Canadian Freedom of Information Personnel: Views and Lessons Learned

ANNA EVANS-BOUDREAU[1*] AND KEVIN WALBY[*]

ABSTRACT

Though there is ample literature on freedom of information law, there is little information that considers the work of freedom of information [FOI] or access to information [ATI] coordinators and the challenges they face. It is even more concerning that no research of this kind has been done in Canada given federal, provincial, territorial, and municipal government commitments to FOI and ATI. Our research seeks to fill this gap. We interviewed nine FOI and ATI government personnel in Canada to explore the complexities of working in this field. We examine their responses to questions about the challenges in their work; the barriers that they encounter; their background and training; their goals; and their views on transparency and public administration. By interviewing those on the "front lines of records requests," we not only gain insights into the realities of their work, but we also learn how FOI legislation and policies can be improved. These insights are particularly relevant in Manitoba, where the former

1

* Anna Evans-Boudreau is a third-year law student at Robson Hall, Faculty of Law, University of Manitoba. She has previously written on gender and edgework paradoxes in tree-planting (Gender, Place & Culture: A Journal of Feminist Geography), law reform opportunities for Manitoba's sustainable development legislation (The Manitoba Law Journal), and law reform opportunities for Manitoba's pay equity legislation (The Canadian Centre for Policy Alternatives).

* Kevin Walby is Associate Professor of Criminal Justice, University of Winnipeg. He is co-author of Police Funding, Dark Money, and the Greedy Institution (Routledge, 2022). He is co-editor of Disarm, Defund, Dismantle: Police Abolition in Canada (BTL Press, 2022) and Changing of the Guards: Private Influences, Privatization, and Criminal Justice in Canada (UBC Press, 2022). He is the Director of the Centre for Access to Information and Justice (CAIJ). He is co-editor of the Journal of Prisoners on Prisons.

The authors would like to thank the peer reviewers and the Manitoba Law Journal for their assistance in preparing the article for publication.

Progressive Conservative government made many efforts to undermine the principles of FOI. These efforts include a refusal to respond to the Manitoba Ombudsman's concerns and recommendations, which are, in part, informed by FOI personnel.

KEYWORDS: *freedom of information; law; civil service; transparency; public administration*

I. INTRODUCTION

In the last few decades, Canadians' expectations for government transparency and accountability have increased. Evidence of these expectations can be found in the rise of information requests made of public bodies. In 1983, Canada's federal *Access to Information Act* came into force "to enhance the accountability and transparency of federal institutions in order to promote an open and democratic society."[2] Under this Act, Canadians and permanent residents have the right to request records that are controlled by government institutions.[3] This right is also outlined in provincial and territorial freedom of information [FOI] legislation.

Since 1983, Canadian governments have continued to update these laws. These updates have included timelines for fulfilling requests, a centralization of FOI and access to information [ATI] services, and the option to make requests online. Despite these advancements, it is not clear if FOI and ATI processes are more efficient or effective today. Statistics on FOI and ATI request outcomes only tell part of the story. Arguably, it is the personnel handling these requests day-to-day that we can learn from the most as they are on the "front lines of records requests."[4] Despite their expertise, little research has been conducted on this type of government staff.

These questions are pertinent at the federal level but in each territory and province as well. In Manitoba, the former Progressive Conservative government's failure to listen to FOI personnel has undermined Manitobans' right to access information. For example, the Manitoba government has refused to respond to reports from the province's

---

2 *Access to Information Act*, RSC 1985, c A-1, s 2(1).

3 *Ibid*, s 4(1)(a-b).

4 Michele Bush Kimball, "Shining the Light from the Inside: Access Professionals' Perceptions of Government Transparency" (2012) 17:3 Comm L & Pol'y 299 [Kimball, "Shining the Light"].

Ombudsman calling for more resources and funds for FOI offices. The opinion of the Ombudsman is formed in part from interviews with FOI personnel. Instead of listening to the expertise of these coordinators, the former Progressive Conservative government starved the FOI apparatus in the province. Further, between 2020 and 2022, the provincial government in Manitoba made several amendments to FOI law, all of which favoured the government, rather than users of FOI law.

Recent controversies have also appeared in local news media highlighting the deficiencies and politicization of Manitoba's FOI processes. In 2022, the *Winnipeg Free Press* reported that "Manitoba Justice wants nearly $32,000 to process three freedom of information requests seeking Crown documents."[5] In the same year, the *Winnipeg Free Press* also reported that 35 out of 37 Manitoba school divisions rejected FOI requests asking for non-identifying information about cases of teacher misconduct.[6] This included simple inquiries into how many teachers are on staff.

In 1986, Bruce Mann wrote a paper on FOI coordinators whom he called the "meat in the sandwich."[7] The metaphor is meant to convey a sense that FOI coordinators don't know "where their next bite is going to come from" due to their "multiple working relationships and directions of responsibility."[8] If the resource deprivation of FOI offices continues in Manitoba, it is likely, as Mann put it, that FOI coordinators will continue to be the meat in the sandwich. The users of FOI can sometimes be challenging to work with, as can bureaucrats within public administration from whom the FOI coordinator must attempt to retrieve records.

Even though there is ample literature on FOI law, there is little information that looks at the work of FOI coordinators and the challenges they face. Johnson's work on public records officers and perspectives on transparency is one contribution.[9] Kimball's earlier work on the perceptions of records custodians is crucial in this area.[10] Gilbert contributed to this

---

5 Ryan Thorpe, "'Completely outrageous': High processing fees for freedom of information requests slammed" (8 August 2022), online: *Winnipeg Free Press* <www.winnipegfreepress.com> [perma.cc/Y6AA-P5WZ].

6 Katrina Clarke, "Alarm sounded over school divisions' silence" (26 September 2022), online: *Winnipeg Free Press* <www.winnipegfreepress> [perma.cc/RXU3-7LWA].

7 Bruce Mann, "The federal information coordinator as meat in the sandwich" (1986) 29:4 Can Public Administration 579.

8 *Ibid* at 580.

9 Brett G Johnson, "Public Records Officers' Perspectives on Transparency and Journalism" (2020) 2:1 J Civic Information 1.

10 Kimball, "Shining the Light", *supra* note 3.

area of study by looking at how government departments and agencies responded to the introduction of ATI legislation.[11] In 2001, Harnwell conducted a study on Western Australian government FOI coordinators.[12] Harnwell spoke with eight FOI coordinators to understand how they navigate their role. Despite the useful insights provided in Harnwell's research, it is concerning that little research of this kind has been done since.[13] It is even more concerning that no research of this kind (i.e., research that involves interviewing FOI coordinators) has *ever* been done in Canada given federal, provincial, territorial, and municipal government commitments to FOI and ATI. Our research seeks to fill this gap.

