



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

45th PARLIAMENT, 1st SESSION

Standing Committee on Access to Information, Privacy and Ethics

EVIDENCE

NUMBER 027

Monday, February 9, 2026

Chair: John Brassard



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• (1540)

[English]

The Chair (John Brassard (Barrie South—Innisfil, CPC)):
Good afternoon, everyone.

I want to welcome you to meeting number 27 of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

[Translation]

Pursuant to Standing Order 108(2) and the motion adopted by the committee on Thursday, February 5, the committee is commencing its study of the state of access to information in Canada.

[English]

I apologize for the delay. We just had votes.

I would like to welcome our witness for today.

From the Offices of the Information and Privacy Commissioners of Canada, we have Caroline Maynard, Information Commissioner of Canada.

Ms. Maynard, you have up to five minutes to address the committee with an opening statement.

Please go ahead.

Caroline Maynard (Information Commissioner of Canada, Offices of the Information and Privacy Commissioners of Canada): Thank you for the opportunity to once again appear before this committee to talk about access to information.

I understand that the committee wishes to focus on two areas today: the use of instant messaging and information management within the public service, as well as the performance of the Privy Council Office, PCO, in the area of access to information.

[Translation]

I would like to first clarify some information management responsibilities.

The Treasury Board of Canada Secretariat establishes information management policies for the federal public service. Library and Archives Canada, however, is responsible for establishing the retention and disposition authorities that govern how federal institutions must manage, preserve, and ultimately dispose of their records. Each government institution must then set its own information management practices, including those governing transitory records.

[English]

That being said, some aspects of records management do become relevant to my investigations the moment an access request is made to institutions subject to the Access to Information Act. I would like to point out that there is no obligation to create records under the act. The act only applies once a record exists in any form. This includes transitory records.

Retention policies vary according to the type of record and can range from days to decades. Retention policies are a good and necessary thing for proper information management, but they must be accompanied by training and founded on some basic principles. Some of these principles are spelled out in the message I sent to institutions last week and provided to this committee ahead of time. I hope you have had the opportunity to review this message. It affirms that records created using digital collaborative tools, such as Microsoft Teams, must be managed in a manner that upholds the right of access to information.

[Translation]

Before I turn to the second topic I wish to discuss with you today, let me start off by saying that the order-making power is a key tool at my disposal. Orders enable me to conclude complaints that we have been unable to resolve by other means. I would like to highlight some statistics on orders in the handout I provided to this committee. Those statistics reveal an important trend.

While the Department of National Defence and Library and Archives Canada have received the most orders so far since 2019, in the case of both institutions, the number of orders I have been required to issue is declining. Unfortunately, the data shows the opposite trend with respect to the Privy Council Office.

[English]

The example of the Department of National Defence and Library and Archives Canada shows how institutions can improve their performance when they address the issues that have resulted in orders.

Timeliness tends to be the greatest challenge to transparency at PCO and has resulted in a high number of orders to respond to late requests. Good information management practices include transferring records of archival value to Library and Archives Canada in a timely manner. However, PCO continues to struggle with a high volume of requests related to records that are between 35 and 69 years old.

PCO's central role in the implementation of the government's priorities makes timely access to its information even more vital. Improving access to information at PCO presents an ideal opportunity to lead by example.

[Translation]

I will be happy to answer any questions on these or other topics members would like to address with me today. However, I cannot talk about any investigations as they are confidential.

Thank you.

[English]

The Chair: Thank you, Commissioner. I do appreciate your making yourself available today on such short notice. I want you to know that. On behalf of the committee, I want to say thank you for that.

We're going to Mr. Barrett for six minutes.

Go ahead, sir.

Michael Barrett (Leeds—Grenville—Thousand Islands—Rideau Lakes, CPC): During the ArriveCAN scandal, we heard variations from public servants of “we can't find the records”. When records disappear, this stops being an administrative issue and becomes an accountability issue.

What we're looking at now is this question about business value versus what's transitory. Do you think that approach works, yes or no?

Caroline Maynard: Yes.

Michael Barrett: Do you worry that when employees are being asked to flag what is a business value within 15 days, there's a risk the records won't be found—won't be easily found—which will lead more often to results in access to information requests that say no record exists? In fact, perhaps not through malice but just simply through the act of trying to keep records, is it going to make it harder for accountability to be brought to bear?

• (1545)

Caroline Maynard: This is why I said that retention policies and proper information management policies are a good thing, but they have to be accompanied by training, with strict directives. As you just pointed out, access without a record.... If there's no record, there's no access.

At the end of the day, we do, and I do, support proper management of information. The use of Teams to make important decisions should not be allowed or encouraged. There are ways to do that. It would be the same thing as saying that we cannot have meetings anymore or oral discussions. Those happen, but you have to have somebody, at the end of the meeting, taking minutes and explaining

what was discussed and what decisions were made and how—based on what?

Michael Barrett: Is there a greater risk to the integrity of the system and Canadians' confidence in their institutions?

Look, at the start of the ArriveCAN scandal, we were told that there was absolutely nothing to see there. It turns out that it was the tip of the iceberg on massive contracting problems, and ultimately, in some cases, criminal charges were pursued. We have civil action being taken to recover the money, but we were only able to do that by piecing together records.

I haven't been presented with a compelling reason for why these chats need to disappear after 15 days, but I can see a pretty serious downside with not having access to records if a decision is made, a direction is given or a discussion is had that later would have value in terms of having that accountability.

