

SECRET CANADA

# 'We're ashamed': Canada's information watchdogs sign joint pact, urging governments to fix FOI systems

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Information Commissioner Caroline Maynard prepares to appear at the Standing Committee on Access to Information, Privacy and Ethics, in Ottawa, on March 7.

JUSTIN TANG/THE CANADIAN PRESS

Canada's information commissioners have signed a joint resolution calling on federal, provincial and territorial governments to modernize access laws and strengthen the

public's right to information, after a Globe and Mail investigation found public bodies are routinely breaking those laws.

The joint resolution, issued Wednesday, amounts to the most forceful declaration yet by Canada's various information watchdogs on the state of the country's access systems, which are supposed to promote transparency by requiring public institutions to release documents to people who request them, with limited exceptions. Previous calls for reform "have largely failed to yield the necessary changes to the law that could bring about concrete improvements of the public's right of access to government-held information," the resolution says.

In an interview later in the day, federal Information Commissioner Caroline Maynard called for a rejuvenation of access law and the systems that implement it. "Our acts are not to par, and the systems are not to par. Information management is not to par. Every one of us is calling on our governments to do something about it," she said of her fellow commissioners. "We need more resources, not just for our own offices, but for the offices that are dealing with access requests."

In June, The Globe launched Secret Canada, a continuing investigation into the country's broken access systems. The Globe's reporting has revealed that public institutions skirt access laws, also known as freedom of information laws, by overusing redactions, failing to meet legislated timelines and claiming "no records" exist when they do. And these institutions face few – if any – consequences for ignoring the precedents set by courts and information commissioners.

Information commissioners, who are called ombudspersons in some jurisdictions, are the top civil servants responsible for handling disputes over freedom of information requests and overseeing public bodies' compliance with access laws. In practice, this also makes them the chief advocates for their respective information regimes.

Commissioners signed the resolution in Quebec City, at a yearly meeting of federal, provincial and territorial information and privacy commissioners. "In order to restore a collective sense of social cohesion and trust in our public institutions, Canadians

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must be able to rely upon an accurate and truthful source of facts and evidence about present and historical events,” the statement says.

The [Globe's Secret Canada](#) project aims to force governments to be more transparent

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The resolution calls on governments to uphold seven “principles” related to the public’s right to know. Chief among them is the idea that the culture of public institutions “must be founded on the fundamental principle that information under their control belongs to the people they serve.” The remaining principles address the retention of records, barriers to access for Indigenous groups, information management practices, training, fees and the archiving of historically significant documents.

Michael McEvoy, the Information and Privacy Commissioner for British Columbia, said in an interview that the statistics compiled by the Secret Canada project, which included [an audit of each jurisdiction’s record on access and transparency](#), have “helped put the whole issue across the country in some perspective.”

“The Globe’s focusing on this issue has been very important,” he said.

Access laws exist across Canada and around the world, and enshrine into law the principle that people have a right to know how their tax dollars are being spent, how their elected officials are governing and how their public institutions are being run.

Over time, the public has seen “the erosion of access rights,” Mr. McEvoy continued. “This erosion that we’re talking about hasn’t happened overnight,” he said, and neither will the changes required to improve access laws – including British Columbia’s law, which had its 30th anniversary on the same day as the commissioners’ joint resolution.

“Where there is a vacuum of information created by government withholding information, that’s where conspiracy theories, that’s where disinformation is going to flourish,” he said.

Mr. McEvoy added that he is optimistic that governments will respond as more people become aware of the issues facing their access rights. Those rights should not just be restored, but advanced, he said – for example, by removing fees for access to

information, or expanding the scope of the law to cover even more public institutions that spend taxpayer dollars.

“Those are the kinds of matters that need to be addressed by legislators in order to make sure that citizens can properly hold them to account,” he said.

The commissioners' Quebec City resolution builds on one issued in 2019, in which they noted that most access and privacy laws have “have not been fundamentally changed since their passage,” in some cases more than three decades ago.

Ms. Maynard, the federal Information Commissioner, said “Secret Canada highlighted for everybody how important access is, how bad our systems are.”

“It's really bad,” she continued. “The government needs to acknowledge that it is, and they need to start doing something.”

Canada was one of the first countries to have a freedom of information law – the federal law had its 40th anniversary over the summer – and that made people proud, she said.

“Now, we're ashamed that our acts have not been modernized.”



## It's your right to know

Accessing information in Canada has been too difficult for too long. [Explore Secret Canada](#), a database of FOI requests and a resource for learning how to submit your own

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