HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

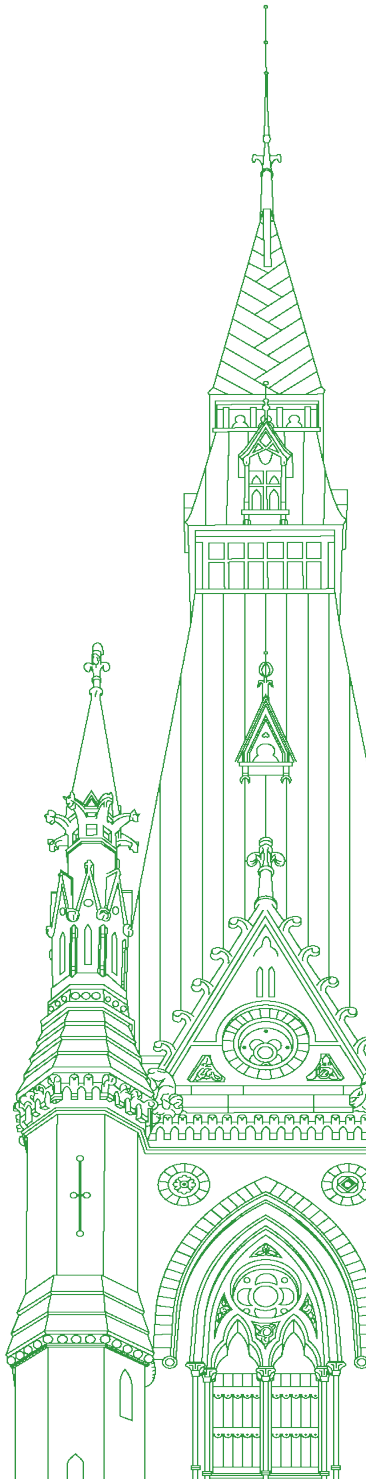
45th PARLIAMENT, 1st SESSION

Standing Committee on Access to Information, Privacy and Ethics

EVIDENCE

NUMBER 056

Monday, November 2, 2026



Chair: John Brassard

Standing Committee on Access to Information, Privacy and Ethics

Monday, November 2, 2026

● (1100)

[*English*]

The Chair (John Brassard (Barrie South—Innisfil, CPC)): We're going to call the meeting to order.

I want to welcome everyone to meeting number 56 of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

Pursuant to Standing Order 108(3)(h) and the motion adopted by the committee on Thursday, February 5, the committee is resuming its study on the state of access to information in Canada.

I'd like to welcome our witness for today.

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

Commissioner, you have the floor for your opening remarks. Go ahead.

Caroline Maynard (Information Commissioner, Offices of the Information and Privacy Commissioners of Canada): Thank you.

[*Translation*]

Good morning.

Last February, I appeared before this committee in the context of its study on the state of access to information. Today, I would like to provide you with some updates on this topic.

[*English*]

My annual report, which was tabled in June, included a special report dealing with the results of my systemic investigation into accessing information related to ArriveCAN. This investigation explored the use of cloud-based platforms, mobile applications, instant messaging tools and decentralized communication channels to deliver programs and services and the consequences of using those tools without commensurate governance, oversight and information management control.

My report concludes that as institutions continue to evolve their operations, they must ensure that innovation is supported by governance frameworks that enable them to meet their access to information obligations. Without such alignment, the risk is not only incomplete responses to access to information requests, but also the gradual erosion of transparency, accountability and public trust across government.

The ArriveCAN investigation serves as a wake-up call that access to information-related obligations must always be factored into how public servants work. Ensuring that access to information remains meaningful requires sustained attention, clear accountability and decisive action from institutions, policy-makers and Parliament.

[*Translation*]

In addition, last March, the Treasury Board Secretariat released a policy approaches document seeking feedback on a range of possible reforms touching on issues such as transparency, information management, declassification, indigenous access to information, and oversight and compliance.

I had reservations about the direction reflected in the document because, in several respects, the proposals appeared to be designed to ease what government institutions perceive as administrative burdens rather than to uphold Canadians' right to know. Nor did the policy approaches put forward fully address some of the most significant challenges facing the access system today. In particular, it did not place sufficient emphasis on the chronic delays that continue to affect requesters seeking access to records held by government institutions. Delays remain the issue most frequently raised in complaints received by my office and continue to represent the greatest source of frustration for requesters. Any meaningful modernization of the act must address this reality.

[*English*]

In my submission, I urged the government to pursue more ambitious measures to strengthen the right of access, improve transparency and reinforce accountability. My main message was simple: The review should be guided by the objective of strengthening the public's right of access. Modernization is long overdue.

That said, I continue to believe that legislation reform alone will not resolve many of the challenges currently affecting the system. The number of complaints that my office has received this year is indicative that institutions continue to struggle to meet their obligations under the law. A stronger legal framework must therefore be accompanied by meaningful improvements to how the access system is administered, governed and resourced, as well as to how institutions are being held accountable.

As I have recently said, laws can establish obligations, technology can improve systems and resources can increase capacity, yet none of these can substitute for a genuine commitment to openness. If we want to truly rebuild trust in government institutions, transparency must be embraced as an institutional value, supported by leadership and reflected throughout the public service.

Thank you.

● (1105)

The Chair: Thank you, Commissioner.

We're going to move to our questioning now.

I have Mr. Cooper for six minutes.

Go ahead, sir.

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

Welcome back, Madam Maynard.

In November 2025, you met with Michael Sabia, the Prime Minister's top adviser, the Clerk of the Privy Council, to discuss concerns you had regarding the failure of the Prime Minister's department, the PCO, to comply with the Access to Information Act.

It has now been a year since you met with Mr. Sabia. Have things gotten better or worse at the PCO?

Caroline Maynard: The number of complaints continues to be high, but actually, the collaboration that we have with the department in terms of getting submissions on complaints that are active is better. We're closing more cases with them. It's finally showing some improvement.

We're still waiting to see improvement in terms of the historical documents being transferred to the Library and Archives, which we were told we're going to be starting this year. We haven't heard whether this is going to be done by December 31, but it's something we're looking into.

Michael Cooper: Okay, but it's fair to say that illegal delays remain common.

Caroline Maynard: For sure. We are still getting a lot of complaints with respect to responses.

Michael Cooper: The number of orders you issued against the PCO in 2025-26 was 63. That's a record number. Is that right?

Caroline Maynard: Yes. This was one of the institutions that was receiving the most orders from my office.

Michael Cooper: When you look at the 265 federal institutions across the federal government, where does the PCO rank in terms of the number of orders that have been issued against it?

Caroline Maynard: I believe they are second in terms of complaints and the number of orders being received, after the immigration and refugee department.

Michael Cooper: They're the second-worst offender in terms of not complying with the Access to Information Act. Would that be fair?

Caroline Maynard: They are second in terms of the number of complaints that are being submitted against them.

Michael Cooper: Okay. By the way, to give some further context to the 63 orders in 2025-26, I looked back at 2021-22, when you issued only 14 orders. That's a pretty staggering increase.

Caroline Maynard: We went from 12 to 25 to 42 to 63, but so far this year, we're down to only 23 orders as of October.

Michael Cooper: Okay.

Just to understand the seriousness of what is at issue, access to information by Canadians is a quasi-constitutional right, correct?

Caroline Maynard: It is.

Michael Cooper: When the Prime Minister's department fails to provide access to information in respect of legitimate access requests, the Prime Minister's department, the PCO, is not only breaking the law, but it's also violating a quasi-constitutional right of Canadians. Is that fair?

Caroline Maynard: Without information, Canadians are not informed and they cannot exercise their democratic rights. That's why it is a quasi-constitutional right.

Michael Cooper: When you've issued orders against the PCO to comply with the law, have there been instances when the PCO has ignored your orders this year?

Caroline Maynard: No, not this institution. We haven't had to submit an application of mandamus against the PCO.

Michael Cooper: Okay.

Your report did reference 10 instances where the PCO did not respond, following an order you issued, as to whether they were going to follow your order. Is that correct?

● (1110)

Caroline Maynard: Under the legislation, we have to give them a notice of intent to order, and they have 15 days to tell us if they're going to be accepting the order or not. In some cases, we haven't received a response from the PCO, but ultimately they have followed the order when it was effective.

Michael Cooper: Okay.

I read your 2025-26 report. I understand one of the major problems at the PCO regarding ongoing delays with respect to access to information requests relates to the “PCO's internal processes and delegation structure.”

Can you elaborate on that?

Caroline Maynard: Under the act, the minister of the department has to delegate to some people the authority to decide on requests, whether on redactions or what information is relevant to the request. That delegation is pretty high in the PCO, so sometimes the back and forth between the ATIP unit that is working on the file and the people with the delegation adds some time to the response to the actual request.

Michael Cooper: You recommended to the clerk that the PCO undertake a review of “approval processes to improve efficiency and ensure compliance with statutory timelines”, correct?

Caroline Maynard: Yes, we have recommended that.

Michael Cooper: Has that happened?

Caroline Maynard: I'm not sure, but I can tell you that we have been getting better responses. I don't know if it's because the delegation was changed, but we have received more submissions from PCO. It's working better this year.

Michael Cooper: Okay, but there's been no communication from Mr. Sabia.

Caroline Maynard: No.

Michael Cooper: Okay.

The Chair: Thank you, Mr. Cooper.

Ms. Tesser Derksen, go ahead for six minutes.

Kristina Tesser Derksen (Milton East—Halton Hills South, Lib.): Thank you so much, Mr. Chair.

Welcome, Commissioner. Thank you for appearing and for noting the improvements that have been made and that the response times are seeing some improvements as well.

I think it's important to put some of these criticisms in the context of the volume of requests that the PCO receives and the nature of the requests, because so many of those requests are subject to very sensitive information. There's a real and important due process that officials will go through when they're analyzing these requests.

I want to note some statistics.

From my understanding, 78% of the PCO's active ATIP complaints have come from just three individual requesters, and complaints from all other requesters outside of those three have declined by approximately 50% over recent years. That's just for some context to help understand the nature of the requests and where they're coming from. I think that's really important.

My colleague Mr. Cooper noted that the right of access to information is a quasi-constitutional right. I read your letter to the Prime Minister from May 2025, in which you open by basically saying, “Canadians' right of access to information” has been recognized as a “quasi-constitutional right by the Supreme Court of Canada.”