We interviewed nine FOI and ATI government personnel across Canada to explore the complexities and nuances of working in this field. We examine their responses to questions about the challenges in their work; the barriers that they encounter; their background and training; their goals; and their views on transparency and public administration. By talking with FOI personnel, we gain insights into the realities of their work. We also learn how we can improve this field, which serves all Canadians interested in upholding their right to access information.

II. LITERATURE REVIEW: FOI/ATI LEGISLATION AND THE PERSONNEL WHO NAVIGATE IT

A. Legislative History

Canadians have the right to request information from governments. This right is established in FOI and ATI legislation at the federal, provincial, and territorial level. In 1983, Canada's federal *Access to Information Act* came into force. This legislation serves two purposes: (1) "to enhance the accountability and transparency of federal institutions in order to promote an open and democratic society" and (2) "to enable public debate on the conduct of those institutions."[14] This federal statute gives Canadians and

---

11 Jay Gilbert, "Access denied: the Access to Information Act and its effect on public records creators" (2009) 49 Archivaria 84.

12 Graham Harnwell, *To release or not to release that is the question: A phenomenological study of Western Australian government freedom of information coordinators* (Master of Social Science Thesis, Western Australia College of Advanced Education, 2001) [unpublished].

13 Kimball, "Shining the Light", *supra* note 3 at 302.

14 *Access to Information Act*, *supra* note 1.

permanent residents the right to access records that are controlled by government institutions.[15]

Provincial and territorial FOI legislation establishes the same right. ATI and FOI also contemplate access to personal information held by government institutions. The federal *Privacy Act* protects "the privacy of individuals with respect to personal information about themselves held by a government institution."[16] It also "provides individuals with a right of access to that information."[17] Provincial and territorial legislation generally incorporate privacy principles into FOI legislation (e.g., the Yukon's *Access to Information and Protection of Privacy Act*).[18]

The Freedom of Information Act was the first statute in Manitoba to recognize the right of the public to access records under the control of provincial government and Crown corporations.[19] Roughly a decade later, this statute was replaced by *The Freedom of Information and Protection of Privacy Act* [FIPPA], which came into force in 1998.[20] The new legislation was informed by submissions from the public in response to a government discussion paper requesting feedback on the topic.[21]

The Minister of Culture, Heritage and Citizenship clarified that this new legislation was needed because the previous statute was "no longer adequate to address the serious concerns Manitobans have about the privacy and protection of personal information held by government or other public bodies."[22] The Minister went on to note the various changes the legislation would bring, including an increased scope of application (e.g., municipal governments, school divisions);[23] more flexibility in making requests (e.g., the public could now make a request orally as an alternative to a written

---

15 *Ibid*, s 4(1)(a-b).

16 *Privacy Act,* RSC 1985, c P-21, s 2.

17 *Ibid*.

18 *Access to Information and Protection of Privacy Act*, SY 2018, c 9.

19 The *Freedom of Information Act*, SM 1985-86, c 6, s 3; Manitoba Culture, Heritage and Citizenship, Access to Information and Privacy Protection for Manitoba: A Discussion Paper (Manitoba: Manitoba Culture, Heritage and Citizenship, 1996) at 5.

20 The *Freedom of Information and Protection of Privacy Act,* SM 1997, c 50.

21 Manitoba Culture, Heritage and Citizenship, *supra* note 18.

22 "Bill 50, The Freedom of Information and Protection of Privacy and Consequential Amendments Act", 2nd reading, *Legislative Assembly of Manitoba Debates*, 36-3, No 58 (10 June 1997) at 4743 (Hon Rosemary Vodrey).

23 *Ibid*.

request);[24] new provisions to ensure the law protects the privacy of Manitobans;[25] and expanded powers of the provincial Ombudsman.[26]

Today, FIPPA continues to recognize the right to access information from public bodies; however, amendments have been made to the Act that have eroded this right over time. Specifically, the former Progressive Conservative government made amendments between the years of 2020 and 2022 that did not benefit FOI law users. Instead, they favoured government. In 2020, the Manitoba government introduced Bill 49, *The Freedom of Information and Protection of Privacy Amendment Act*.[27] At its second reading, the Minister of Legislative and Public Affairs, the sponsor of Bill 49, stated that the bill was meant "to increase the transparency of public service, as well ensuring the personal information is protected as part of our commitment to open government."[28]

It is difficult to see how Bill 49 would advance the Minister's stated purpose. Some of the proposed changes give more power to the government to simply deny access to records. For example, Bill 49 enables government agencies to toss out any request they deem "trivial" and to refuse any request they deem "not in good faith."[29] This wording is subjective and overbroad. Bill 49 also states that "systematic" requests amount to an abuse of the right to make a request, which undermines the use of FOI for research.[30] The bill also extends the time periods for initial response, extensions and wait times from 30 to 45 days.[31] When the Minister of Legislative and Public Affairs was asked what the public benefit of this extension would be, he explained that "about half of the FIPPA requests that come into government are extended, and so the hope is that by adding these 15 days, that the requirement for extensions will be decreased significantly."[32] The Minister

---

24 *Ibid*.

25 *Ibid*.

26 *Ibid*.

27 Bill 49, *The Freedom of Information and Protection of Privacy Amendment Act*, 3rd Sess, 42nd Leg, Manitoba, 2020 (assented to 20 May 2021), SM 2021, c 43.

28 "Bill 49, The Freedom of Information and Protection of Privacy Amendment Act", 2nd reading, *Legislative Assembly of Manitoba Debates*, 42-3, No 37 (17 March 2021) at 1723 (Hon Kelvin Goertzen).

29 Bill 49, *supra* note 26, s 8.

30 *Ibid*.

31 *Ibid*, ss 5(1), 5(2), 9, 10(2).

32 "Bill 49, The Freedom of Information and Protection of Privacy Amendment Act", 2nd reading, *Legislative Assembly of Manitoba Debates*, 42-3, No 37 (17 March 2021) at 1724 (Hon Kelvin Goertzen).

then evaded answering "why he wouldn't have just chosen to hire more department staff so that they could deliver more FIPPA services."[33]

These are only a few of the amendments outlined in Bill 49 that undermine users of FOI law. These users include lawyers, journalists, academics, researchers, unions, opposition politicians and all citizens that use FOI in this province. Ultimately, the bill proposed several regressive changes to FOI that decrease access to government records and information, and consequently, threaten transparency, democracy, and justice. Nevertheless, in 2021, Bill 49 received Royal Assent and these changes are now in force.