Caroline Maynard: Just so you know, as I was saying earlier, when there's an access request, there has to be a mechanism to stop the deletion of any records. Those records, whether they are transitory or not, if they are responsive to the access request, should be treated and processed.

Whether people are using Teams for reasons other than how it's supposed to be used, like a quick conversation or not business-related activities, this is a matter where the head of the institution needs to be very clear on how these messages have to be used, managed and properly saved.

Michael Barrett: What would your recommendation be as a minimum retention period for Teams chats that include decisions or direction?

Caroline Maynard: I think this is something where you need to talk to Library and Archives. They're the ones responsible for setting some of the rules.

Michael Barrett: Yes.

Caroline Maynard: Again, it really depends on the types of activities that are being used for these types of communication.

Michael Barrett: What metric do you track that proves bad records management is hurting requesters? Are you able to tell us how that metric has changed over the past year?

Caroline Maynard: The fact that we are now using electronic documents.... There are back-and-forth emails. Even inboxes should be cleaned by people. There shouldn't be five people keeping full communication on one email. There should be somebody responsible, at the end of the day, for saving those emails in a proper folder or repository. They shouldn't be kept in everyone's inbox.

That's one of the biggest issues that we have.

Michael Barrett: I have just under a minute left.

You have binding order powers, which I think are critical for any commissioner. This is crucial. Are institutions complying on time and more often with you now, and how often are you seeing that your orders are ignored without going to court?

Caroline Maynard: It has happened a couple of times. I think we have eight mandamus that were presented in court to force an order to be respected. In the last year, I had to do it only once. I think the message has gone through. People are not ignoring my orders anymore.

Michael Barrett: Thank you.

The Chair: Thank you, Commissioner.

Thank you, Mr. Barrett.

Next is Mr. Sari for six minutes.

[*Translation*]

Abdelhaq Sari (Bourassa, Lib.): Thank you very much, Mr. Chair.

Ms. Maynard, thank you very much for being here.

I would like to divide our six-minute exchange into two parts, since this is a fairly complex subject.

First, I would like to hear much more about your recommendations, which concern two elements: timeliness, on the one hand, and broader access to information, on the other. I'll give you one minute to explain them to me, and then I'll have some questions.

• (1550)

Caroline Maynard: Are you referring to my recommendations for changes to the Access to Information Act?

Abdelhaq Sari: Yes, that's right.

Caroline Maynard: Institutions are struggling to meet the 30-day deadline for responding to access to information requests. Delays are often related to internal consultations and consultations with other institutions. So one of our office's recommendations to the committee over the past three years is to legislate on internal government consultations. There should be a maximum time limit; currently, it's random, and institutions take far too long to respond to consultation requests. That's one of our recommendations.

The other recommendation is to increase the number of institutions subject to the Access to Information Act. These include ministers' offices, the Prime Minister's Office, and institutions that work on behalf of the government and receive public funds to provide services to Canadians. All of these institutions should be subject to the act.

Abdelhaq Sari: Don't you think that expanding the act to cover those institutions could also create additional deadlines or increase the number of requests when there is already an inability to respond to existing ones?

Caroline Maynard: Every institution must have an access to information unit in place. Institutions are responsible for allocating the necessary and adequate resources to respond to access requests forwarded to them. Every department, every institution, every agency should have these people. It's a quasi-constitutional right, so I think Canadians should have access to this kind of information, which belongs to them.

Abdelhaq Sari: I agree with you on the right of access to information itself. However, couldn't this push some public servants to use parallel means of communication and collaboration—personal groupware, rather than groupware or software provided by the government?

Caroline Maynard: That is certainly a topical issue. These types of apps are generating a lot of discussion. Our recommendation is to prevent the use of apps that do not allow ATI units to access documents and messages sent using these tools. Once again, that requires training, appropriate policies, and very clear rules.

Abdelhaq Sari: As I've seen over the course of my career, sometimes there are legitimate and interesting requests, for example from the media, but there can also be inappropriate requests. At some of the institutions I worked at, there were sometimes more inappropriate requests than those that were useful and beneficial to the public.

Caroline Maynard: Currently, the Access to Information Act provides a mechanism whereby institutions receiving an access to information request that could be considered excessive or in bad faith can ask my permission to refrain from responding.

Last week, I told you that we had received about 60 such requests. In fact, we received 80, and only 15 were approved. So, only a small number of access to information requests are deemed abusive or in bad faith, but there is an adequate process in place to deal with such requests.

Abdelhaq Sari: I will now move on to a topic that I hope is a little lighter.

Do you think that integrating AI solutions could reduce timelines or simplify how institutions respond to access requests?

Caroline Maynard: Yes, absolutely. If you have an adequate information management process and add AI tools to remove duplicates and search for information related to the request, it can certainly speed up response times. I believe Transport Canada currently uses such tools. Immigration, Refugees and Citizenship Canada also has systems that use these tools to speed up request processing.

• (1555)

Abdelhaq Sari: I don't have much speaking time left, but I would like to talk about the power you were granted by the government in 2019. It's quite interesting. Could you briefly explain that to us? Has this change been a positive development for your work?

Caroline Maynard: Yes, definitely. Previously, the Office of the Information Commissioner could only issue recommendations, and institutions often ignored the commissioner's recommendations. Now, we issue orders in cases that we cannot resolve, as I mentioned earlier. This accounts for about 8% of all the complaints we receive. It is an extremely useful tool.

The Chair: Thank you, Mr. Sari.

Mr. Thériault, you have the floor for six minutes.

Luc Thériault (Montcalm, BQ): Thank you, Mr. Chair.