I'm wondering if you would mind elaborating on what you understand that to mean. Most people would say, “Well, it's constitutional or it's not.” What does quasi-constitutional mean?

Caroline Maynard: It's quasi-constitutional because it's not protected by itself. Access to information is not a right in the charter, but because it's linked to our democratic status as citizens who have a right to vote, the Supreme Court says that for citizens to know what to vote on and exercise that right, they need to have information and they need to be informed. It's linked to that.

It's also linked to the freedom of expression. As you know, if citizens don't know what information is being used by the government in making decisions, journalists cannot do their work and citizens cannot be properly informed. It's all linked to those rights. It's quasi-constitutional because it is linked to other rights that are protected by the charter.

Kristina Tesser Derksen: Thank you.

You mentioned the charter, and for the lawyers in the room, some of the most interesting charter cases that we encounter are the ones where we have a conflict, a countervailing interest or conflicting rights.

I went back and read something by former chief justice Beverley McLachlin. She was writing about access to information, and said that “complete access to information might prejudice other” rights, such as privacy, which is also extremely important. It's been recognized access “must be limited...by certain exceptions,” what we call privileges. As chief justice at that time, she also recognized that privileges are “essential to ensuring that government decisions could effectively protect public security.”

I'll also note that the “Canadian Bar Association urged the creation of 'a meaningful legislative right'”.

Could you talk to us about the role that privilege plays in access to information and how we go about balancing those countervailing rights?

● (1115)

Caroline Maynard: Currently, the act provides exemptions and exclusions. Every time somebody asks for information and there are privileges like the ones you're referring to, like a client privilege or a cabinet confidence privilege where the institutions reviewing the documents can exercise those exemptions and apply a redaction to the document, the privilege is protecting the information that's sensitive.

The act provides a full government code whose purpose is to provide information, but if there's a really good reason not to provide that information for national security purposes or because there is personal information in those documents, the institution has all of these exemptions they can apply. This is where my office comes into play to make sure that these exemptions are properly applied and that only the information that should be redacted has been redacted.

Kristina Tesser Derksen: Thank you.

I think some of your concern has been around how the privilege is applied. In your experience, are you finding that the right to access is being balanced properly against privilege in the public interest and for public security?

Caroline Maynard: This is why we have an independent commissioner reviewing those documents. We have the right and the authority to review all the documents that are not redacted and compare them with what has been removed.

Cabinet confidence is the exception to this rule. My office has no authority to review any document where the institution says there is cabinet confidence. We have to take for granted that it's been applied properly.

What I've been asking this government and Parliament to change is to at least have this other review from an independent commissioner so that the citizens are protected in the sense that we can tell them that the document they haven't received a copy of was subject to cabinet confidence. Right now, nobody can review these documents. We don't know if it's been applied properly or not. Nobody can look at them.

This is why I've made the recommendation that this authority be added to the legislation.

Kristina Tesser Derksen: Drawing off of that, how would you assure Canadians, and cabinet, for that matter, that this process would be secure enough? The whole reason—and I think I spoke to it with Chief Justice McLachlin's comments and those of the Canadian Bar Association—was to make sure there was protection for public security purposes within cabinet confidence. There's again a rubbing of rights. Assurances would be needed if you were to have another official outside of cabinet reviewing these things.

What kind of safeguards would you put in place?

The Chair: We're over time. Please give a quick response, if you can, Commissioner.

Caroline Maynard: We already do it. We don't disclose any information. All we do is review it to confirm whether it's been properly done. Then we tell the institutions if we disagree with their decision. However, ultimately, it's the institutions that release the information. It's not our office.

The Chair: Thank you.

[*Translation*]

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

Luc Thériault (Montcalm, BQ): Good morning, Commissioner. It's good to see you again. You stated that the last time you appeared here was in February. Last March, you released a very interesting statement.

That said, I would like to pick up on the conclusion in your opening remarks, which I found to be particularly powerful. Could you clarify that for the committee? You said that transparency must be embraced as an institutional value, but you also said something else just before that. Can you repeat your last sentence?

[*English*]

Caroline Maynard: If we want to truly rebuild trust in our government institutions, transparency must be embraced as an institutional value, supported by leadership and reflected throughout the public service.

[*Translation*]

I don't have the French translation in front of me, but I think the interpreters have it.

I believe transparency must be an institutional value. What I was saying is a bit of a reflection of the prevailing culture and what we would like to change.

Luc Thériault: That is precisely why I would like to ask you to clarify an element that is somewhat philosophical, but which also touches on institutional culture. I would like you to talk about transparency by default.

Indeed, isn't this idea of transparency by default, as you describe it in some of your writings, an element that would make it possible to embrace transparency as an institutional value?

● (1120)

Caroline Maynard: What we are seeing is that the access to information system is not enough to address requests from Canadians. It should not be the first system people use to obtain information about our governments, the decisions that have been made and policies that have been approved. Voluntary proactive disclosure should be built into all processes, for all decisions taken by the government, but unfortunately, that is not the case.

As information commissioners, we are saying that if a decision is made or a policy is undergoing review, this information should be made available right away. Why wait for access to information requests?

There is another aspect to consider. If there is an access to information request, why not use discretion to provide that information? All too often, when reviewing a request for information, people ask themselves what information should be withheld, rather than what information should be disclosed to the requester.

As such, this culture and this view must change. The primary purpose of access to information is to provide access to information, and not to prevent people from accessing the information.

Luc Thériault: Yes. In fact, in a document on transparency by default, you state that: “Transparency must be the norm. Exemptions to the right of access should be limited and specific, and public bodies/institutions should view them as the exception rather than the rule”. However, you have the impression that it is the other way round.

Caroline Maynard: Yes. I think that right now, people use the act as a sort of shield to withhold access to information, and not to amplify it.

Luc Thériault: You also state that “Unless required by legislation, public bodies/institutions should refrain from including confidentiality or secrecy clauses in contracts or other public documents”.

Caroline Maynard: One of the most frequently requested elements concerns government spending. I'm always surprised to see that contracts between the government and individuals providing services to the government are still subject to confidentiality clauses. In my submission to Treasury Board, I gave the example of England, where the City of London introduced a process where all contracts are public, and the sky did not fall. People have more confidence in the contracting process, and contracts are disclosed.

Otherwise, what we are doing on our end is negotiating with the government on every clause, to disclose as much information as possible, even though, as we already know, the information will be sought and requested.

Luc Thériault: Did your meeting with Treasury Board point to any openness on this matter?

Caroline Maynard: Right now, I don't know what Treasury Board is going to do with these consultations. I am told that consultations are over and that Treasury Board is preparing a document, a report, and I believe it will submit it to you and the government. However, like you, I am in the dark. I am therefore waiting to hear from Treasury Board in the coming months.

Luc Thériault: How much time do I have left, Mr. Chair?

The Chair: You have 30 seconds left.

Luc Thériault: In that case, I prefer to get back to this later because my questions are quite long. Mr. Chair, please give me 30 more seconds in the next round.

The Chair: Thank you, Mr. Thériault.

Thank you, Commissioner.

Mr. Hardy, go ahead for five minutes.

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

Commissioner, thank you for being with us today.

I think the issue we're talking about is of the utmost importance. We are hearing about it with increasing frequency. People need to regain trust in our institutions, and that requires access to information.

The Privy Council Office, and I mention this because we are going to talk about that a bit more in a few seconds, serves the Prime Minister. I say that so that the people watching us can put that into perspective.

I often say that the power of democracy requires an informed citizenry. If people are in the dark, it's hard to form an opinion.

When you made your opening remarks at the beginning, you said that access to information seems to be getting a bit more challenging. In the so-called reforms to ease administrative burdens, it appears that the government wants to provide less access to information, claiming that it will be simpler and that things will move faster.

You also spoke about delays, which are a serious problem.

I am trying to figure out something. If someone wants to form an opinion, they need information within a timeline that allows them to keep up with current events and to see a bit of what is going on. That's how they can form an opinion about events.

When they make a request, how much time can that take? When you say there are usually delays, are you talking about months, weeks or days?

● (1125)

Caroline Maynard: What we know is that Treasury Board figures show that in 60% of cases, the time limits under the act are not met. That also includes requests for extension. Normally, requests should be addressed within 30 days, but an institution can say that it will need more than 30 days and get an extension, and that could be 60 days or 90 days. What we are seeing is that even when there are extensions, which are often given in good faith, the time limits are exceeded.

The delays, which keep going up, can be attributed to cuts, retirement, lack of resources and information management, which is increasingly difficult because of how work is done. There are several factors at play.

We have seen that last year, there were fewer access requests, but more pages were processed. That's another problem with our government. People don't manage their information properly, and it's hard to find the right information to respond to access to information requests.

That means time limits are exceeded. As you said, a late response means someone doesn't have information when they need it.

Gabriel Hardy: What you're saying is interesting.

A 30-day time limit is reasonable. That's the first time limit that should be respected. As it is, initially, you said that most of the time, it's hard to meet that time limit. However, people reach an agreement and then find it difficult to honour their own commitment.

There are two possibilities. Either the amount of information to be processed is too much because of the way people work now, in which case, people should adapt, or money is not being allocated to the right place to ensure Canadians have access to information. Obviously, I think that has to be dealt with. We are in an information age. Your office should be prioritized to ensure the free flow of information and that people have access to this information to form an opinion. Then democracy should be left to take its course. In other words, the government should do its job, show people what it's doing, serve people first and foremost and then people should be left to decide.

In essence, is that what you're asking?

Caroline Maynard: In my opinion, the priority should be to put resources in the right place. Obviously, as I said at the beginning, the act needs to be amended, institutional culture needs to be changed and leadership must embrace openness and transparency. Additionally, information within institutions must be managed in a way that ensures information is accessible. If all of this does not work, then we should choose proactive disclosure. More information should be available on websites. People have to understand where to look for information. They must have access to this information as quickly as possible.

Gabriel Hardy: So you're talking about transparent leadership. People should be given as much information as possible and they need to know that institutions are there to serve them, and then they can form their own opinion.

In 2025–2026, 63 orders were issued against the Privy Council Office. That's a record number for that office.

What does that tell you? It would seem that right now, a lot of decisions are being made and the Privy Council Office wants to make them quickly. It doesn't have time to waste. People just have to get in line and wait to find out what decisions the Privy Council Office has taken. What led to the Privy Council Office receiving the highest number of complaints on record last year?