These changes disregard the concerns and recommendations of the provincial Ombudsman. In 2021, the Manitoba Ombudsman sent a letter to the Minister regarding the Ombudsman's observations of Bill 49.[34] The letter outlined the Ombudsman's concerns over the bill's impact on the following four areas: (1) the citizens' right to timely access to information; (2) expanding the grounds on which a public body can disregard or extend the timeline for response to a request for access; (3) the Ombudsman's authority to review records claimed to be subject to privilege; and (4) the period of review for FIPPA.[35]

The provincial Ombudsman's concerns about the direction of Manitoba's FOI laws are not new. In 2020, the Ombudsman released a FIPPA Audit Report of Manitoba Finance, Executive Council, Civil Service Commission and Crown Services.[36] Interviews were conducted with access and privacy coordinators as part of the audit process.[37] The report identified several issues in Manitoba, most of which related to difficulties in meeting the mandated time limits for requests. Few of the audited FIPPA files complied with legislative time requirements (22 per cent) and most required extensions (79 per cent).[38] Indeed, it took an average of 72 days for

---

33 *Ibid* at 1726 (Hon Kelvin Goertzen).

34 Letter from the Manitoba Ombudsman to the Minister of Legislative and Public Affairs (14 April 2021), online (pdf): *Manitoba Ombudsman* <www.ombudsman.mb.ca> [perma.cc/UY6C-ZZ7U].

35 *Ibid.*

36 Manitoba Ombudsman, "Freedom of Information and Protection of Privacy Act Audit Report: Timelines of Access to Information Responses: Manitoba Finance, Executive Council, Civil Service Commission, Crown Services" (6 June 2020) at 3, online (pdf): *Manitoba Ombudsman* <www.ombudsman.mb.ca> [perma.cc/UL6P-4PFH].

37 *Ibid* at 9.

38 *Ibid* at 23.

applicants to receive a response, despite the 30-day time limit.[39] Other issues included ineffective file documentation practices and a failure to communicate with applicants (communication with applicants only took place in 14 per cent of the audited files).[40]

Five recommendations were made by the Ombudsman to address these issues: (1) exercise more discretion to ensure applicants cannot be identified; (2) assess and increase the FIPPA team's resource needs to meet legislated time limits; (3) improve communication with applicants (e.g., provide a contact for applicants if they have any questions); (4) standardize documentation practices; and (5) encourage proactive disclosure.[41] Similar recommendations have been made in the Manitoba Ombudsman's recent annual reports.[42] These recommendations have yet to be meaningfully implemented.

B. FOI, Transparency, and Secrecy

There is a large amount of literature on FOI in general. For example, Brown, as well as Hameed and Monaghan, have explained that FOI requests can be used as an important research tool.[43] There is also substantial literature on FOI as a human right and FOI as a disinfectant against corruption within public administration.[44] Florini and colleagues have argued that FOI is a key to transparency in government,[45] a sentiment

---

39 *Ibid.*

40 *Ibid*.

41 *Ibid* at 23-24.

42 Manitoba Ombudsman, "2020 Annual Report" (23 December 2021), online (pdf): *Manitoba Ombudsman* <www.ombudsman.mb.ca> [perma.cc/QVR7-3YSB]; Manitoba Ombudsman, "2021-22 Annual Report" (1 March 2023), online (pdf): *Manitoba Ombudsman* <www.ombudsman.mb.ca> [perma.cc/9GSP-UVK3].

43 Kevin J Brown, "COUNTERBLAST: Freedom of Information as a Research Tool: Realising its Potential" (2009) 48:1 Howard J Crim Justice 88; Yavar Hameed & Jeffrey Monaghan, "Accessing Dirty Data: Methodological Strategies for Social Problems Researchers" in Mike Larsen & Kevin Walby, eds, *Brokering Access: Politics, Power and Freedom of Information in Canada* (Vancouver: UBC Press, 2012) at 142.

44 Cheryl Ann Bishop, *Access to Information as a Human Right* (EL Paso: LFB Scholarly Publishing, 2012); Adriana S Cordis & Patrick L Warren, "Sunshine as disinfectant: the effect of state Freedom of Information Act laws on public corruption" (2014) 115 J Public Economics 18.

45 Ann Florini, ed, *The Right to Know: Transparency for an Open World* (New York: Columbia University Press, 2007).

echoed by Halstuck and Chamberlin.[46] Cuillier has argued that FOI helps journalists and researchers uncover scandals in public office.[47]

Literature on FOI demonstrates that government secrecy is a social problem. Rowat argued that administrative secrecy in the public sector undermines democracy.[48] Roberts explored how the informal rules that FOI coordinators develop for processing files can likewise lead to diminished access to information.[49] Wilson claimed that the destruction of records, which creates gaps in knowledge, is a huge social problem in government.[50] Wilsnack conceptualized these kinds of practices as information control.[51] On one hand, FOI allows some access. On the other hand, FOI operates as a mechanism for denying access according to the sections for exemptions and redaction in any given law.

To this end, Worthy found that some agencies abide by FOI law more carefully and that some laws are less restrictive than others (e.g., fewer sections of the law containing mandatory exemptions).[52] Therefore, the study of FOI in detail and comparative perspective is very important.[53] Following in this vein of inquiry, Lagunes and Pocasangre argued that Mexico's FOI legislation had certain merits, but also certain limitations (e.g., while FOI requests are answered more frequently compared to earlier years, government entities are failing to provide quality information to

---

46 Martin E Halstuck & Bill F Chamberlin, "The Freedom of Information Act 1966-2006: a retrospective on the rise of privacy protection over the public interest in knowing what the governments up to" (2006) 11:4 Comm L & Pol'y 511.

47 David Cuillier, "Scandals and freedom of information" in Howard Tumber & Silvio R Waisbord, eds, *The Routledge Companion to Media and Scandal* (London: Routledge, 2019) 215.

48 Donald C Rowat, "The Problem of Administrative Secrecy" (1966) 32:2 Intl Rev Administrative Sciences 99.

49 Alasdair Roberts, "Administrative Discretion and the Access to Information Act: An 'Internal Law' on Open Government?" (2002) 45:2 Can Public Administration 175.