Good afternoon, Ms. Maynard.

Caroline Maynard: Good afternoon.

Luc Thériault: First of all, thank you for joining us on such short notice. We really appreciate it.

I'm sure you'll agree with me that access to information is the cornerstone of a healthy democracy and society. Civic power depends on citizens having effective access to information about how government institutions are run.

I think we started this conversation the last time we met, but for several years now, there seems to have been some resistance among institutions towards being proactive and taking initiative. They wait to receive requests and fail to make arrangements to process them within a reasonable time frame.

Why is that?

Caroline Maynard: I'm often told that proactive disclosure is very expensive. However, when we make decisions or adopt policies, we know that Canadians will want to understand them and that they will make requests. Therefore, we should ensure that documents are created so they can be given to Canadians. I agree with you: The more institutions engage in voluntary disclosure, the better Canadians will understand the decisions and measures that are taken, without necessarily agreeing with them. They will be better equipped to exercise their democratic right later on. In short, I'm told that it's very expensive.

Second, I think there is a culture within government institutions where people are afraid of being questioned or criticized. However, we realize that providing information, especially reliable information, is an advantage, and public servants and institutions should use it. Conversely, if we don't provide reliable information, people will get their news elsewhere. They will create their own stories and become curious, but at the same time, they will also wonder whether they fully understand the decisions that have been made. That's what leads to misinformation and disinformation. If we want to combat all that, it is essential to provide information proactively and respond to access requests in a timely manner.

Luc Thériault: In fact, institutions complain a lot about disinformation. If we don't want there to be conspiracy theories and statements that can lead to disinformation or the consequences of disinformation, let's inform people properly, give access to information and even promote it. That way, we will have informed citizens who can make informed decisions. We agree on that.

That said, to be able to do so, you still need the power to issue orders. Last September, people at Treasury Board responsible for developing access to information policies suggested that the gov-

ernment might have to review your power to issue orders. These are powers that were given to you in 2019 by the former Bill C-58. With statements like that, with intentions like that, do you think you can continue to act to protect the public as effectively in the future?

Caroline Maynard: Certainly, I am adamantly opposed to a change in my power to issue orders. I understand that there are rumours, if I can call them that, or discussions about the importance or risk of continuing to have orders. I showed you the statistics: Only about 8% of all access to information requests that come to us and are reviewed result in an order. There were approximately 250 orders in the past year. It is a power that enables us to finalize a process with the ultimate goal of providing answers to applicants. I don't think we can go back and remove that authority from the office of the commissioner or from future commissioners.

This is something we can debate when there is a real legislative review. Right now, we're still waiting, but it's something I look forward to in order to be able to make my recommendations on this.

• (1600)

Luc Thériault: As part of the review of the Access to Information Act, Treasury Board seems to want to consider restrictions on people's right of access to information. What would be the best measures to take to prevent that?

Caroline Maynard: As I was saying earlier, the act already provides a mechanism to prevent access requests deemed abusive or vexatious. I don't think we need to go beyond what is already provided for in the act right now.

Luc Thériault: Thank you.

The Chair: Thank you, Mr. Thériault.

[English]

Mr. Cooper, you have 300 seconds.

Go ahead, sir.

Michael Cooper (St. Albert—Sturgeon River, CPC): Thank you, Mr. Chair.

Thank you, Commissioner.

The federal department or institution with the largest number of access to information complaints, currently, in your office's inventory is the Prime Minister's department, the PCO. Is that correct?

Caroline Maynard: Yes.

Michael Cooper: Okay.

The number of orders you have issued to the PCO to comply with the Access to Information Act has gone up markedly. It was zero for the first three years of your order-making powers, and then there were 14 as of 2021-22. A record of 42 was reached in 2024-25, and already this year, 45 orders have been issued. Is that accurate?

Caroline Maynard: Yes, sir.

Michael Cooper: Is it fair to say that the performance of the PCO, with respect to its compliance with the Access to Information Act, is of concern to you?

Caroline Maynard: It is.

Michael Cooper: Okay.

To understand some of the issues, would it be fair to say that delays are rife?

Caroline Maynard: Delays are the most concerning, yes.

Michael Cooper: Are backlogs growing?

Caroline Maynard: The backlogs are a different thing. For me, the inventory keeps going up.

Michael Cooper: Okay.

As a result of your concerns, you requested a meeting with the Clerk of the Privy Council, Mr. Sabia. You wrote to him on July 15, 2025. Is that right?

Caroline Maynard: Yes.

Michael Cooper: You met with him on November 12, 2025. Is that right?

Caroline Maynard: That's correct.

Michael Cooper: It took him a full four months to sit down with you. It doesn't sound like he was in too much of a rush to meet with you.

There is a backgrounder your office prepared on that meeting, and one of the issues discussed, in addition to persistent delays, was with respect to access to information. It states, "the work that needs to be done to implement an order should and could have been done prior to a complaint being submitted."

Is the PCO sitting on access to information requests and not taking steps to comply with them until a complaint has been made?

Caroline Maynard: A lot of the complaints we receive have been with the PCO for quite a long time. You're right. There's a lot of work that could be done before it comes to my office.

Michael Cooper: This is occurring frequently—just so we understand.

Caroline Maynard: Yes. If you go to my website, you'll see a lot of examples of orders and decisions that were rendered with respect to the PCO.

Michael Cooper: Is it getting better or worse?

Caroline Maynard: It is not getting better.

Michael Cooper: Okay.