Caroline Maynard: What we're seeing is that there were several issues.

As we pointed out earlier, one of the biggest problems was that people look for historical documents held by the Privy Council Office. These documents ought to have been transferred to Library and Archives Canada, but that has never been done. These documents should then be accessible through access to information requests, but it takes a tremendous amount of time to go through the boxes. We're talking about boxes with kilometres of paper, which are still at the Privy Council Office. These documents should not be there at all and ought to be at Library and Archives Canada. That's one issue.

The other issue is that these documents are subject to cabinet confidence, and delegation is not granted at a fairly low level. As such, it takes a lot of time to review information.

The Chair: Thank you, Commissioner.

Thank you, Mr. Hardy.

[*English*]

Mr. Shahnawaz, you have five minutes.

Tanveer Shahnawaz (Beaches—East York, Lib.): Thank you, Mr. Chair.

It's nice to meet you for the first time, Commissioner. Thank you for being here.

I just wanted to ask something which I think you were touching on earlier with my colleague's questioning. Maybe this is a bit open-ended, but why do you think departments are not able to meet the 30-day timeline?

● (1130)

Caroline Maynard: Again, it's very hard to tell now, but I can tell you that this year, so far we have received 5,000 complaints. That is more than last year in a full year. What we are seeing is a lack of resources, a lack of training, a lack of people.

I've always said that ATIP is a vocation. You're not working in that if you don't like your work because you are always between the institutions, which don't want to help because they are busy doing something else, and the requester, who needs the information very quickly. It's very difficult to hire, train and maintain the people in ATIP units.

We've seen a lot of people leave on ERI because of the retirement incentive. Is that one of the causes?

Information management is huge. It's not rare now that we have responses to an access request, a simple access request—for example, one week of emails—where it's 15,000 pages long. How can you, within 30 days, go through that?

People are not careful, and they're not aware that part of their responsibility as public servants is to maintain good management of their information. We just issued five tips on how to deal with your inbox. It shouldn't be up to me, but because we see that it's an issue, we have issued a guideline on how to deal with your inbox, your text messages, your Teams messages, so that you you can be more responsive when there's an access request.

Again, I think we're going to be keeping an eye on these factors because it doesn't seem to be going down, and there are all kinds of reasons. Resources is definitely one of them.

Tanveer Shahnawaz: I appreciate that, and I think we can all relate to tips to manage inboxes everywhere.

On that note, I'm curious. We are living in an age when we are embracing technologies and utilizing tools. Have you taken steps within your leadership and purview to start integrating and implementing new technologies? Do you have some thoughts, suggestions and hopes as to where you want that to take you?

Caroline Maynard: Every institution has it's own retention policy. What we're telling institutions is to be careful, make sure that people know about them and are trained on them. Also, when there's an access to information request, people need to know because, at that point, everything has to stop being deleted. It doesn't matter where the information is. If there's an access request for information in your inbox or in your Teams messages, you have to provide it. It doesn't matter where that information is.

There's a lot of training that needs to be done, and people need to understand their responsibilities under the act currently. We are issuing guidelines, and we are issuing tips and sending letters to the departments, but it's a huge issue.

Tanveer Shahnawaz: Can I ask whether you have recommendations or thoughts on how to best implement practices or technologies specifically to improve efficiency and reduce processing delays?

Caroline Maynard: I think some institutions have started using AI to remove duplications in a response and to ensure that information, like the names of employees or personal information, is easily found in documents so that it can be redacted faster. There are definitely institutions trying different bot agents or AI. Ultimately, the decision has to be reviewed by a human, and it has to be confirmed so that we are not making mistakes. There are definitely ways to do our work more efficiently.

Tanveer Shahnawaz: Have you been able to take steps or consult with more senior officials to address those, given the fast pace of that and how it's very interconnected? Things can change rapidly, even on a daily basis.

Caroline Maynard: Every time we see an institution with best practices, we try to share amongst others, but the work of administering the act is under TBS, Treasury Board. They are the ones who need to lead those types of analyses and case studies. We're looking at what they are doing. Sometimes they provide some training, but it definitely falls on their shoulders to do that kind of work.

● (1135)

The Chair: Thank you, Mr. Shahnawaz.

[*Translation*]

Mr. Thériault, go ahead for five minutes.

Luc Thériault: Thank you, Mr. Chair.

Commissioner, you expressed reservations after the government published the document entitled “2025 review of the Access to Information Act: Policy approaches”. Among others, you said: “I have mixed feelings regarding this publication…” You also noted that “several other proposals such as the suggestion that [your] office should place greater emphasis on mediation; or requiring the publication of [your] decision's rationale, appear to be based on misconceptions as to how [you] carry out [your] investigations and report [your] findings”.

Can you elaborate on your assertion that the government's proposals appear to be based on a misunderstanding of your work?

Caroline Maynard: In the document where we made these proposals, we didn't seem to realize that we were already doing mediation. We don't call that mediation, because normally, mediation is legislated. What we are doing is informal resolution.

Ninety per cent of our investigation cases end with an informal resolution. Only 5% to 9% end with an order. Thus, as you have said, there seems to be a misunderstanding about the fact that the primary goal of all my employees working on cases is to get a response as quickly as possible or to ensure information that ought to have been provided is provided as quickly as possible. We don't need to add that to the act; we are doing that already.

When it comes to the decisions made, all the final reports that lead to an order are public, and the reasons are included, so that people can refer to them and have a better understanding of how my office applies the act.

Again, I don't understand the recommendation that additional grounds are required, yet the grounds are already in our written decisions.

Luc Thériault: You don't understand it and you can't explain it either.

May I suggest that it may be connected, in a way, to what you said earlier, that is, an issue of training and the ability to retain staff with the appropriate knowledge of the act?

Caroline Maynard: I will not comment on that.

I think it was in good faith. It's interesting to see that our website now has a database of all decisions as well as information on how we work. There is definitely a need to get information or to consult the relevant persons before proposals are made to ensure that the proposals are well informed, especially if they touch on an agency such as my office.

Luc Thériault: Yes, okay.

In your document on transparency by default, you state that “Public bodies/institutions must further invest in adequate training and education to ensure all public service staff, including political staff conducting government business, understand their roles and responsibilities regarding records retention and preservation”.

Have you seen these intentions reflected in the document we're discussing, namely, the 2025 government report?

Caroline Maynard: No, I don't think we recommended training per se. I think this type of suggestion often applies after legislative reviews, but obviously there is a continuous need to keep knowledge up to date and to understand responsibilities.

I truly believe that new employees joining the public service should be required to take a course on access to information and privacy because this is part of their duties as public servants.

Luc Thériault: Thank you.

The Chair: Thank you, Mr. Thériault.

[*English*]

I'm going to Mr. Gunn for five minutes.

Aaron Gunn (North Island—Powell River, CPC): Thank you, Chair.

Commissioner, back in March, you wrote that the Liberal government was proposing, or floating, a series of changes to the Access to Information Act—I think it was part of a discussion paper—that would weaken the public's right to access, including limiting access to official records or delaying access to information during emergencies.

Do you believe that a crisis, whatever that might mean in today's world, should restrict the public's right to transparency? When government exercises extraordinary powers and spends extraordinary amounts of money, does that actually make the public's access to information even more important and even more essential?

● (1140)

Caroline Maynard: I think those were the exact words in my submission. That's another statement that we issued during COVID-19, because we saw ATIP units being shut down, when people needed to know and be reassured that the decisions were being made. Even though they needed to be made fast, people needed to get information.

That was an example where you don't want extraordinary circumstances to be used as an excuse for slowing down the information transfer. There are all kinds of means to do it, like proactive disclosure. When you are preparing something, the more information you provide, the more people will feel that they can trust the decisions ultimately being made.

Aaron Gunn: From your comments back in March, with regard to restricting, potentially, access to information during emergencies, or limiting access to official records, do you know what the status of those proposals are today? Has anything changed?

Caroline Maynard: No. As I said earlier, the submission from TBS.... I understand that the consultation process is finalized this summer, and the department is working on a report. Whether it's going to be a report to Parliament in terms of changes to the law, or whether it's going to be a report to the government as a whole in terms of administrative measures, we don't know.

Aaron Gunn: Do you believe that the biggest hurdles for Canadians right now restricting their access to information are with regard to deficiencies or limitations to the act or due to a culture within government?

Caroline Maynard: There's no specific factor.

The law has not been updated. It was adopted in 1983, when everything was printed and put in folders. We're not there anymore. We have to deal with information that is being produced at a rate that we've never seen before. There's more data. There's more information. All kinds of different tools are being used. We need to deal with that, but we also need to deal with training. We need to deal with the culture that the government put in place since the act came into existence. The factors are unlimited.

Aaron Gunn: Do you believe some of these cultural challenges are greater in certain government departments than in others, or is it government-wide?

Caroline Maynard: We know some institutions are putting a lot of emphasis on being open and transparent. They are providing more information openly on their websites, and we don't get complaints against them. It's difficult for me to tell which institutions are doing well, because we only see the ones that have complaints against them.

However, there are examples out there of institutions that have more proactively disclosed information based on requests they get. Knowing the information would be requested, they are now putting it openly on their websites.

Aaron Gunn: Do you have concerns that the new Liberal bill, Bill C-31, could make it harder for Canadians to access certain information from the government?

Caroline Maynard: Can you tell me the title of Bill C-31? There are so many bills going around right now.

Aaron Gunn: Yes.

I believe you expressed concern that the legislation creates additional protections for certain information held by the Bank of Canada and the Department of Finance.

Caroline Maynard: Yes.

Section 24 of the act refers to a schedule, where there's different legislation that have their own embedded exemptions. This was supposed to be used for very extraordinary matters, usually related to information such as bank holdings. The bill adds the Retail Payment Activities Act, which has two subsections that are referred to by section 24. We believe it is being used to limit the information. The definition is broad enough that it doesn't only refer to sensitive information. That's why we provided some comments about it not having to be that broad. If you want to protect sensitive information, the act already has exemptions for that.

● (1145)

The Chair: Thank you, Mr. Gunn.

Ms. Church, go ahead for five minutes.

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

Welcome, Commissioner. Thank you for being here.

You mentioned a pretty stunning example: a request that involved a week's worth of emails and was 15,000 pages long. That's how many pages it was generating.

Do you have a sense of how many records generated in government institutions are covered by the act on a daily or weekly basis? At that rate, we're probably talking about hundreds of thousands, but give me a ballpark number.