50 Ian E Wilson, "The Fine Art of Destruction Revisited" (2000) 49:1 Archivaria 124.

51 Richard W Wilsnack, "Information Control: A Conceptual Framework for Sociological Analysis" (1980) 8:4 Urban Life 467.

52 Benjamin Worthy, "'Some are more open than others': comparing the impact of the Freedom of Information Act 2000 on local and central government in the UK" (2013) 15:5 J Comparative Policy Analysis 395.

53 See also Robert Hazell, Gabrielle Bourke & Benjamin Worthy, "Open house: freedom of information and its impact on the UK parliament" (2012) 90:4 Public Administration 901.

questions that they are legally bound to answer).[54] Roberts has suggested that Canada's FOI law could have lessons for the United Kingdom (e.g., Roberts emphasized the importance of investigating informal procedures in government that erode compliance with FOI legislation).[55] Roberts has also examined provincial jurisdictions from a comparative perspective.[56] There are further studies providing auditing and comparative dimensions such as Hazell, Bourke and Worthy who examined the impacts of FOI on British central government.[57] Holsen analysed FOI in the UK, the USA, and Canada from a comparative perspective.[58] The same author performed a similar analysis with Pasquier when looking at Germany and Switzerland.[59]

What these studies show is that there is variation when it comes to FOI. There is a lot of "access denied" as Kester put it, which creates a contradiction.[60] FOI is supposed to be an antidote to secrecy, and at the same time we see examples of information control or abuses of FOI. Nath and Piché have both argued that it is important to contest the decisions of FOI coordinators by using varied means that are deployed by social movement groups, which are both provocative and evocative (e.g., "going public" with one's findings through public education initiatives and media coverage).[61] For this paper, we draw from this literature on FOI for an understanding of information management and limits to FOI under

---

54 Paul Lagunes & Oscar Pocasangre, "Dynamic transparency: An Audit of Mexico's Freedom of Information Act" (2019) 97:1 Public Administration 162.

55 Alasdair S Roberts, "Spin Control and Freedom of Information: Lessons for the United Kingdom from Canada" (2005) 83:1 Public Administration 1.

56 Alasdair Roberts, "Retrenchment and freedom of information: recent experience under federal, Ontario, and British Columbia law" (1999) 42:4 Can Public Administration 422.

57 Robert Hazell, Ben Worthy & Mark Glover, *The Impact of the Freedom of Information Act 2000 on British Central Government: Does FOI work?* (London: Palgrave Macmillan, 2010).

58 Sarah Holsen, "Freedom of information in the UK, US, and Canada" (2007) 41:3 Information Management J 50.

59 Sarah Holsen & Martial Pasquier, "What's wrong with this picture? The case of access to information requests in two continental federal states—Germany and Switzerland" (2011) 27:4 Public Policy & Administration 283.

60 Grant Kester "Access Denied: Information Policy and the Limits of Liberalism" in Richard Stichler & Robert Hauptman, eds, *Ethics, Information and Technology Readings* (Jefferson, NC: McFarland, 1998) at 207.

61 Anjali Nath, "Beyond the Public Eye: On FOIA Documents and the Visual Politics of Redaction" (2013) 14:1 Cultural Studies—Critical Methodologies 21; Justin Piché, ""Going Public": Accessing Data, Contesting Information Blockades" (2011) 26:3 Can J L & Society 635.

liberalism. We also have experience as users of FOI requests, which influences our study design and analysis.

C. FOI/ATI Personnel

The main literature from which we draw and wish to contribute to is the literature on the views and the work of FOI coordinators themselves. Little research has been done on the way FOI and ATI personnel navigate their roles, particularly in Canada. In 2001, Harnwell interviewed Western Australian government FOI coordinators.[62] These interviews provided insights into why the FOI process was constrained, despite outward government commitment to FOI initiatives and philosophies. Harnwell argued that FOI coordinators in Western Australia similarly found there was a lot to balance in trying to decide whether to disclose information and how much information to disclose when working with FOI law to verdict and server files and so on.[63]

Interviews revealed that FOI coordinators genuinely desire to advance FOI, but their work is constrained by administrative non-compliance, such as poor records management and inadequate resources.[64] Interviewees also expressed concerns regarding the adequacy of the Act and insufficient training.[65] Harnwell concluded that FOI coordinators have some power to ensure the public's right to access information, but without political will of government, the systemic issues that constrain FOI will persist.[66]

In 2012, Kimball interviewed access professionals in the United States to understand how they perceive transparency.[67] Interactions between records requesters and access professionals are often described as adversarial, and Kimball's interviews reaffirmed this, in part: access professionals sometimes felt they could not escape the adversarial nature of the work, which was, in their view, propped up by the combative nature of some records requesters.[68] Kimball's interviews suggest that these interactions are not the norm. Most interactions were described as uneventful, with some even describing these correspondences as a positive

---

62 Harnwell, *supra* note 11.

63 *Ibid*.

64 *Ibid* at 162.

65 *Ibid* at 8.

66 *Ibid*.

67 Kimball, "Shining the Light", *supra* note 3.

68 *Ibid* at 320.

experience.[69] Kimball's interviews also challenged the generalization that all access professionals believe the process should be adversarial and guarded. These professionals expressed pride in contributing to an open government and to a healthy democracy.[70]

In 2001, Kimball examined the decision-making practices and the perceptions of FOI coordinators working in law enforcement.[71] In 2003, Kimball found that these FOI coordinators were sort of dancing on the razor's edge of compliance with FOI law.[72] In 2011, Kimball suggested that people within government should be better trained on FOI law and the idea of open government to improve compliance.[73] Kimball also suggested that access professionals had a multifaceted understanding of government transparency. Some FOI coordinators were somewhat jaded, while others held up lofty ideals animating their work as an FOI coordinator.

An earlier study of access professionals reflects Kimball's findings. In 2007, Piotrowski found a similar passion for open government and transparency among the federal FOI officers she interviewed.[74] Interviews revealed that access issues were not a consequence of adversarial access professionals, but from a lack of resources and political will.[75] These constraints were summarized by one of Piotrowski's participants:

> I do not believe the cost of implementing the FOIA program is taken into consideration by Congress when determining an agency's budget. Also, I do not think agency administrators realize how involved and important the FOIA program is in providing information to various entities in the public.[76]

In 2020, Johnson suggested that public records officers have multifaceted views on transparency and journalism (e.g., investigations and

---

69 *Ibid* at 312.