In the same backgrounder on the meeting, you note that the PCO has, at least on occasion, "[e]xaggerated claims of harm" regarding why some documents were being withheld from requesters.

Can you elaborate on that?

• (1605)

Caroline Maynard: There are two cases that went to the court wherein the argument of harm was used for top secret documents that were historical documents, not current information. They were

old documents. As I said in my opening statement, we're still dealing with some information within the PCO that is between 40 and 69 years old.

Yes, because it went to court, it was settled before a decision from the court.

Michael Cooper: The Federal Court, in one of those cases, ordered the PCO to pay \$4,400 on the basis that this should never have gotten to court and that the PCO should have abided by your recommendation, which was to release a report in its entirety.

Is that correct?

Caroline Maynard: Yes.

Michael Cooper: They were slapped on the wrist by the Federal Court.

Now, in terms of the meeting you had with Mr. Sabia, did he undertake any steps to improve the PCO's compliance with access to information?

Caroline Maynard: He was very receptive.

Michael Cooper: He was receptive, but—

Caroline Maynard: We had a very good meeting. I have to say that I've met four different clerks in the eight years of my appointment. Mr. Sabia was very receptive. He understood and had good questions. He didn't make any promises, but he definitely took it upon himself to get more information and to help us achieve something.

Michael Cooper: It's one thing to be receptive. Have you discerned any tangible improvements on the part of the PCO since your meeting?

Caroline Maynard: It is still very difficult.

Michael Cooper: The answer to that, I take it, is no.

Caroline Maynard: No.

The Chair: Thank you, Mr. Cooper.

Go ahead, Ms. Church, for five minutes.

Leslie Church (Toronto—St. Paul's, Lib.): Thank you very much, Mr. Chair.

Ms. Maynard, I'll pick up on this regarding the PCO.

I think you mentioned, in your opening remarks, the historic age range of time that the PCO often deals with, in terms of the requests they're receiving. Could you clarify for me what that age range you mentioned was? Was it 35 to 60?

Caroline Maynard: Yes, it's something like that.

Leslie Church: Just so I'm clear, was your comment, then, that one of the major issues the PCO has to grapple with is the fact that these requests often touch records that are 35 to 60 years old?

Caroline Maynard: They are documents.

Leslie Church: Are those documents digitized, or are they still in predigital, paper form? How are they stored?

Caroline Maynard: They are mainly paper.

Leslie Church: They're mainly paper, so they'd be housed somewhere in storage.

Caroline Maynard: No. They're in storage at the PCO.

Leslie Church: Is there a moment in time when records of a historical nature like that, dating back 60 years...? I'm just trying to do the math here. It's taking us back to the 1960s. Do those records ever move over to Library and Archives to be archived?

Caroline Maynard: This goes back to the authority of each institution to determine when they will send the documents that Library and Archives and the institutions agree are of cardinal value to Library and Archives.

This would be a very good question to ask Mrs. Weir or somebody from the PCO: "Why are these documents still within the PCO?"

Leslie Church: Is that practice common in other departments as well? Are they holding on to records, or could be? I guess the idea is that they could be holding on to records of that age.

Caroline Maynard: We don't see that very often. The PCO is definitely the institution that has the oldest records being asked for by requesters.

Leslie Church: Okay.

What are some of the recommendations you might have? I think that's a very different problem, in fact—looking at records that are predigital and from mid-last century versus looking at records we're generating in government today. What are some of the ways we should be looking at this or ways we could address that challenge in government?

Caroline Maynard: As with any other institutions, you have to determine the periods when your documents will be destroyed. If not, when are they going to be transferred to Library and Archives? That discussion has to be happening with Library and Archives.

• (1610)

Leslie Church: Presumably, that would be at a time that would make sense, like maybe at a change of government, for example, or when you are doing an assessment of your records and of what needs to be archived.

Caroline Maynard: Every year, you should be doing some cleaning up of your—

Leslie Church: It should be every year, but certainly at the end. I'm with you there.

Caroline Maynard: Now we're dealing with older... Yes.

Leslie Church: My colleague asked about artificial intelligence and technological solutions. I'm just wondering if there are any existing technical tools that would help people who are working in the system designate an email as a record for retention. You've mentioned the challenge we see with duplication in email threads where there can be many people in an email. The question is, who retains it for the purposes of record-keeping? Are there tools that make that process easier?

We all manage inboxes today. They are often a source of daily waterfall of electronic information. What exists to make this process easier for public servants and political actors who are working in the system?

Caroline Maynard: I am not aware of a tool that does that right now for somebody's own email inbox. That would be a great tool, if it existed.

Leslie Church: It's very much on the individual to figure out the best possible personal system of record-keeping and archiving.

Caroline Maynard: Yes. It is within the institution that there have to be rules about who keeps what, for how long and where.

Leslie Church: When my colleague was asking you a little bit about artificial intelligence, you mentioned a few of the departments that are using AI. Are any of them using this creatively now in terms of how to keep these records or how to search and accumulate these records?

Caroline Maynard: I'm aware of Transport Canada, which has been testing some AI with respect to its access to information system and processes. There is IRCC, as well.

In New Zealand, the access requests are being processed initially by AI to triage and then to find the information. To do that, you have to have proper information management to start with.

Leslie Church: That's to begin with, so you're collecting the right records.

Thank you.

The Chair: Thank you, Ms. Church and Commissioner.

[*Translation*]

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

Luc Thériault: Thank you, Mr. Chair.