Caroline Maynard: It's growing every day because people don't clean up.

Leslie Church: Understanding this, I'd love to dig into this a little with you on whether that speaks to a fundamental problem with the access to information system.

What are you recommending to handle the deluge of information, specifically transitory information? Do we need to be doing a better job of scoping what information constitutes a record, for example?

Caroline Maynard: I wouldn't.

What people need to do is better safeguard the information that you refer to as transitory. Sometimes that's the only information related to an issue. What we see is that sometimes there is nobody taking all that information and creating a document that could be considered official, or safeguarded as a record in and of itself.

We have all these conversations, but people need to go back to whether a bunch of decisions are being made through emails, for example. Can somebody be responsible for taking that and putting it in a record, or for safeguarding it in a repository? Have rules for who should be keeping that so we don't both keep those records, since it's a conversation between the two of us. We still have to make a determination of what that information is. It depends on what the information is and what the conversation is.

Leslie Church: Just to be clear, you're suggesting that it's up to individuals to review and remove transitory information that might be contributing to the size and scope of these requests.

Caroline Maynard: Yes.

Leslie Church: That is certainly a lot to undertake. There's probably still a lot of information disclosed to get to 15,000 pages' worth of records.

Caroline Maynard: It's because people don't do it. People have to go through their inbox and delete information that should not still be there. They should put information in an official.... We should be doing that at the end of every day or at the end of every week.

Leslie Church: Well, I think that might be the goal. It's a question of whether or not that's entirely practical.

Let me ask you something. You have the power to approve requests to decline to act on access to information requests. You can choose to do this when you're of the view that requests are vexatious, made in bad faith, or an abuse of the right to make a request. What factors do you consider in authorizing the declining of a request?

Caroline Maynard: There are a number of factors, but it usually is something like either the request is repetitive or the request would not just impact the institution for a few days but would have an exceptional impact on the institution's operations. Just responding to that one request would freeze out all of the resources, so it would have an impact on the rest of the institution, the ATIP unit or even its operations.

Leslie Church: My colleague raised the statistics about the PCO's having 78% of its active ATIP complaints come from just three individuals, which seems like a pretty striking fact that the public would be interested in. They might think that a department is doing a poor job or delaying, but there actually are actors who are perhaps misusing or overusing the system. At the same time, in the PCO, complaints from all other requesters have declined by roughly 50% in recent years. This work is taking up 11 of the PCO's 33 ATIP employees. They're focused on dealing with these complaints that are primarily from three individuals.

How does your office get involved in helping to determine whether those are indeed frivolous or vexatious?

● (1150)

Caroline Maynard: Well, you have to look at the request itself. If the request is asking for information that's being held by the institution.... Every institution has one, two or three specific requesters who will go back because they are interested in the topic that this institution is covering.

Leslie Church: However, a third of the central department of government's resources being tied up by three complainants seems to be excessive.

Caroline Maynard: It has nothing to do with the amount of work that is being done. Why do they still have the information that these people are asking for? I cannot get into the details because I know exactly what kind of files we're talking about. Again, if it had been better managed or if it was transferred to the right....

People are doing work with that kind of information. We have journalists who really are going back to institutions because they need to do the work to inform Canadians. Just because they're making 100 requests doesn't mean they are abusive. That's part of their job. There are historians, and there are professors. These people actually use that information to publish books.

Leslie Church: Sure—

The Chair: You know we're over time by a minute.

Leslie Church: We are? Okay, well, I appreciate that, Mr. Chair.

The Chair: It was an important question, so I wanted to give the commissioner a chance to answer it.

Mr. Jivani, you have five minutes. Go ahead, sir.

Jamil Jivani (Bowmanville—Oshawa North, CPC): Thank you, Mr. Chair.

Commissioner, I'd like to get back to the idea of cabinet confidentiality. Earlier, you mentioned wanting to change the way it's currently done under federal law. My understanding is that the way that federal law is written, cabinet confidentiality is referred to as an exclusion from the act.

What exactly would be the change you'd be looking for to make sure there is more oversight over what is deemed cabinet confidentiality and whether it is being applied properly?

Caroline Maynard: Because it is excluded from the act, that means I'm not even.... Somebody cannot complain about what's in documents that have been treated as cabinet confidence. If they were exempted from the act, then the documents would be provided to my office. We would be able to review them and confirm that what we have in front of us is cabinet confidence, as we do for solicitor-client privilege and for national security documents. We have exemptions that are being applied with a test, and then we can confirm to the requester that they're not going to get the documents they're requesting because those documents are protected by this exemption.

Right now, nobody can look at these documents to confirm that the application was properly done. When nobody will review and question those applications, there's always a risk—I'm not saying it's happening—that there could be abuse. That's what we want to prevent. Just the fact that we don't have oversight leads to people asking why we are so protective. That is why I think it would add to the trust that the government would get from Canadians. It would be because it is willing to allow somebody like me, or the court, to review those documents to confirm that what it's doing is right.

Jamil Jivani: I was a bit surprised by the question from the vice-chair of this committee suggesting that these are competing rights, or something of that nature, that are difficult to reconcile, because my understanding is that every province already has what you're asking for.

Information commissioners at the provincial level all across this country are already given the power you're asking for. I believe the law is written in a way where, instead of using the language of exclusion, it's exemption. Is that correct?

Caroline Maynard: Yes, it's every province except, now, Ontario, which just changed their act retroactively to 1988 to exclude cabinet confidence. I will let you come to your own conclusion on that.

Jamil Jivani: Yes, I'm not surprised to see the current Ontario government make such a change.

For the average Canadian who hears that and says that obviously, they want as much transparency as possible, what would be your argument to that person for why this change is worthwhile? What would be an example of the kind of thing that could be mislabelled “cabinet confidentiality” and that this change might be more likely to catch?

Caroline Maynard: It's just that it's a black hole. We don't know what are being identified as cabinet confidences right now. For any Canadian to know that the government can make decisions...and it is important to protect that. I'm not against the privilege itself. It is important to have a government that's able to have debates and decisions that are protected, but at the end of the day, right now, because nobody can actually confirm, there are all these decisions being made that are never going to be tested in law, in court or by my office to actually meet the test of cabinet confidence.

● (1155)

Jamil Jivani: Yes.

On the change you're requesting, what would be an example of something that you would say would lead to greater transparency as a result? Could you just walk through path A, with the current law as it's written, and path B, with the law that would be changed per your recommendation?

Caroline Maynard: Currently, if there's a complaint, I can't see it. We don't see it. Nobody can challenge it. If there's an exemption, we see the document that has been redacted and compare it to the document that's not redacted, and we can do the test: Is that cabinet confidence?

As an example, solicitor-client privilege used to be used and abused many times a long time ago when the act was tabled and in fact effected. Every time there was a lawyer signing an email, a policy or an analysis, people would put solicitor-client privilege exemptions on these documents. Over time, we agreed that this was not the proper application of the exemptions. Now, rarely do we see section 23, solicitor-client privilege, being applied to things other than legal opinions. We've moved away from that.

We're not there yet with cabinet confidence.

The Chair: Thank you. That's it. I'm sorry, Mr. Jivani.

Thank you, Commissioner.

Mr. Al Soud, you have five minutes.

Fares Al Soud (Mississauga Centre, Lib.): Thank you, Chair.

Commissioner, thank you for taking the time to be with us today.

You have previously expressed concern that Canada's access to information framework may not be keeping pace with developments in comparable jurisdictions. You've encouraged Parliament to consider further modernization.

Could you help us to better understand that comparison? Are there provincial or international jurisdictions that you believe have more effectively modernized their access to information regimes?

Caroline Maynard: Yes. There is an RTI, where you can look at a rating of all the legislation around the world. Canada is now, I think, in position 56. For the most common laws that are newer, like 2006 to 2026, the countries that have this legislation have a better independent review. They are accessing cabinet confidence. They are also accessing information from ministers' offices or prime ministers' offices. Right now, those are records that are not subject to the act.

There are some jurisdictions like Kosovo, which has the authority to give sanctions to institutions and government officials that are not respecting the act. There is also, for example, Scotland, where the commissioner has the authority to obtain data from institutions and keep track of who is doing what and how, so that they can actually intervene faster if there's an issue like we are going through right now with all of the.... I don't know why institutions are being late in more cases and why I have more complaints. I'm going to have to wait for TBS to get the annual report next year and produce an analysis in two years for me to maybe get some data on that.

We need to change things so that we can act faster and be more efficient, and those examples exist.

Fares Al Soud: Fantastic. Thank you, Commissioner.

Out of curiosity, we've spoken a lot about the exemptions today. Could you provide commentary on why those exemptions, for instance, cabinet confidentiality, exist in the first place? Why is our system designed the way it's currently designed?

Caroline Maynard: Cabinet confidence is a privilege that exists. It has always existed. It exists to protect, so that cabinet and ministers' offices can talk to each other and make decisions on behalf of Canadians that may not be popular sometimes. There may be options that they don't decide to go with. That's why it's protected. They can freely discuss these topics and come to decisions that will not be under pressure from voters. Ultimately, four years later, if you don't like the decision that was taken, then you have your right to not re-elect these people. This is a proper use of privilege.

The problem we have right now is that we don't know how it's being used all the time and if it's being used appropriately. We have a case that went all the way up to the Supreme Court on a mandate letter in the Ontario government. The Supreme Court confirmed that mandate letters held cabinet confidence information. They confirmed the exemptions. They were protected.

● (1200)

Fares Al Soud: Would you then agree with my colleague's statement earlier that there is a friction of rights, so to speak, and that there is this notion of the importance of cabinet making decisions, having these conversations candidly and coming to decisions on things that may not be popular, perhaps, but are fundamental to the long-term prosperity of our country while simultaneously balancing the public's right, certainly, to information?

Caroline Maynard: This is why we exist. This is why commissioners and agents of Parliament are there. It's so that we can test those and reaffirm that the act has been properly applied. This is why we have legislation. This is the rule of law.

Fares Al Soud: Fantastic.

You also noted earlier that certain departments have put forward, of their own volition, certain measures that we can assume have presumably led to positive outcomes and therefore fewer complaints. Would you be able to lead to certain examples of what those measures have looked like, or perhaps which departments?

Forgive me if it's too intrusive a question.