70 *Ibid* at 308.

71 Michelle Bush Kimball, *Law enforcement records custodians' perceptions and decision-making behaviors in response to Florida's Public Records Law* (PhD Dissertation, University of Florida, 2001) [unpublished].

72 Michelle Bush Kimball, "Law enforcement records custodians' decision-making behaviors in response to Florida's public records laws" (2003) 8:3 Communication L & Policy 313.

73 Michele Bush Kimball, "Mandated State-Level Open Government Training Programs" (2011) 28:4 Government Information Q 474.

74 Suzanne J Piotrowski, *Governmental Transparency in the Path of Administrative Reform* (Albany, US: SUNY Press, 2007) at 90.

75 *Ibid* at 90-91.

76 *Ibid* at 91.

inquiries from journalists could put some FOI coordinators on edge).[77] Altogether, this literature points out how complicated the work of FOI coordinators is; however, all this literature focuses on the United States or Australia. There have been no studies, to our knowledge, of this phenomenon in Canada. Our study is the first to look at this issue of the views and work of FOI coordinators in Canadian jurisdictions.

III. Method and Data

Our research was inspired by Harnwell's study on government FOI coordinators in Australia.[78] Our research differs from Harnwell in that we did not limit our interviews to coordinators. We spoke to a variety of personnel working in this field, ranging from directors to coordinators and analysts. These personnel work in FOI, but also have expertise in privacy and records management. We emailed FOI and ATI personnel across Canada to see if they would be interested in participating in interviews. These personnel were identified through past correspondences, from word of mouth, or from government websites. After reaching out to roughly 74 personnel, nine agreed to participate.

Questions were sent to participants in advance of their interview. These questions touched on various topics, including the hiring process; daily tasks and duties; favourite and least favourite aspects of their job; observable changes over time, in terms of their role and the field more broadly; their work environment, including their relationship with employers; experiences in dealing with clients; general satisfaction with the role and future career goals; and suggested changes for improving the field.

Two of the participants chose to provide written responses. The remaining seven participants partook in interviews over Zoom, which lasted between thirty minutes to one hour. The audio from these interviews were saved with the participants' consent, and then manually transcribed. These transcripts and survey responses were then organized by the question that was asked (e.g., all answers to hiring questions were combined; all answers to daily task questions were combined). The answers were then coded by themes: hiring; duties and tasks; work environment and structure; favourite aspects and least favourite aspects of the job; changes over time; future career goals; and suggestions for future changes. These themes were then further coded by sub-themes.

---

77 Johnson, *supra* note 8.

78 Harnwell, *supra* note 11.

IV. RESULTS FROM INTERVIEWS

A. Hiring Process

1. Entering the Field

Interviews typically started by asking participants how they entered this field. Most FOI personnel described "stumbling" into this type of work: "I wasn't so much hired as I fell in." [79] Three participants explained that they were initially hired on a temporary basis, which turned into a permanent position over time. For example, one of these participants was initially brought in on a contract to fill in for someone on medical leave.[80] Other participants stumbled into FOI work not because they applied to work in FOI, but because "it was just part of the job that I applied for."[81] For these participants, it is their responsibility to reply to FOI requests, but it is not their primary job.[82] Another participant stumbled into the field of FOI because it is what their role evolved into over the years.[83] At the time they were hired, few people had experience with their province's FOI legislation.[84] Indeed, one participant was approached for the job simply because they had experience *making* requests at their previous job.[85]

There are many who enter the world of FOI intentionally, though. Three participants detailed their experience of a standardized job competition. Two of these participants described a more rigorous process, which included finishing an Information Access and Protection of Privacy certificate; an initial application with a resume and questionnaire; a written exam; and a panel interview.[86] Those that described intentional efforts to join the field are also the participants that most recently joined the field. The three participants that intentionally joined the FOI field were hired between 1 to 3 years ago, whereas those that described stumbling into the field were hired between 6 to 12 years ago.

---

79 Interview of anonymous subject (9 March 2022) through Zoom [Interview 6]; Interview of an anonymous subject (14 February 2022) though Zoom [Interview 4].

80 Interview of anonymous subject (23 February 2022) through Zoom [Interview 5].

81 Interview of anonymous subject (4 February 2022 through Zoom [Interview 2]

82 Interview of anonymous subject (11 February 2022) through Zoom [Interview 3].

83 Interview 4, *supra* note 78.

84 Interview 5, *supra* note 79.

85 *Ibid.*

86 Interview of anonymous subject (4 April 2022) through written submission, Survey Response 1 [Interview 8]; Interview of anonymous subject (4 April 2022) through written submission, Survey Response 2 [Interview 9].

2. Prior Experience & Skills

FOI personnel come from various backgrounds. Participants described backgrounds in law, communications, corrections work, records management, and/or government before working in FOI. Despite these varied backgrounds, participants acknowledged skills that they gained in previous professions that have benefitted them in their current roles, and which they seek in new hires: an ability to work well with other people; writing clearly and effectively; knowing how to process information efficiently; an enthusiasm for work; legal knowledge; being highly organized; and a passion for detail.

One participant noted that few people hired to work in FOI come with all the skills to do this work.[87] Training is provided for new hires to address those gaps: "You can learn legislation, you can learn to sever a file, you can learn how to send a box to storage, you can learn how to classify a record."[88] Participants expressed an appreciation for this training given the "steep learning curve" of the work.[89]

B. Duties and Tasks

1. FOI Personnel Positions: Overview

Our study involved interviews with those in FOI, but also those in privacy and records management. We use the collective term of 'FOI personnel' to describe these government staff as they are all involved in the FOI framework and are deeply interconnected (e.g., FOI coordinators cannot efficiently respond to records requests if the records are not properly managed). Various types of FOI personnel participated in our interviews, including executive directors, directors, officers, coordinators, and analysts. One reported commonality between all these positions is that participants spend most of their day corresponding and engaging with others. Working in FOI means communicating with other people.

