for bringing that to our attention.

Again, thank you to all the witnesses.

Thank you to the committee members.

[*Translation*]

Thank you also, Mr. Simard, for staying with us today and throughout the week.

[*English*]

The meeting is now adjourned.

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