Caroline Maynard: I think IRCC was on a good track at the Immigration and Refugee Board. We did a systemic investigation, and they had received so many access requests to obtain the status of these applications. We provided them with solutions and recommendations to improve their portal and the information that was provided through letters. We saw a huge improvement for the first three years.

Now we're back to square one. Sometimes you just have to provide more information on the portal. Then there won't be an access request. For some reason, that stopped. Now we are seeing an increase. Little things like that sometimes really help. If you know that something will be requested, why don't you provide it proactively instead of waiting for the access request?

The Chair: Thank you, Mr. Al Soud.

Commissioner, we have had a request for a short break. We'll take about five minutes. Then we'll come back for the second hour, if that's okay with you.

The meeting is suspended.

● (1200)

_____(Pause)_____

● (1205)

The Chair: Welcome back or to hour number two with the Information Commissioner, Caroline Maynard.

Thank you, Ms. Maynard.

We're going to start with Mr. Hardy. He has asked for eight minutes, but I'm going to give him six.

Go ahead.

[*Translation*]

Gabriel Hardy: Commissioner, thank you for staying with us for the second hour of our meeting.

I have a quick question to start. When you issue an order against the Privy Council Office, do they tell you in advance whether they are going to comply? Do they try to negotiate something? Do you know right away whether you are going to get a response or will you find out that there's no response 30 days later, and then this will be followed by negotiations, and the process will stretch out further?

● (1210)

Caroline Maynard: Usually, we try to find out the situation from the organization, to issue an order that is reasonable in practice, because we also hope there will be compliance.

As I said earlier, we have to give the organization a notice of intent to order. The organization has 15 days to tell us if they are going to be accepting the order or not. Often, this is the time limit that is not followed. The institution has 15 days to get back to us. If we haven't received a response after 15 days, we issue the order. To my knowledge, we've not had any cases where the Privy Council Office has failed to follow an order once it has been issued, even though they hadn't told us whether they were going to accept the order or not.

Gabriel Hardy: Perfect.

We spoke about transparency earlier. You said that sometimes you ask for confidential documents. You spoke to that a bit earlier and said that it's a matter of privilege, even though some have said that access to information is a constitutional right. So there's privilege on one side and a right on the other. However, the document is confidential.

Do you have the right to review the document, at least to ensure that it is truly confidential, or once you're told that it's confidential, that's it and you don't have any chance to go beyond this stage?

Caroline Maynard: The only documents we don't have a right to review, and which I don't see at all, are cabinet confidence documents, because they fall outside my review and authority.

For national security or solicitor-client privilege documents, which are protected elements under the act, we look at the document in its entirety to determine whether we believe the act has been applied properly.

Gabriel Hardy: Hence you protect transparency, you safeguard transparency, but all the same, there are elements that you don't have a right to see, and aside from what the individuals concerned tell you, you cannot confirm that the law has been applied properly.

Caroline Maynard: That's right.

Gabriel Hardy: Okay.

We saw that here when we discussed the conflict of interest screen. That was one of the questions. Screens are put in place, but once in place, one has to trust the individuals administering them. You're somewhat caught in the same scenario.

I'm wondering about that because some major issues have come up recently. Take the example of the Gordie Howe Bridge. We could not get information about the negotiations. That information was not disclosed. As recently as last week, there was the agreement with the European Union. We need to know what we're getting into. It seems to me that this type of access to information would at least give parliamentarians, who are elected by Canadians, access to the information showing where we are headed, so that they can then discuss the information.

It's a bit like that. When the answer is no, ultimately we don't get far, and the government is left to make decisions, and then we react after the fact.

Caroline Maynard: If the decisions that are made or the discussions that take place on these issues that you've mentioned are captured in cabinet confidence documents, you won't have access to that, and neither would I have access to the information to confirm whether the act has been applied properly. However, if the decisions or discussions are captured in regular briefing notes which include recommendations and advice, you will be able to obtain certain information.

Gabriel Hardy: Does the cabinet make many documents subject to confidence?

Caroline Maynard: Yes.

Gabriel Hardy: Has the number of documents subject to confidence increased quite a bit of late?

Caroline Maynard: I don't have the statistics, but we'd have to look at whether the number has gone up. Again, that's part of the statistics that Treasury Board collects every year, but often, we only have the information and the results a year later. It would be interesting to see whether the number of documents subject to confidence has gone up.

Gabriel Hardy: So there are a lot of confidential documents.

Caroline Maynard: The people who submit complaints to our office know that if they make this type of request, they will not get the documents. As such, the complaints we handle rarely concern information that has been exempted or excluded in the context of cabinet confidence documents, because complainants know already that they have no chance of seeing these documents.

Gabriel Hardy: Okay.

You wrote to the Senate to say that the budget implementation act has new provisions prohibiting certain communications regarding information in the budget or this new way of doing things.

Were you consulted on that topic?

Caroline Maynard: We were not consulted before Treasury Board issued its proposal in March.

Gabriel Hardy: Thus secret elements have been slipped into a budget implementation act that is 100 or so pages long and the Information Commissioner was not consulted to ensure that the measures taken are consistent with her expectations and needs.

We spoke about transparency earlier. Do you think we're heading toward less transparency with this type of practice?

Caroline Maynard: What's happening is that we have to react after the fact. If situations pose challenges, we react after the bill has already been tabled.

We always recommend that the government consult us first, but that's not always done.

● (1215)

Gabriel Hardy: That's not prevention. People always do things reactively, and this approach is costly.

In 2015, the Liberals promised to expand the Access to Information Act to the Prime Minister's Office and to the cabinet.

During the 2025 campaign, Mark Carney said it was very important to review access to information.

Do you have the impression that what we have been told over the past 11 years is actually being implemented or is it something that sounds interesting, but is rather difficult to put into practice?

Caroline Maynard: That is why I was happy to see that this summer, a document had been prepared and public consultation had taken place. However, indeed, we've been consulting on the same act for 11 years and so we are looking forward to seeing if it will result in amendments to the act. However, as I said earlier, I have no idea as to whether that will be the case.

[*English*]

The Chair: I have Ms. Chagger for six minutes.

Hon. Bardish Chagger (Waterloo, Lib.): Thank you, Chair.

Welcome, Commissioner.

These are interesting conversations. We're getting to see what your days look like and how we ensure that Canadians receive the information that they need. It's really important. Your office has been around for a long time. It sounds like the world is changing, perhaps more than the office is at times. Technology is definitely something I feel we have not come to embrace on Parliament Hill as much as I would like to see. There seems to be a reluctance about that, so it will be interesting to see where it goes.

There have been a couple of comments made in regard to [*Inaudible—Editor*]. I'm not sure that everyone who would be watching knows as much as you know, but some MPs would know, about orders. When you say orders have been given, what does that mean?

Caroline Maynard: We can issue two types of orders.

If there's a complaint that an institution has not responded to a requester, we can order that response be given. We don't say what the response should look like. We don't know what the documents are. We have no idea at that point, but we give a timeline for the institution to provide a response to the requester.

If a response has been given and redactions have been made, exemptions applied, and we disagree with the exemptions, we order the institutions to provide more information than was already given to the requester.

Those are the two types of orders we issue.

Hon. Bardish Chagger: In the second example, when you go back to the institution to compel more information, 100% of the time more information is given.

Caroline Maynard: If they don't agree, they can go to court. They can challenge the order if they believe the exemptions they applied are appropriate and they disagree with my office.

Hon. Bardish Chagger: Does that happen often?

Caroline Maynard: We have about 25 cases active every year, so it doesn't happen often. When it happens, we're pretty happy because then the court gives us instructions on whether they agree with our application of the law or if they agree with the institution's application of the law. It's always very instructive.

Hon. Bardish Chagger: You've had a lot of rendered decisions and you've learnt a lot.

Caroline Maynard: It's maybe once or twice a year that we get a court decision on an actual exemption. More often, our orders are issued because of timelines not being respected. In those cases—luckily, 99% of the cases—the institution will ultimately respond and provide a response. Whether they provide a response completely redacted, we don't know, but the requester will ultimately have their response.

Hon. Bardish Chagger: You were saying that it has been challenging getting access to some of the information because the information is not where it should be.

Where is the information?

Caroline Maynard: The information is now everywhere. We have people using chats, people using different collaborative platforms, emails, like we said earlier. The problem is that people are not careful enough to safeguard the information that should be recorded somewhere and delete the information that is transitory. It is up to the official who's creating those documents to properly save those records when they're relevant and they provide some relevant information, but they don't.

It's ultimately the requester who suffers because they get all kinds of documents that are not really relevant.

Hon. Bardish Chagger: Please give shorter answers, because I have a couple of things I want to get through.

I understand your role. For me, I fight for the people of Waterloo, but when I do talk to my constituents, I have to also give them a perspective as to what's taking place on the Hill and why some things might not move as quickly and so forth, so wearing multiple hats is part of the role. I understand what you're suggesting.

When it comes to cabinet confidence, who would have access to that information?

● (1220)

Caroline Maynard: Nobody has access to a cabinet confidence unless they're a cabinet minister.

Hon. Bardish Chagger: When documents come to you and they've been redacted, how do they get redacted before they go to the requester?

Caroline Maynard: They are not provided to the requester, because cabinet confidence is excluded from access for all requests. The requester would get a letter saying that the documents they're asking for are cabinet confidence and we're not providing those documents.

Hon. Bardish Chagger: You were saying that things are blacked out when you receive them. Does the minister sit there and black things out before they give them to you?

Caroline Maynard: The institutions will provide.... A requested response will provide the documents that are excluded and not excluded. The exclusions will be redactions.

Hon. Bardish Chagger: Who redacts them?

Caroline Maynard: It's the institution's analyst at the access to information unit of the institution.

Hon. Bardish Chagger: Does each department, agency or institution, as you refer to them, have an ATIP team?

Caroline Maynard: Yes.

Hon. Bardish Chagger: The analysts redact them and there's no one overseeing that. They come straight to you from the analyst.

Caroline Maynard: No. They have delegations. That's one of the reasons why an institution takes a little longer. It's because the delegation is hired and the ATIP analyst may make recommendations—

Hon. Bardish Chagger: There is someone who is very senior, experienced and very professional, like a director general or somebody, who is looking to validate what's being redacted.

I would think that our public service take their jobs very seriously. I think that they would understand what a breach is. I do think we're all here to serve the public, so we would want the public to have that information.

Who validates what has been redacted and if it should be redacted or not?