2. Senior Positions & Their Duties

Some participants we interviewed work in senior positions. These roles involve managerial tasks, where the participants provide oversight to their team of staff (e.g., team of FOI coordinators). This oversight involves

---

87 Interview 6, *supra* note 78.

88 Interview of anonymous subject (23 March 2022) through Zoom [Interview 7].

89 Interview 6, *supra* note 78.

acting as a point person for staff to direct questions to.[90] Day-to-day tasks also involve meetings, providing their signature, providing training, and supporting other directors (e.g., if there is a staffing shortage).[91] Participants in senior positions also work on long-term projects. One participant detailed the larger legislative projects they are involved in, such as implementing (and communicating) amendments from new legislation, coordinating a motion to amend a bill, and developing a manual for a privacy framework.[92] This participant noted that due to the legislative nature of their work, their duties are largely informed and impacted by time sensitivities and politics.[93]

3. Coordinator/Analyst Positions & Their Varying Workload

We also interviewed FOI/ATI coordinators (or analysts), which are the staff responsible for fulfilling requests. For some, requests are only one function of their job. When one participant was asked how much of their time is spent on fulfilling requests, they said that "it kind of depends . . . right now I'm processing a monster request that's taking up 75 per cent of my time. Then I'll go months without any requests at all."[94] For others, responding to FOI requests is the main function of their job. One coordinator stated that it is typical for them to have six or seven new files a day.[95] Another stated that "FOI analysts typically carry a case load of approximately 30 active FOI requests . . . in various stages of the FOI process."[96] Sometimes analysts are assigned to specific departments or department units.[97] Ultimately, analysts are trying to maximize the interests and time of both the applicant and the public body that holds the records.[98]

4. Steps Involved in Responding to Requests

While each request is unique, participants described a formulaic, process-driven approach for responding to them. Coordinators start their day by reviewing their case load, checking their email or a centralized system

---

90 Interview of anonymous subject (1 February 2022) through Zoom [Interview 1]; Interview 6, *supra* note 78.

91 Interview 1, *supra* note 89; Interview 6, *supra* note 78; Interview 7, *supra* note 87.

92 Interview 1, *supra* note 89.

93 *Ibid.*

94 Interview 2, *supra* note 80.

95 Interview 5, *supra* note 79.

96 Interview 9, supra note 85.

97 Interview 5, *supra* note 79.

98 *Ibid.*

for new requests.[99] When they get a records request, the coordinator first checks that it is related to FOI and not already publicly available or easily accessible.[100] If it is not related to FOI and/or the information is already available/accessible, the coordinator will email the applicant and point them in the right direction.[101] Otherwise, the coordinator will notify the applicant that their request has been received.[102]

The coordinator will continue to correspond with the applicant to assess the request, which involves asking the applicant clarifying questions to determine how long the request will take and what records will need to be accessed.[103] During this assessment, additional fees may arise due to the type and/or number of records sought. If the applicant does not want to pay these fees, then the coordinator will help the applicant amend their request.[104]

The next step is to put the request package together: "It's almost like putting a puzzle together. You have to step back and figure out where all the pieces fit together."[105] The coordinator will reach out to the department most likely to have the records, give them a description of the request, and determine the department's capacity for assisting them.[106] Some people in these departments have had a lot of experience in getting records and are efficient in finding them, while others are slower because they have never had to do it.[107] It is important the records are found quickly because coordinators must meet strict timelines as mandated by FOI legislation. Multiple participants stated that chasing people for records constitutes the majority of a coordinator's job.[108]

Once records are obtained, a coordinator must determine if anything needs to be redacted and protected from disclosure.[109] This step may involve research about information contained in the records (e.g., reaching out to a

---

99 Interview 9, *supra* note 85; Interview 5, *supra* note 79; Interview 3, *supra* note 81.

100 Interview 3, *supra* note 81.

101 *Ibid.*

102 Interview 9, *supra* note 85.

103 Interview 3, *supra* note 81; Interview 6, *supra* note 78.

104 Interview 4, *supra* note 78; Interview 6, *supra* note 78.

105 Interview 2, *supra* note 80.

106 Interview 5, *supra* note 79.

107 *Ibid.*

108 Interview 2, *supra* note 80; Interview 5, *supra* note 79.

109 Interview 3, *supra* note 8.

third-party to consult);[110] examining the records through a discretionary exemptions lens;[111] comparing the records with public information;[112] comparing the records with an FOI policy manual;[113] and comparing the records with analogous files.[114] After ensuring that all possible sensitivities were assessed correctly, a draft response is created.[115]

When the response is finalized, the coordinator must have it signed by the head of the relevant public body.[116] Coordinators must factor in the additional days this step may take. Signing authorities may need to talk to legal departments or conduct consultations before approving a response.[117] Once signed, it is sent to the applicant and the file is closed.[118]

C. Work Environment and Structure

1. Working in Government: Overview

The people we interviewed all work in government, so their work structure was typical of government jobs: "We have set hours, we're government, so our hours are 8:30 to 5:00."[119] One participant noted that "there's a reasonably corporate culture."[120] Some participants work in the office, some work from home, some partake in a hybrid of the two. Most of the people we interviewed work in smaller teams of 6 to 8 people. This is not true of every work environment in the FOI field, though: "If we were in Ontario, for example, we wouldn't be able to operate this way because there would be thousands of people involved, but with just six of us we can move pretty quickly."[121] Participants reported an overall good experience working in government: "Working in the province is great. You know, good employer, good benefits . . . You can't complain too much about it."[122]

---

110 Interview 4, *supra* note 78.

111 Interview 6, *supra* note 78.

112 Interview 9, *supra* note 85.

113 *Ibid.*

114 Interview 8, *supra* note 85.

115 Interview 6, *supra* note 78.

116 Interview 3, *supra* note 81; Interview 9, *supra* note 85.

117 Interview 5, *supra* note 79.

118 Interview 6, *supra* note 78; Interview 4, *supra* note 78.

119 Interview 1, *supra* note 89.

120 *Ibid.*

121 *Ibid.*

122 Interview 5, *supra* note 79.

2. Benefits of Interpersonal Support

Employees described their bosses as reasonable, supportive and responsive.[123] Throughout these interviews, participants expressed appreciation for their teams: "My team is great—everyone is very knowledgeable, supportive and kind."[124] Another participant applauded her team's approach to the work: "I am always impressed by how well my colleagues can patiently explain and help applicants with issues relating to their FOI requests."[125] One participant paused the interview to say,

> "I just want to give a shout out to my team, like the team that I work with. They're impressive people and I'm sure that it's the same across the country, that people who work in [this field] are a particular type of person who want to—one, who have the skills to do the job, and then actually care about the work they're doing and what they're disclosing."[126]

While the coordinator is responsible for responding to a request, they rely on interpersonal support, talking with colleagues, supervisors, and the director of the unit.[127] One participant explained that she holds roundtables once a week so that her colleagues can talk through any challenging requests they are facing, which gives them a chance to brainstorm solutions.[128] Participants reported a work environment that saw value in collaboration:

> "It's good because we are a small team that works well together to support each other, to ensure that everybody gets a balanced workload, time off, bouncing ideas off each other . . . We do a lot of, "Here's the request, here are the records, here's my thinking, how about you take a look?" Somebody will come back and say, "I can't see that one" or "Have you thought of this?" So, there's a lot of shared checking and rechecking. It's a really good team atmosphere of collaboration."[129]

These collaborative, positive work environments were most prevalent in offices with centralized FOI services, meaning the office was dedicated to FOI (or privacy or records management). Participants that did not work in a centralized office reported finding interpersonal support by either reaching out to the centralized office, to legal advisors, or even to the

---

123 Interview 9, supra note 85; Interview 6, *supra* note 78.

124 Interview 9, *supra* note 85.

125 Interview 8, *supra* note 85.

126 Interview 1, *supra* note 89.

127 Interview 3, *supra* note 8; Interview 6, *supra* note 78.

128 Interview 1, *supra* note 89.

129 Interview 5, *supra* note 79.

Commissioner.[130] Participants also stated that it is helpful to have resources that can guide them: "Different jurisdictions have guides that we utilize as well, so there's lots of different resources like that . . . but largely it's just heeding the experience. A lot if it is just sort of that hands on experience."[131] Participants also expressed appreciation for the ongoing training they receive.[132]

D. Favourite Aspects and Least Favourite Aspects

1. Favourite Aspects

Most participants reported high satisfaction with their job.[133] When asked about future career goals, most participants reiterated that they enjoy the work they do and would be continuing in the field. Many participants expressed their desire to move into more senior positions. Almost every participant we interviewed was able to identify several things that they liked about FOI work (only one participant had no preference for any aspect of their job).[134]

One participant with a legal background stated their preference for the "nerdier" aspects of their role, such as conducting legislative reviews.[135] Other elements that participants valued about their work ranged from educating others;[136] feeling useful;[137] the variety of tasks involved;[138] the ability to continue learning;[139] the efficiency of the process;[140] the chance to solve problems;[141] collaborating and conversing with different people;[142] and a general appreciation for doing government work.[143]

---

130 Interview 2, *supra* note 80; Interview 3, *supra* note 81.

131 Interview 6, *supra* note 78.

132 Interview 3, *supra* note 81.

133 *Ibid*; Interview 5, *supra* note 79; Interview 8, *supra* note 85.

134 Interview 2, *supra* note 80.

135 Interview 1, *supra* note 89.

136 Interview 3, *supra* note 81; Interview 6, *supra* note 78.

137 Interview 4, *supra* note 78.

138 *Ibid*, Interview 5, *supra* note 79.

139 Interview 5, *supra* note 79; Interview 8, *supra* note 85.

140 Interview 5, *supra* note 79; Interview 7, *supra* note 87.

141 Interview 6, *supra* note 78; Interview 9, *supra* note 85.

142 Interview 5, *supra* note 79; Interview 6, *supra* note 78; Interview 9, *supra* note 85.

143 Interview 4, *supra* note 78; Interview 5, *supra* note 79.

When asked what their favourite part of the job is, the most frequent answer given by participants was the satisfaction that comes from completing a request and having helped an applicant get the information they were seeking.[144] Interacting with both public clients (applicants) and internal clients (ministries, departments) is central to the work of FOI personnel. Many participants expressed that these interactions are what they love most about their job. Specifically, participants said that they value providing prompt and proactive customer service.[145] Several participants conveyed an appreciation for the variety of clients they speak with day-to-day, and that these interactions have led to good professional relationships (e.g., with journalists).[146] Participants described clients as reasonable people; most clients know what they are looking for and are just trying to get the information they need.[147]

2. Least Favourite Aspects

Despite the enthusiasm with which most participants spoke about their work, it was clear in our interviews that FOI personnel also experience several challenges and stressors. Sometimes there are simply too many priorities competing for attention.[148] Participants confirmed that the increasing volume, complexity, and politicization of FOI requests only further strains FOI personnel in balancing these priorities and their ability to meet deadlines.[149] The following challenges are explored below: (a) strict timelines; (b) difficulties with coordination; (c) resource and staffing shortages; (d) public perception of the FOI process; (e) and stress.

i. Strict Timeframes

The most common challenge that participants cited was the strict timeframes for fulfilling a request. When asked what the most stressful part of their job is, one participant said,

> Time limits. Everyone's always stressed about time. The people that work here are good at what they do, and they're analytical, thoughtful, good writers. They want to do a good job, but they can't meet the timelines because it's just not possible.

---

144 Interview 3, *supra* note 81; Interview 4, *supra* note 78; Interview 7, *supra* note 87; Interview 8, *supra* note 85; Interview 9, *supra* note 85.

145 Interview 1, *supra* note 89.

146 Interview 3, *supra* note 81; Interview 5, *supra* note 79.

147 Interview 1, *supra* note 89; Interview 2, *supra* note 80; Interview 4, *supra* note 78; Interview 5, *supra* note 79; Interview 6, *supra* note 78; Interview 9, *supra* note 85.

148 Interview 9, *supra* note 85.

149 Interview 5, *supra* note 79; Interview 9, *supra* note 85; Interview 6, *supra* note 78.

> So, I think that's hard, to have a job where you're trying to do your best but it's not possible to comply with the time in the legislation.[150]

Timeframes for fulfilling a request are mandated by legislation. Generally, FOI personnel have 30 days to fulfill a request once an applicant has made it. One participant expressed that this timeframe is not reflective of what is possible for an individual to achieve in that timeframe; rather, it is reflective of the increasing public interest in FOIs and access to information.[151] There are several obstacles that may arise within the mandated timeframe that can make meeting deadlines feel like an insurmountable task. One frequent obstacle relates to coordination.

ii. Difficulties with Coordination

Coordination is necessary for processing a request, particularly when it comes to accessing records. One participant illustrated the challenges that can arise with coordination:

> Sometimes it takes a lot of teeth pulling to get people to produce records and there's a lack of understanding on the records searcher's part as well, because they don't realize that the bulk of the work in processing a request happens after you actually get the documents in your hand . . . we have 30 days to produce records once a request comes through the door. So, if I'm getting the records search finally completed on day 28, it doesn't really make a whole lot of sense for the work that needs to be done.[152]

Participants elaborated that it can be tough to get records because departments may not understand all the work that is required of FOI personnel (e.g., the process for redacting records can be time consuming).[153] Some participants also believe that coordination can be difficult because public bodies may not value FOI.[154] Participants believed that many public bodies see FOI processes as burdensome: "I do know that it's a universally disliked piece of legislation, because the public bodies don't like having to produce information on demand. Nobody likes to see me coming with a request to search records."[155] This sentiment was confirmed by another participant: "When we show up, we're asking them to take time out of their busy schedules and get us records and then everything we do is off the side of their desk. We're a cost centre and they have to comply with it because

---

150 Interview 1, *supra* note 89.

151 Interview 9, *supra* note 85.

152 Interview 2, *supra* note 80.

153 *Ibid*; Interview 3, *supra* note 81.