Commissioner, a number of people suggest that exceptions to the act should be strictly limited by being subject to an injury test or a public interest override and that all exceptions protecting the public interest should be subject to a lapsing provision of maximum 20 years.

What do you think?

Caroline Maynard: I agree that every exemption in the current act should be reviewed and analyzed to ensure that it limits access to information as little as possible.

The periods should definitely be shorter. The exemptions in place have not been changed in 40 years.

Luc Thériault: In 40 years, you say.

Caroline Maynard: It was in 1983, so 43 years ago.

Luc Thériault: I'm astounded.

Earlier, you said that all public institutions should be subject to the act. One organization suggests that a record be set up for each public institution, including the details of the process and the reasons behind all decisions and actions taken, including evidence-based and political research. This is about the duty to document decisions.

You touched on this a little earlier, but I'd like to hear your comments on it.

Caroline Maynard: The duty to document is based on the fact that there is no information or response to an access to information request. That means that no document was found or created that talks about a decision, policy or measure that was taken. In Canada, only British Columbia, using its own powers, has a duty to document. It requires some effort to implement that duty. It's certainly something that ultimately supports access to information.

I think that should be considered. Whether in the Access to Information Act, the Archives Act or the Information Management Act, there should be a duty to document, similar to what is done for financial transactions and performance management records. In these cases, there's often a tendency to write everything down. We should have the same reflex for most government decisions.

• (1615)

Luc Thériault: Is this kind of thing currently being done in the institutions covered by the act?

Based on your experience, do you have anything positive to say about this duty to document?

Caroline Maynard: Right now, I would even say that there may be too many records, but not important or relevant ones.

There's an enormous amount of back and forth, transitory records. The information in those documents has to be found. There should be an obligation to document decisions in a specific document, as has been suggested to you, which would make it much easier for people to find that information and understand the decisions.

Luc Thériault: There can be no access to information if the information is hidden in a forest, when it should be in a little cabin on a very well-defined trail. We assume good faith, but it could also be a way of not meeting obligations, that is, sending a bunch of information and telling people to put up with it.

Caroline Maynard: I think it's more because of the way people work now. People are working faster and faster, and doing more with less. There's less accountability for public service employees. They're being asked to do all sorts of things quickly. That's ultimately one of the problems.

Luc Thériault: Is it a training issue?

Caroline Maynard: Yes, among other things. It's really a matter of understanding the responsibility that comes with our duties and tidying up our files.

Luc Thériault: Okay.

There's another interesting recommendation—

The Chair: Mr. Thériault, your time is up. Perhaps Mr. Hardy will ask the question you wanted to ask.

Luc Thériault: Okay.

[English]

The Chair: Mr. Hardy, you have five minutes

Go ahead.

[Translation]

Gabriel Hardy (Montmorency—Charlevoix, CPC): Thank you, Mr. Chair.

Ms. Maynard, thank you for being here.

During the last election campaign, the Prime Minister said that access to information was really important. I imagine that was to reassure the public. However, you're saying that the current system no longer serves its original purpose.

I see two things that are somewhat contradictory: On the one hand, it's announced as important, and, on the other hand, it's said to be a system that doesn't promote access to information.

Do you feel supported and respected in the work you do, Ms. Maynard?

Caroline Maynard: I currently have the tools I need to do my job. However, do institutions have the necessary resources and support? I'm not sure, and given the budget cuts we're going to see in the coming years, I would say it's a concern.

Gabriel Hardy: What is your operating budget right now, if we take into account the evolution of tasks, for example? What does the annual budget for access to information look like?

Caroline Maynard: My budget is about \$15 million a year.

Gabriel Hardy: Okay.

You have powers. You have the right, in fact, to order government institutions to give you access to the documents you request. At some point, if the government decided not to do so, I imagine there would be a cost to taxpayers since you would have to go to court. Does that kind of thing happen?

Caroline Maynard: First, during my investigations, I have the authority to force institutions to give me the documents I need for my investigations. So far, I have not had to go to court to do that.

Second, when my investigation is completed and I issue an order, institutions have two choices: comply with it or go to court. Institutions have to go to court, and that's provided for in the act. We currently have 11 cases in court. It doesn't happen often.

Gabriel Hardy: Okay.

How much did it cost taxpayers for your office and the government to fight about you?

Caroline Maynard: In fact, institutions are fighting against the order, of course.

As I said last week in committee, we have about three lawyer employees who are litigation experts. We're required to have that kind of additional expertise. There are two more salaries as a result of that.

• (1620)

Gabriel Hardy: According to the figures I have before me, the government spent \$1.6 million to fight, not against you, but against your orders. Am I correct in that?

Caroline Maynard: I think that's what the government has spent on lawyers' fees in the last four years.

Gabriel Hardy: Basically, when the government challenges your access to information requests that enable Canadians to understand the scope of what's going on, it costs taxpayers more than the normal expenses, including the salaries of your office staff, to ensure that access to information is respected. That means the government spends additional money to challenge an order you have issued following an investigation. Is that correct?

Caroline Maynard: Indeed, at the end of an investigation, the order asking the government to respond gives it the option to go to court and gain more time to respond to the request.

Gabriel Hardy: The government is spending taxpayers' money to buy time, then.

Do you get the impression that Quebeckers and Canadians today have adequate access to information about the government and everything that goes on within the government? Do you feel that access is being lost faster than before? If we compare the situation 10 years ago with the situation today, do people have the same kind of access, or do they have less access than before? Are Canadians less informed than before? I think you said earlier that not having access to information encourages cynicism. Do you get the impression that this is more or less what's happening?