Caroline Maynard: It really depends on the institution.

The Chair: We're over time, so give a quick response, please.

Caroline Maynard: Every institution has a different delegation plan. Sometimes it's at the DG level or sometimes it's at the analyst level, depending on the institution's information as well.

The Chair: Okay, thank you.

[*Translation*]

Mr. Thériault, you have six minutes.

Luc Thériault: Thank you, Mr. Chair.

I would like to get back to the issue of transparency. Earlier, my colleagues on the other side spoke about abusive complaints or a deluge of complaints and information.

Had the principle of transparency by default been applied, wouldn't this have solved part of the problem?

Caroline Maynard: Indeed, that's one of the solutions institutions can adopt. The more information institutions release proactively, the fewer access to information requests people need to submit.

Luc Thériault: Do you think there's some openness in this regard based on your discussions with the government?

Caroline Maynard: One of the biggest problems that we have not addressed so far is the need to declassify historical documents. That's one example.

We have 50-year-old documents that are still classified as secret. If these documents are declassified because the information is not as sensitive today, and the documents are transferred to Library and Archives Canada so that people can access the information free of charge for research purposes, all this segment of access to information system would be eliminated.

Currently, my office has to review historical documents that are classified as secret because people are now making requests for this information. They are forced to make access to information requests, and yet these documents ought to be available through Library and Archives Canada.

That's one example that could lead to greater transparency and save time when it comes to the access to information request system.

Luc Thériault: It would therefore enable institutions to handle other areas of requests.

In your statement issued in March, you made some remarks that have a certain effect, to put it politely. Among other things, you seem to understand that the government wants to ease its administrative burdens rather than to uphold Canadians' right to know. Can you elaborate on that?

● (1225)

Caroline Maynard: The proposals that have been made often seem to lean toward a solution to eliminate accessible information that is not in a document that is deemed official. However, what is the definition of “official document”? Who will make that decision? We are concerned that currently there are people who are not safeguarding their information in official repositories. Does it mean all of that information is not going to be accessible because it was not safeguarded in an official repository? What will become of those records?

So instead of changing the definition of “document”, why not look at other tools or other ways of doing things?

For example, right now, consultations are not limited by prescribed time limits, and so institutions pass the buck. When institutions are consulted, sometimes they can ask for a six-month extension to look at three pages of information that has been forwarded to them. There are no limits in this regard.

Those are some of the things that the proposal doesn't even discuss, even though it is a well-known fact that that is one factor that contributes to the significant delays. The government has not taken that into consideration in its document with proposals to amend the act. We, on the other hand, are wondering whether the government really understands the system and the factors that prevent it from functioning effectively.

There are a lot of other things too. For example, there are some things that are exempt from public disclosure for 20 years. That's currently the case with advice and recommendations. Is there really a need for time limits of 20 years on exemptions from public disclosure? Obviously, if the time limit is set at 20 years, people do not exercise their discretionary authority. If the time limit is set at four years, or to a government's term, information would seem much more accessible. Ultimately, this would demonstrate more openness.

There are a few such things, which we believe were not analyzed or considered in the government's proposal. We hope that as part of consultation and further to our response, these matters will be addressed in the final report.

Luc Thériault: Can the main issues you have highlighted regarding the access to information system be addressed effectively without legislative amendments? If not, why isn't that possible?

Caroline Maynard: No. The act dates back to 1983. I often point this out, but it is important to keep the context in mind. At that time, our access to information legislation was legendary. We were global leaders and the eighth country to adopt this kind of legislation. However, the act has not been amended since then or it has not been amended enough. The exemptions in particular have never been reviewed. We therefore have an act that is now 45 years old, and it has not kept pace with today's digital landscape. That is certainly one thing that needs to be addressed, but as I said in my opening remarks, it is not the only thing that needs to be reviewed.

Luc Thériault: Indeed.

In—

The Chair: You have 10 seconds left, Mr. Thériault.

Luc Thériault: Okay. In that case, I'll stop there.

The Chair: I'll give you five more minutes next time.

[*English*]

Mr. Cooper, you have five minutes. Go ahead.

Michael Cooper: Thank you, Mr. Chair.

Madam Maynard, last September, a discussion paper from the Treasury Board suggested that the government may need to "revisit" your order-making powers. In March, the Treasury Board issued its discussion paper as part of its review of the Access to Information Act. Yet again, in that discussion paper, the government questioned your order-making powers. The discussion paper notes that the orders "are meant to be a measure of last resort", and then the paper complains—the government complains—that the number of orders you have issued has "steadily increased" since 2019.

I want to unpack this a bit. First, to clarify, when you issue an order, it is a measure of last resort. Is that correct?

Caroline Maynard: It is.

Michael Cooper: Orders are issued only when a government institution is failing to meet its legal obligations under the Access to Information Act and resolution efforts have been unsuccessful. Is that right?

Caroline Maynard: That's 100% correct.

Michael Cooper: It seems to me that the reason you've had to issue orders is that the government and government institutions have not been following the law. Is that fair?

● (1230)

Caroline Maynard: Yes. It's because we have been unsuccessful in resolving the matter informally. We close 90% of our cases without having to issue an order. In the rest, it's because the institutions are not able to provide us with a time limit that is reasonable or a response to the requester that makes the requester happy.

In some cases, we could continue the debate. Instead of continuing the debate, we have to agree to disagree. We issue an order so that there's an actual timeline and a response being given to the requester, because that's their right.

Michael Cooper: It looks to me like the government is not saying that there is problem here, that the law is not being followed, that there are significant delays and that the quasi-constitutional right of Canadians is being violated. Instead of taking an approach to fix those very serious issues, the preoccupation of the government is to handcuff your ability to hold the government to account. Does that cause you concern?

Caroline Maynard: I didn't really see in the March paper a limit to the order-making power, but I agree with you that in some cases they are trying to add to the.... For example, on the lack of resources as a factor in terms of timelines and delay, the courts have said that resources should not be taken into consideration, because this is a legal obligation. You have a legal obligation to be resourced appropriately to respond to access requests. There are all kinds of factors discussed in that paper that should not be considered.

The order-making power cannot go away. This is how we've been actively reducing our inventory of complaints. This is how we are making institutions accountable. Without it, who's going to make them accountable?

The Chair: You have one minute and 20 seconds, Mr. Cooper.

Michael Cooper: I'm going back to the PCO. When you met with Mr. Sabia in November 2025, in a backgrounder that you prepared following that meeting, you noted that the PCO used "exaggerated claims of harm" regarding why some documents were being withheld from requesters.

Is this continuing to happen?

Caroline Maynard: We are actually getting better and more detailed submissions from the PCO. We also have our own investigators now going on site to review documents. There's a better collaboration—

Michael Cooper: Is it still happening?

Caroline Maynard: It's better, I can tell you. It's not perfect.

Michael Cooper: Better is not good. Would that be fair?

Caroline Maynard: PCO does deal with very sensitive information.

However, sometimes harm can be.... I've said that Canada is very.... It's difficult sometimes to convince them that there's no harm. When the information was provided by the United States and by other countries, why are we here discussing the sensitivity of that information?

It's a back and forth thing, but we are getting better submissions, for sure.

The Chair: Thank you, Mr. Cooper.

Mr. Al Soud, go ahead for five minutes.

Fares Al Soud: Thank you, Chair.

Commissioner, throughout the study, the committee has heard considerable testimony on opportunities to strengthen Canada's access to information system. I'd like to specifically discuss the role of new technologies, like artificial intelligence, in strengthening administrative measures and improving efficiency and timeliness, and potential changes to the legislative framework governing access to information.

I suppose my colleague touched on this already. When you look ahead, what do you see as the role of emerging technologies?

Caroline Maynard: It's really difficult to answer that because we don't know. We don't know the amount of opportunity that technology will give us.

The problem right now is—from what I'm aware of, and I know this in terms of even my own office—AI won't work if you don't have good management of your information. You're throwing all that information into a basket, and AI is not going to fix that. You need to start with a good place for it to work from.

If you're going to ask AI to do a triage, for example, you cannot triage the entire.... It's not like Google. You cannot do a Google search in the government right now, because there's information in all kinds of repositories. There are all kinds of folders everywhere. They're not together.

Before you even include AI in that, you need to have a better structure. You need to have a better understanding of where the information is and what the information is. We're not there yet, but I think we can get there.

● (1235)

Fares Al Soud: Has your office not made use of any new technologies over the course of the past few years? I'm curious to see what has been implemented across the board to take advantage of and leverage the new emerging technologies we have. Systems across government have changed and shifted to render that efficiently.

Caroline Maynard: Well, we have to be very careful, because we have access to all kinds of information from other institutions. I'm not willing to use AI right now, given that the data is public. It's not protected in our environment.

For example, we have translators using AI to help with translation, to provide accessibility on our website more quickly and efficiently. I think that's the kind of thing institutions should be using, for sure. Even responses provided to requesters right now are often not publicized by the government. One of the reasons is that they're not translated. We now have AI tools that could help with that. Hopefully, that's something being used or looked into by our government.

Fares Al Soud: You've spoken to this already, quite briefly, but I'd like to latch on to certain pieces because I think it's a very important conversation: Yes, emerging technologies have their advantages, but they also come with drawbacks and certain risks.

Could you highlight some of the less obvious emerging risks for us? I'm thinking of messaging apps, for instance.

Caroline Maynard: Messaging apps will continue to be used by people and used more often. The thing is there should be rules about when to use those types of collaboration platforms. They are not supposed to be there to create official documents, as we talked about earlier. It's just an exchange. “Are you available? Do you have five minutes?” It's that type of thing.

The other problem with AI systems—I'm sure you've all tested some kind of AI—is that they hallucinate sometimes. We have people providing us with arguments based on a law or case law the AI created. We now have to deal with that. Complainants are providing us with submissions that are 20 pages long. They don't even understand what they're providing us with because it's been written by AI. We have to be super careful. Everything we read and everything we use AI for has to be reviewed and double-checked. You have to double-check all the sources.

Those are the types of things that need to be well understood and that we have to be careful about.

Fares Al Soud: That's fantastic.

Commissioner, in the minute I have left.... You've previously indicated in public remarks that you understood that changes to the framework could be forthcoming in the coming months, while also noting that it was not yet clear whether those changes would take the form of legislative amendments or administrative measures.

Could you elaborate on your understanding of the next steps? Based on your discussions with government officials, what areas appear to be receiving the greatest attention? In your view, where could near-term action have the most meaningful impact for Canadians?

The Chair: That should have been in the 30 seconds you had left.

We're just getting to time, but I'll give you a chance to respond, Commissioner.

Caroline Maynard: I don't know what the timelines will be. I just know the next step is a report to either Parliament or the government with respect to what they've heard through the consultations. That's what we've seen before. Usually, it's done within six months. Who knows if it's going to be?

That's what the officials in my office say. Normally, we can expect a response from government within six months, after consultation time.

The Chair: Just to be clear, those are submissions you make, Commissioner, to the government.

Caroline Maynard: People had to submit their responses in June. The government has been finalizing their report since June.

The Chair: For clarification, would that report not be tabled in Parliament itself? Then it would be up to the government to determine whether there would be legislative changes to the act.

Caroline Maynard: I don't know what their next step will be. The last time, it was a report to Parliament, I think.

The Chair: Maybe the analysts can weigh in here and give some clarification to the committee, because I think it is an important question.

● (1240)

Alexandra Savoie (Committee Researcher): Last time, it was a report to Parliament. That was in 2022.

The Chair: There were no legislative changes as a result of that report. Is that correct?

Alexandra Savoie: There has been no bill to amend the act since. Maybe there was a minor modification in a bill, but no major reform of the act.

The Chair: Okay, thanks.

[*Translation*]

Mr. Thériault, go ahead for five minutes.

Luc Thériault: In your special report on ArriveCAN, you note: "In many respects, the ArriveCAN investigation stands as a cautionary tale".

Can you elaborate on why your ArriveCAN investigation stands as a cautionary tale?

Caroline Maynard: Thank you for the question.

The ArriveCAN application, as members will recall, was deployed extremely quickly due to COVID-19.

Our investigation took much longer than expected because the moment we opened one door, 10 more would appear.

We found that the individuals who worked on ArriveCAN used a collaborating platform known as Slack with contractors, even though no one else within the institution was aware that this platform existed. They decommissioned the platform without the administrative unit responsible for access to information being aware of the fact that some messages were on this platform.

We didn't find any elements to suggest that this was intentional or that there were criminal acts. However, we found that people in government working at a fast pace didn't have the reflex to back up information because of potential access to information requests. In this case, they were developing the ArriveCAN application, which would have a global impact on Canada. However, we did not have access to all of this information, which was probably transitory, but we were not able to determine this, because the information no longer existed at the time of my investigation.

That is why I say that when people commence a job, whether concerning the government apparatus or anything else the government is deploying, access to information really has to be at the forefront. It should be taken into consideration from the planning phase, and administrative units accountable for access to information should know about the platforms used by the institution's employees. In the case of ArriveCAN, access to information officials did not even know they could ask the individuals working on the application about information on the Slack platform because they did not even know that the platform existed and was being used.

To me, this showed a lack of collaboration and a lack of information sharing, including within the same institution. People move at such a fast pace that they don't realize they have requirements under the act and that this will have an impact on the work they are doing behind the scenes.

Luc Thériault: A report from this committee published in June 2023 recommended that the government "establish an independent funding mechanism for the Office of the Information Commissioner and other agents of Parliament who do not have access to such a mechanism". You appeared to support this recommendation.

Why do you think this recommendation would still be relevant today? What legislative changes or other measures would be required to implement this recommendation?

Caroline Maynard: Yes, I agree with that recommendation. I personally made that recommendation in a letter that I tabled with this committee.

As an officer of Parliament, my role is to ensure that the government meets its obligations. I need resources to fulfill this mandate. However, the people responsible for allocating me resources commensurate with the increase or reduction in the number of complaints are the departments that are also subject to my authority to investigate. In my opinion, that creates the appearance of a conflict of interest. I have to go through the Department of Justice, Treasury Board and the Department of Finance, which are the subject of active complaints with my office, to ask them for more money to undertake more investigations.

I therefore asked for the funding system for my office to be taken out of the government apparatus, and that you, as parliamentarians, whom I am accountable to as an officer of Parliament, determine my budget needs.

Luc Thériault: How can that be amended? Legislatively or in another way?

● (1245)

Caroline Maynard: Right now, there are two officers of Parliament with similar processes: the Conflict of Interest and Ethics Commissioner and the Parliamentary Budget Officer. Based on current processes, Parliament allocates them their budget. It's the same thing for the information commissioner for British Columbia where this mechanism is provided for in legislation. Thus, there are examples of existing mechanisms.

I asked Treasury Board to review these mechanisms and evaluate the best one for me and for other officers of Parliament in the same situation, because I am not the only one without a funding mechanism that reflects my independence. We could draw inspiration from these other mechanisms.

The Chair: Thank you, Mr. Thériault.

Thank you, Commissioner.

[*English*]

Mr. Jivani, you have five minutes. Go ahead.

Jamil Jivani: Thank you, Mr. Chair.

Commissioner, earlier we were talking about your recommendation concerning cabinet confidentiality. I think it's clear that you're simply requesting to have the federal government in line with the same rules that apply in nine out of 10 provinces. It seems pretty reasonable.

I want to ask about another one of your recommendations. It concerns bringing the Prime Minister's Office and ministers' offices under part 1 of the act. Could you elaborate on why that's important?

Caroline Maynard: More and more it's really difficult to know the separation between them when institutions and cabinet are interacting. There's a lot of communication between the offices. A lot of documents include members of the ministers' offices. A lot of decisions are being made at ministers' offices and are then trickling down to the institutions.

When we have access requests, we are in front of documents, and it needs to be determined whether or not these communications, because of who's involved, are subject to the act. Given that all these decisions deal with money from the public and decisions for Canadians, we believe they should all be included in being subject to the Access to Information Act.

Jamil Jivani: What's the justification offered to remove the Prime Minister's Office and ministers' offices from part 1 of the act?

Caroline Maynard: I don't know. I suspect it's linked to the cabinet confidence privilege, but it has never been explained to me why they were carved out of the legislation. We would have to go back to the debate in 1983 and what was discussed at the time.

For example, I know that cabinet confidence in 1983 was part of the act. It was supposed to be an exemption and subject to my review. At the very last minute, the change was made to make them an exclusion. It could be something very similar, that at the time they wanted to protect cabinet and ministers' staff.

Jamil Jivani: The world has certainly changed quite a bit since 1983. Maybe we're due for a conversation about that as well.

I want to get to something that you mentioned to one of my colleagues about a potential conflict of interest existing in how your budget is put together. You said it beautifully *en français*. Could you repeat that in English, please?

Caroline Maynard: I was saying that my budget, or my need for additional resources, would be discussed by the ministers of finance and justice. If I were to ask for additional resources, it would be because I had more complaints, for example. If one year I had fewer complaints, I could say that I'd like to give money back.

Right now I have to go through a very bureaucratic process and convince the executive, who I'm investigating, as we have complaints against these departments, for more money when I need some. We are suggesting that this be removed from the executive and be given to Parliament so that there's confidence there. I'd be reporting to you as parliamentary members. If I needed more money, I would have to defend that request to you.

Jamil Jivani: I'm sure the government can get creative in coming up with excuses as to why that would be a difficult thing to do, but as you mentioned before, the Ethics Commissioner already has that kind of independent funding structure. It makes sense to me that the reason is that the Ethics Commissioner is an independent watchdog. Having some degree of flexibility in funding so that political decisions don't impact your ability to do your job would be important.

Why aren't you given the same flexibility as the Ethics Commissioner if you both are independent watchdogs with important roles in overseeing what the government's decisions are?

● (1250)

Caroline Maynard: Again, I don't know the thinking behind not giving us similar legislative independence for the funding. Out of nine agents of Parliament, I think seven of us don't have that mechanism.

Jamil Jivani: I think we could use your help in making sure we're asking these questions more often so that we have answers to them. It seems to me that these are obvious things that the average Canadian would expect there to be some level of transparency with. The idea that departments you investigate and oversee also get to make decisions on how much money you have in order to investigate and oversee seems like an obvious conflict of interest. I hope you'll be working with us moving forward to make sure we get answers to those.

Thank you.

I'm sorry. That's my alarm. I apologize, Mr. Chair.

The Chair: I don't have to tell anybody that your time is up. I think that's pretty clear.

Ms. Tesser Derksen, I'll tell you when your time is up. Don't set your phone. It's all fine. We have it double-covered here. Go ahead for five minutes.

Kristina Tesser Derksen: Thank you, Mr. Chair

I have a few odds and ends I want to throw at you, Commissioner, as we wrap up.

First, I think there's been a lot of important information covered today. I still feel like the underlying theme through all of it is this balancing of what I called earlier countervailing interests between protecting sensitive information so that government can do its job and cabinet can do its job with confidence and making sure Canadians have confidence, as well, in the information they're able to access and that the processes stand.

Earlier my colleague mentioned that he didn't see how there really is a conflict there, but I will go back to the words of our former chief justice, Beverley McLachlin, who articulated it very nicely. I encapsulated those words in my opening comments.

I want to take us back to the 2025 review. One of the pillars in that review was to advance indigenous reconciliation by developing new guidance to help institutions offer culturally appropriate services to indigenous requesters and by working to transition toward greater indigenous control of information and data. I'm hoping you can describe how accessing or protecting information is affected or improved by using an indigenous lens. Do you have a sense specifically of what a culturally appropriate service would look like in this context?

Caroline Maynard: This is completely outside of the Access to Information Act, so this is not something that my office is responsible for.

My understanding is that they are trying to find ways to provide information in a more informal way so that they don't have to ask through access requests and can provide that information more freely. You would have to ask them if it's working or not. I don't expect they will say it is, because right now, in the current submission and proposition, they are reopening those types of suggestions. The groups that are entitled to that information are still not, I think, getting the information as quickly as they want and as much as they want.

That's not something I have authority over.

Kristina Tesser Derksen: Thank you for that.

I'm going to take you through a little exercise. I'm sure you've gone through this in your head as you make your recommendations. It is putting yourself in the shoes of a public servant who is trying to administer this very big, very important system. There are additional things you would like to see and changes you would like to see.

What challenges do you see as that public servant in administering those recommendations? Let's face it; everything is based in the resources available. When we put resources in one place, we could be taking them from another. How do we balance that, and how do we make sure that this public servant is able to actually administer the recommendations you make effectively?