Caroline Maynard: I think the issue is that information can be found in many places. Nowadays, Canadians no longer know what to believe or what's reliable and true. That's why proactive disclosure and access to information have to be improved, so Canadians receive that information before they go elsewhere to look for information that may not be reliable.

Are there more requests? There are many more. We're up to 220,000 access to information requests a year. The number of requests has increased by 110%. Do requesters get a response quickly? Can they trust that information? Those are all questions that ultimately affect public trust.

Gabriel Hardy: If there was a desire to respect exactly what the Prime Minister said, namely that access to information is really important, your office should theoretically have a little more money to support access to information. Above all, it would be even easier for Canadians to find information when they request it. There would be a little less cynicism as a result. I think your office provides more relevant and reliable information than what can be found around the Internet.

Do I have a little time left, Mr. Chair?

The Chair: No.

Gabriel Hardy: That's too bad; it was going well.

The Chair: Your time is up.

Before continuing with Ms. Lapointe, I would like to point out that we'll have a round of questions with five minutes for the Conservatives and another five minutes for the Liberals. We can take just two minutes for Mr. Thériault to ask his question, and then we'll finish on time.

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

Linda Lapointe (Rivière-des-Mille-Îles, Lib.): Thank you very much, Mr. Chair.

Welcome, Ms. Maynard. This isn't the first time you have appeared before the committee.

I would like to come back to what Mr. Hardy said earlier. He asked you questions about your budget, which is \$15 million. You said that your resources are staying the same and won't decrease.

Have you had any discussions with the various institutions you work with to determine whether their access to information services would get fewer resources?

Caroline Maynard: Yes. I was just going to say to Mr. Hardy that it isn't me who should be getting more resources; it's really the institutions that shouldn't be making cuts to their access to information services, because that's where the information is given to Canadians.

For example, you can ask Ms. Weir, the librarian and archivist of Canada. She informed me that her budget would be cut by \$15 million. For access to information, 7.5% of her budget for access to information is the same as my office's entire budget. That's one example, but there are many others. All institutions will be affected by this.

Linda Lapointe: Okay. That wasn't my understanding.

I'll come back to some other things. Earlier, you talked about email inboxes. You said that there weren't really any tools to do that and that there should be rules for removing certain elements from email inboxes. You say that there has to be some cleaning up, which means that some things have been going on for a while. There are no guidelines on that.

You mentioned New Zealand. Are there any references?

Personally, I don't know exactly how to clean up email inboxes. You said earlier that someone would have to be put in charge. Has anyone looked into that issue, so we can learn what we need to set aside and remove from our email inboxes, and so the departments can give us guidelines? I'd like to hear your comments on that.

• (1625)

Caroline Maynard: My office has published a document detailing nine ways to manage email inboxes. It's a document that comes from us, because we saw a need for it. In fact, it's Treasury Board and the people responsible for information management who should ensure that everyone is equipped to understand what they need to keep in their email inbox.

However, I understand you, because it's very difficult. We offer half-days of training during which we force people to ask themselves questions. They read emails and sort them into the right place. For example, if an email contains a decision about a file, the email will be sorted into the corresponding folder, and it shouldn't remain in the inbox. We're saying people have to keep those documents if they have value, but it's important to sort them and save them in folders dedicated to those decisions.

Each institution or agency is responsible for determining the rules that apply in each case. Are there tools available? There probably are, but I'm not aware of any. There will be. Now, there are surely tools that identify what has been duplicated, so there should be tools to give us certain information.

How many times do you say "thank you" in an email? How many emails containing "thank you" have you sent? If I could delete all my "thank you" emails, that would clean things up. That's an example of a transitory message that we shouldn't keep.

Linda Lapointe: I agree with you, but I would go even further. At a certain point, we're flooded, as my colleague said earlier.

You talked about British Columbia, where people are now required to contribute to a data catalogue, which will support access to information. Can you tell us whether British Columbia is achieving better results? Are people receiving the requested information more quickly?

Caroline Maynard: The answer is yes and no. I think that, once again, it forces people to ask themselves questions, because the obligation exists. However, it also creates habits, including the habit of keeping everything, which means that they end up with a huge number of documents. That means there's a problem on both sides.

Linda Lapointe: Okay, thank you very much.

The Chair: Thank you, Ms. Lapointe.

I have been advised that Mr. Hardy and Mr. Cooper are going to share their time.

Mr. Hardy, I'll warn you when two and a half minutes have passed. The floor is yours.

Gabriel Hardy: Thank you, Mr. Chair.

Ms. Maynard, I'd like to ask you a very simple question. On the one hand, some departments automatically delete Microsoft Teams discussions after 15 days and emails after 30 days. On the other hand, there's section 67.1 of the Access to Information Act.

Do you think the method departments are using violates that section? You're shaking your head. Do you think it poses a risk to access to information? Were you consulted, or did the departments independently decide to adopt 15-day and 30-day periods before deletions?

Caroline Maynard: We weren't consulted, because this falls under the policies of the government, Treasury Board and Library and Archives Canada. It doesn't concern us as long as there isn't an access to information request.

If there is an access to information request and there's something relevant in a Microsoft Teams discussion, there should be a process in place that can suspend the deletion of records.

If you intend to evade that access to information request and you erase something in order to do so, that may be alleged as a criminal offence. The person really needs to know—

Gabriel Hardy: Wouldn't it have been a good idea for the departments to consult with you to ask whether they were creating a problem? In my opinion, that would have been the first step, wouldn't it?

• (1630)

Caroline Maynard: As I told you, that isn't within our authority.

However, last week, I sent a letter, which I forwarded to you, containing guidelines that organizations should follow when making this kind of decision.

Gabriel Hardy: Thank you.

[English]

The Chair: Go ahead, Mr. Cooper.

Michael Cooper: Thank you, Mr. Chair.

Commissioner, last September, a discussion paper from Treasury Board, which is responsible for setting access to information policies, suggested that the government may need to "revisit" your order-making powers. The discussion paper states that your order-making powers "are meant to be a measure of last resort, but their use has steadily increased". The implication appears to be that somehow you're abusing your order-making powers.

It seems to me that the Treasury Board and this government have it exactly backwards. The problem is not that you are exercising your order-making powers more frequently; the problem is a steady deterioration in the access to information system across government, which has made it necessary for you to issue such orders to direct government departments and institutions to follow the law.

Is that fair?

Caroline Maynard: I totally agree with your statement.

Michael Cooper: Okay. Now, your office issued a statement in December 2025 following this discussion paper from the government, stating that "any 'revisiting' of the order-making power that resulted in a scaling back of this power would represent a step backward for the access to information system."

Can you elaborate on the degree to which it would be a step backwards and the negative impact it would have on Canadians' ability to access information from this government or the federal government generally?

Caroline Maynard: The order-making power allows me to stop investigations from going on forever. We are doing our job to make sure that requesters receive a response to their access requests as quickly as possible. There are a lot of discussions with parties: with the requesters, as well as with the institution. If you don't have a way to stop that, at some point something needs to be done.

We try to settle everything or conclude the investigation as informally as possible, but sometimes we have no choice, and the institution has to know that there's a date by which they have to answer the requester, and those orders are necessary for that.

Michael Cooper: There was this discussion paper, and you said that you've heard generally that there is consideration of rolling back your powers, important powers that Parliament gave you. Have you heard anything more on that front? Have you had any discussions?

Caroline Maynard: No. I sent two letters to the President of the Treasury Board to ask when the review will start, and I'm waiting, as is everyone else, to be consulted and to have my chance to make submissions with respect to whatever the paper, policies or recommendations are from government.

Michael Cooper: With respect to those letters, you sent one in June 2025 and another in January 2026. Is that right?

Caroline Maynard: That's right.

Michael Cooper: Your letters have not been responded to by the President of the Treasury Board. Has there been no communication whatsoever with the President of the Treasury Board?

Caroline Maynard: No.

Michael Cooper: That's astounding.

The Chair: Thank you, Mr. Cooper.

Mr. Saini, you have five minutes, please.

Gurbux Saini (Fleetwood—Port Kells, Lib.): In 2019, you were given the powers to order stuff. Is that correct?

Caroline Maynard: Yes.

Gurbux Saini: When you compare those powers to other Western countries, like New Zealand, Australia and Britain, where are we effectively?

Caroline Maynard: We're very similar to Australia, the U.K. and Scotland. Even within Canada, there is the authority to issue orders in British Columbia and Ontario. Then you have other jurisdictions that are still only able to issue recommendations.

Gurbux Saini: How do you consider our overall access to information laws, which you're responsible for implementing, compared to the other countries' laws? Do they need some improvement?

Caroline Maynard: We do need to improve the law. I think we're 52 with respect to our legislation in considering the law itself. We definitely need to open it up. As I said earlier, the act is about 42 years old.

In 2019, as you mentioned, the authority to issue orders was given to me. That was a major amendment, and I'm very appreciative of it, but nothing else in the act was looked at, and that's where we're at now.

Gurbux Saini: You also wanted access to information to be granted to the PMO and ministers' offices. On the controversy we have seen recently in Ontario, what is your view? Is that going to make it better, or is this something in Ontario that's going to become normal?

Caroline Maynard: Access to information is there to make our government accountable and for Canadians to understand what's going on, so I think this is the right thing to do.

In Ontario, the offices of the ministers and the premier are subject to the act. In Canada, they're not. We don't have that, so I think the act has to be amended to make sure that the people working

there, who have been elected by Canadians, are accountable as well for their decisions and for the actions and communications they have within their offices.

• (1635)

Gurbux Saini: Thank you.

With regard to the five-dollar fee, how has that helped the average citizen to get access?

Caroline Maynard: It's a very low fee. It's one of the lowest in Canada. Sometimes I wonder why I have a fee, because it's probably more expensive to administer the fee than to actually.... In my office, for example, we don't charge the five dollars; we realized it was more work to administer the five-dollar fee. However, it is probably sufficient for people to think about it when they make an access request.

Whether it's sufficient or not is something that I think you have to ask the Treasury Board. Access to information should be free; the five dollars is pretty close. In B.C., it's \$25 now to make an access request.

Gurbux Saini: I don't have any more questions.

[*Translation*]

The Chair: Ms. Lapointe, you have the floor for a minute and a half.

Linda Lapointe: Thank you, Mr. Chair.

Ms. Maynard, the Treasury Board Secretariat has an action plan, if I'm not mistaken, and there's going to be a modernization. Public Services and Procurement Canada published a table on what has been done regarding access to information. I would like you to tell us about the measures completed to date and the results observed.

Caroline Maynard: In 2020, the Access to Information Act was due to be reviewed by the government, and the committee conducted a study in 2022. Various activities were carried out, but that actually wasn't a review of the act itself. There were many measures taken in connection with the access to information system. Personally, I haven't seen any updates to that plan since 2024. In 2025, Treasury Board announced a legislative review. Again, we have been waiting for the review of the act to begin since June 2025.