Caroline Maynard: I think that for public servants, first of all, they need to know that what they are doing is valued. Sometimes I find that it's undervalued because we don't want to provide that information. It's almost like we're saying that we shouldn't be providing that information. It should be proactively disclosed. It should be such that the public servant can work on the operations and not have to deal with access requests.

I always say the best access request is the one that didn't need to be made because the information was available. For public servants, if they were given the help, first of all, to better know their responsibilities, as well as the training they need on retention policy and on information management ultimately, I think they would be more responsive, and they would also understand the value of that information.

● (1255)

Kristina Tesser Derksen: I appreciate that.

In my final bit of time, I think I read that Canada will be hosting an international conference of information commissioners. Is that correct?

Caroline Maynard: Yes.

Kristina Tesser Derksen: That's in 2027. I understand that it's a global conference and the choice of Canada and, really, your office, speaks to the leadership in the access to information community.

I want to give you a minute to make a plug for that conference. Tell us what to expect and what you hope to achieve.

Caroline Maynard: It is an information commissioners international conference. There's only one per year. This year, it was in Sierra Leone in Africa.

It was very interesting because, as we said earlier, every international country has different laws and different challenges. Ultimately, we talk to each other, and we also confide and realize that we have similar challenges and experiences.

I'm very proud that Canada was chosen to host next year. That conference is going to bring more than 100 countries here, not just information commissioners but civil society NGOs, to discuss this very important issue and how we can contribute to trust in our institutions through access to information. That's the theme of the conference.

The Chair: Okay. Thank you.

Did I miss the location in Canada? Where exactly...?

Caroline Maynard: It will be in Ottawa.

The Chair: It's in Ottawa. I assumed so.

[*Translation*]

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

Gabriel Hardy: Thank you, Mr. Chair.

Ms. Maynard, here we are again. Thank you for staying with us.

I read an article that said your orders appear to be becoming increasingly difficult for institutions to manage. I have the impression that, basically, people were saying you are hard to manage. Do you find that you are hard to manage?

Caroline Maynard: I always have a hard time understanding this comment, because when we show institutions the statistics, they can see that we seldom issue orders. We always wonder why they have a hard time managing them.

Obviously, institutions have to comply with time limits and the court will intervene if they fail to do so. They prioritize my orders instead of responding to access to information requests. Often, they are caught in the middle, and that might be why they have a hard time. However, in my opinion, we need to do that so that they can obtain the resources they need to provide timely responses to requests, which will reduce the number of orders in the future.

Gabriel Hardy: As we have seen, Treasury Board is in the process of reviewing the Access to Information Act. You have already testified before this committee that such comments indicating that you are hard to manage are the kind of thing that could lead to some of your powers being withdrawn.

Is the possibility of removing some of your powers and transferring them to a department or another commission still relevant? Do you feel there is still that desire to withdraw some of your powers, or in fact, everything is fine and institutions understand they need you?

Caroline Maynard: I've not seen any suggestion in the government's final proposal to remove my requisite order-making powers. It made suggestions that would require my office to prioritize mediation or ensure that some factors are taken into consideration, but I think it decided not to pursue the idea of removing my order-making powers.

On our part, we need to do a better job of communicating the fact that we issue a very small number of orders in relation to all the work we do to address issues informally.

Gabriel Hardy: I've also seen some documents that state that the government spent $1.6 million to fight you in court. Honestly, I'm going to tell you what I think when I see the government take such action against someone who is a watchdog, who protects access to information and protects our institutions in an independent manner. Your goal is for people to have access to information. People say this is becoming increasingly difficult as time passes. It is clear that some structures have been put in place to make things even more opaque. Then we learn the government spent $1.6 million fighting you.

Isn't it somewhat contradictory to say, on the one hand, that more access to information should be allowed and, on the other hand, to fight you in court?

Caroline Maynard: It's difficult to answer that question. Of course that's a lot of money, but the act provides that an institution can go to court if it disagrees with an order. That's a legal process, and so there's a cost to that. Is that a huge amount? Right now, we have eight lawyers working with us, including three dedicated entirely to litigation. Obviously, we had to come up with the resources to get people to assist us. So yes, there's a cost to that, but ultimately, we need to ensure compliance with the act.

I don't see that as a challenge directed at me. It's really a matter of ensuring that I do my job properly. People will have confidence in my orders, especially if the court is in agreement. If the court does not agree, we ultimately learn from that. So it's not a—

● (1300)

Gabriel Hardy: Statistics show that nearly 30% of the complaints are against the Privy Council Office. You review the complaints, and in nearly 30% of cases, you find that the complaints are indeed valid. This percentage is three times higher than in the rest of the institutions. Am I mistaken?

Caroline Maynard: That's because in those cases, we had to issue orders. That's unfortunate, because often, if we resolve the file in advance, it doesn't even get to these percentages.

What we're now doing with the Privy Council Office is trying to resolve its files and understand its situation so as to help it help itself.

Gabriel Hardy: That reminds me of *Jerry Maguire*.

I have one last quick question for you.

I also saw that the Privy Council Office has an access to information coordinator who has not, however, been delegated the necessary authority to make submissions to you for the purposes of your investigations. The person responsible for liaising between the Privy Council Office and you does not have the powers needed to work with you. Basically, you do things, and when you speak to them, they apologize because they have to check with their boss before getting back to you. I imagine that slows down the process.

Caroline Maynard: That's where the recommendation to change the delegation of authority at the Privy Council Office stems from. At present, even in cases involving delays, we can't work with the official overseeing the access to information unit.

The Chair: Thank you, Mr. Hardy.

Thank you, Commissioner.

[*English*]

Ms. Chagger, you have 300 seconds.

Hon. Bardish Chagger: That's very generous. Thank you, Mr. Chair.

Commissioner, it's a tough job you do. I've enjoyed this exchange because you know what isn't working, such as where the complaints are. That's what you're hearing. However, there's no way of actually knowing where the system is working. Would you know how many ATIP requests have been avoided?

Caroline Maynard: Treasury Board is the one that ultimately comes up with all of the statistics. I can tell you that there's a lot of work being done. The ATIP shops are very busy. You say my job is hard, but I think the ATIP shops' jobs are harder. There were over 200,000 requests made last year. We only see 3% to 5% complaints. It's not that much. What we see are the worst scenarios.

One issue that I have is that we don't see how many are in the backlog, how many are not being responded to and will lead to complaints in the future. There are statistics out there about all of the numbers of requests versus how many are not being responded to.

Hon. Bardish Chagger: Yes, but we don't really know how many have not had to be requested because the information was available.

Caroline Maynard: No, we don't.

Hon. Bardish Chagger: That's right. I just feel that sometimes, when we have these conversations, we do need to have confidence in our institutions. I believe your last comment that you made was that people can trust you, and wherever you need to adjust and learn, you will. I have confidence in you and your office that you would do that.

I do think Canadians need to have confidence that the people who are serving Canadians, the very people who elect us, whether on the elected side or on the public service side, have that best intention. If they don't have that intention, perhaps they should not be in the public service. I would believe that anyone who is doing that work, including redacting documents and so forth, being given delegation authorities, would do it wholeheartedly and to the best of their ability.

I feel that sometimes, when we're talking about one side of this conversation, which is why your office is so important, we're losing sight of the other side. If you listen to the tone in this conversation, it almost seems like no one wants to give information, and you have to try to pull it out of them by giving them orders. That is quite a small number of cases, though, relatively speaking. Is that correct?

Caroline Maynard: It is a small number. I can tell you that one problem is when we conclude that the information was not sufficiently provided, and that also leads to questions: Why wasn't I given that information right away? Why did they wait two years? Why did we need to make a complaint? We are trying to limit that, as much as possible.

Hon. Bardish Chagger: I'm a middle child, so my parents can give you confidence that, no matter how hard they try, I'll probably always be able to find something to complain about.

Each of these institutions, departments, agencies and offices have ATIP teams. Do you train those teams? Do you work with those teams? How do they know what they should be keeping and what they should be looking for? How do they get that ability?

● (1305)

Caroline Maynard: They are under the responsibility of the institution itself, and the Treasury Board is the administrator of the act. The Treasury Board is actually the one providing the training, the guidelines on how they should do their work. We review their work, so I cannot be the one to give them the training because, ultimately, I may be investigating what they have done, later.

We are very independent from that perspective. However, we are issuing guidelines on our line of.... Based on the decisions that we made, we say if there is a decision they should read because it may help them with their work. However, we are not providing that training for them because we are investigating their work later on.

Hon. Bardish Chagger: If they were trained to understand perhaps the vision of the office and so forth, wouldn't that help them actually do their jobs better and perhaps have fewer investigations?

Right now, it sounds like each department, agency or institution could have a different model within it. Perhaps that's why some institutions are receiving a lot more of your attention than others.

Caroline Maynard: Yes, it's the way that it's been administered. The TBS issues guidelines. Institutions are responsible for their own. I agree with you. They should be talking to each other. They should have teams that help each other. They should have search teams when there's a big surge of requests in one department, but that's really under the control of the Treasury Board.

Hon. Bardish Chagger: That's interesting.

The Chair: You have five seconds, Ms. Chagger.

Hon. Bardish Chagger: Commissioner, I will thank you for your time and your attention.

The Chair: Commissioner, I want to thank you on behalf of the committee for appearing today. I know that it's been a while since the ATI study was done. That's why I felt it was important for you to come and provide the committee with an update today on where things stand right now. We have drafted the report. There are recommendations that have been offered. We'll be dealing with that report, and I'm sure some of the information you provided today will be applied to that report as well.

Again, Commissioner, thank you for coming.

I have a couple of reminders for committee members.

November 6 at 4 p.m. is the deadline for dissenting opinions on the AI study, and it's November 13 at 5 p.m. for recommendations on the lobbying study. Make sure you send those to the clerk.

The meeting notice for Wednesday will be issued right after this meeting. We will commence the study on algorithmic pricing. Just to let you know, there is quite a bit of interest on the part of witnesses to appear before the committee on that.

That's it for today. Thank you, everyone.

The meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

SPEAKER'S PERMISSION

The proceedings of the House of Commons and its committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the Copyright Act. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the Copyright Act.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the House of Commons website at the following address: https://www.ourcommons.ca

Publié en conformité de l'autorité du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la Loi sur le droit d'auteur. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre des communes.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la Loi sur le droit d'auteur.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante : https://www.noscommunes.ca