Linda Lapointe: Of the 47 measures set out in the access to information modernization action plan, have any been completed?

Caroline Maynard: You would have to check that with Treasury Board, because the plan really belongs to Treasury Board and is related to the system itself. As far as I know, the plan announces certain changes, but they're really things that were already in motion. There haven't really been any changes to the access to information system in general.

The Chair: Thank you, Ms. Lapointe.

Mr. Thériault, we're going to conclude with you. You will have time for a quick question and a quick answer. The floor is yours.

Luc Thériault: Thank you, Mr. Chair.

Ms. Maynard, there seems to be an increase in the number of requests that don't have a response. The response is empty. Out of all the requests, 26.2% received responses that didn't deliver any information. What I understand is that requests are getting responses, but the responses have nothing of substance.

First, is the government counting those empty responses as requests that have received a response? Second, is it normal to get that kind of response? Third, shouldn't there be consequences when that happens?

• (1640)

Caroline Maynard: There are a number of factors involved there.

First, a person can file a complaint if they ever think there should be information and they haven't received anything. However, it can happen that the person made the request to the wrong place, so we'll confirm that. Sometimes, the person hasn't talked to the institution to find out exactly how to make the request. The way the request was made could lead to an irrelevant response. The investigation could reveal that. If the request leads to existing information that the person should have received, I can order its disclosure, but there's currently no penalty in the act. Could an institution be penalized? How would a penalty be applied? That would be rather difficult.

Of course, institutions should have performance measures for the people in charge of access to information and the people who provide the information. It isn't always the access to information unit that didn't find the information, but the people in charge of the program. Those performance measures would make it possible to assess their responses to access to information requests.

Luc Thériault: Thank you.

The Chair: Thank you, Mr. Thériault and Commissioner.

[*English*]

Commissioner, I want to thank you for taking the time to be with us today on such short notice.

Caroline Maynard: You're welcome.

The Chair: I know there has been a lot of attention given to the issue of access to information over the last several years, and your being here today has helped us with regard to our study.

We were supposed to have Ms. Weir here today for the second hour. Unfortunately she wasn't available, but we're trying to get her here on Thursday, with the Treasury Board Secretariat and representatives from the Privy Council Office.

Thank you again, Commissioner.

Caroline Maynard: Thank you very much.

The Chair: We're going to move on to some committee business, so I am going to excuse you and thank you, again, for your time.

There are a couple of things that I need to deal with.

We have two study budgets. One is on this study, for up to \$2,500, and you can tell by the refreshments in the back that I don't expect we're going to be spending much money on this study,

but it's up to \$2,500, so I need approval from the committee for that.

Do I have approval?

Some hon. members: Agreed.

The Chair: The second one is a supplementary study budget, which is the order of reference from the House to add meetings to the review of the Conflict of Interest Act. The supplementary amount it requested is \$2,000.

Do I have consensus on that?

Some hon. members: Agreed.

The Chair: Thank you so much.

I also understand that the House leaders will be discussing tomorrow the unanimous consent motion that's required for us to proceed to our study of the review of the Lobbying Act, so I'm looking forward to that. Thank you for making that possible.

The other one I need to deal with is a routine motion regarding distribution and access to documents to three associate members per recognized party. This is something that's happening across all committees. It's a routine motion.

I understand that Mr. Cooper has the motion to present to the committee, and I'm going to invite him to read out the motion now.

Michael Cooper: Thank you, Mr. Chair.

On this matter of housekeeping business, I move the following motion:

That, notwithstanding the usual practices of the committee concerning access to and distribution of documents,

- a) up to three associate members of the committee per party be authorized to receive the notices of meetings and notices of motion and be granted access to the digital binder;
- b) that the associate members be designated by the offices of the whips of each recognized party and sent to the committee clerk; and
- c) that the provisions of this motion expire as of September 25, 2026, unless otherwise ordered.

The Chair: Thank you, Mr. Cooper.

I'm going to confirm with the clerk that this is the standardized motion with no changes at all. It is. Okay.

Is there any discussion on that?

Do I have approval from the committee on that?

Some hon. members: Agreed.

The Chair: Thank you, members.

I don't have any other business.

Ms. Church.

Leslie Church: Mr. Chair, would you give us a rundown of what you expect in terms of committee business for the next couple of weeks?

The Chair: As I mentioned earlier, we're trying to get Ms. Weir from Library and Archives here on Thursday, along with Treasury Board Secretariat and the PCO.

My expectation is that we're going to commence the draft report of the conflict of interest study next Monday. Unless, of course, members are in agreement and amendments are possible—we understand all of that—the plan is to have that study in its draft form for at least two days the week after next. I have no plans to come in on my off time for that, so that'll be the week following the family day week. We're planning on two meetings.

If we are able to get through that, then my plan is to commence the lobbying study as soon as possible.

As far as the AI study is concerned, we're at the max in terms of having the minister in, as we did last week. We've had requests for witnesses, and my offer to them has been to supply briefs, because we can't keep having meetings about that, considering the motion. I forget how many meetings we're allowed. We're allowed up to four,

I think, as the motion read, maybe more. We've had more meetings than that.

The plan is that after we get through the draft report on the conflict of interest study, we're going to get into the Lobbying Act.

Does that answer your question?

● (1645)

Leslie Church: Yes.

The Chair: Good.

Is there any other business? Are there any other questions? Okay.

I'm going to adjourn the meeting.

Thank you, everyone.

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