154 Interview 2, *supra* note 80; Interview 3, *supra* note 81.

155 Interview 2, *supra* note 80.

it's legislation. I think if most people had their way, we wouldn't exist."[156] To address this issue, FOI personnel provide reminders and negotiate timeframes with internal clients to ensure successful collaboration and to meet the request's deadline.[157]

iii. Resource & Staffing Shortages

Some participants acknowledged that the undervaluing of FOI personnel translates into a shortage of resources and staffing.[158] Despite requests increasing in volume and complexity, FOI personnel are not seeing a growth in resources to meet demand.[159] One participant explained that the resource challenge exists in all three branches of access to information, privacy, and records management.[160] The lack of resources was cited as a key reason for why another participant was choosing to leave their position: "I wish we had more money to hire more people . . . if I could grow this unit, I might have stayed, if I felt like, in a reasonable period of time, grow it to be a more sophisticated program with buy-in from the whole government, then that might have changed my decision."[161]

iv. Public Perception of the FOI Process

The work of FOI personnel can be misunderstood by public bodies, but also by applicants. Applicants often think it is much easier to find records than it actually is: "If the applicant is looking for some information, there seems to be this idea that it's all just sitting in a cabinet somewhere and we just need to pull it out."[162] FOI personnel must remind applicants that government does not keep every scrap of paper.[163] Applicants often expect that government records are easily retrievable, but "the reality of government records is often that information is present in small amounts scattered across many different documents."[164] Further, applicants may not realize how much time and resources are required to process a request:

---

156 Interview 1, *supra* note 89.

157 Interview 4, *supra* note 78.

158 Interview 2, *supra* note 80.

159 Interview 6, *supra* note 78.

160 Interview 7, *supra* note 87.

161 Interview 1, *supra* note 89.

162 Interview 2, *supra* note 80.

163 Interview 8, *supra* note 85.

164 Interview 9, *supra* note 85.

> The clients also don't understand that the FOI process is very diligent and often involves 3-6 people going over the records package at various stages of the process. Each person takes approximately 3 minutes per page to read/analyze the records, so a 100-page records package can often take 30 hours of review time (although this can vary wildly depending on the nature and the complexity of the records). Additional time is often also spent determining how FOIPPA legislation should be applied in each case and researching what information is already in the public domain, so it can also be released in the records; as well as considering how the information was released in similar FOIs in the past.[165]

FOI personnel must frequently remind applicants what the right to access information entails and that the intent of FOI legislation is to provide broad answers.[166] At the same time, FOI personnel must discourage requests that are too broad. Included in this is differentiating applicants who are conducting intentional "fishing trips" from applicants that are well meaning but who ask for "everything" simply because they do not know what government holds on to.[167] One participant stated that the media can sometimes fall into the camp of "fishermen" who look for "gotchya" emails to use as clickbait for news articles.[168]

The public may also be mistrustful of government, which can inform their perceptions of the FOI process. This mistrust may come from previous bad experiences with government.[169] One participant labeled the work of FOI personnel as an '80-20 role': "80% of your clients are extremely interested in just getting the information they need, as easily as they can, but 20% are suspicious, understandably. You know, government doesn't have the same level of trustworthiness, unfortunately, that it once did."[170] The participant went on to explain that while some clients may mistrust FOI personnel, the work of FOI personnel is to hold government accountable and to remain neutral when processing a request.[171]

v. Stress

While some participants expressed that they experience stress from these challenges, they have learned various techniques to manage those

---

165 *Ibid.*

166 Interview 6, *supra* note 78.

167 Interview 2, *supra* note 80; Interview 5, *supra* note 79; Interview 4, *supra* note 78.

168 Interview 5, *supra* note 79.

169 Interview 1, *supra* note 89; Interview 2, *supra* note 80; Interview 4, *supra* note 78; Interview 6, *supra* note 78.

170 Interview 4, *supra* note 78.

171 *Ibid.*

feelings.[172] For example, one participant emphasized the importance of viewing challenging client interactions as an opportunity to depersonalize: "We just want the service that we've been promised from our tax paying dollars, right? So, I think there's just cranky people in the world . . . I tell my staff that we can't personalize. In fact, it's an opportunity to depersonalize everything." Two participants stated that they have focused on creating a healthy work-life balance, so that "when you walk out into the parking lot you basically compartmentalize and put your professional life aside."[173]

E. Change Over Time

Participants noted changes that they have witnessed over the years in the field of FOI. These changes include (1) growing awareness of FOI; (2) new types of records; (3) government response to changes in FOI (e.g., training on records management); and (4) personal responses to changes in FOI (e.g., FOI personnel reported a greater appreciation for proactive disclosure). These changes are explored below.

1. More Awareness of FOI

Participants have noticed that the public has become increasingly knowledgeable about the right to access information.[174] Many claimed that this trend has impacted expectations about what information should be made accessible (i.e., that more information should be made accessible). One participant noted that this has led to an increase in access requests, stating that they are "probably 75% above where we were the year before. People are demanding more of government and using the system more." Another participant claimed that the residential schools claims process led to an increased awareness of FOI, which led to a spike in requests:

> We found that since sort of the mid-2010's, there was a big spike in personal information requests that was related to the residential schools claims process . . . As that process wound down, those personal information requests got to historical numbers, but at that same time, numbers for general information requests started trending upwards and they've continued year after year to increase. So, we're seeing this ever-increasing amount of general information requests, just about every year, the past six years or so.[175]

---

172 Interview 1, *supra* note 89; Interview 3, *supra* note 81; Interview 9, *supra* note 85.

173 Interview 5, *supra* note 79.

174 Interview 2, *supra* note 80; Interview 5, *supra* note 79; Interview 7, *supra* note 87.

175 Interview 6, *supra* note 78.

2. New Types of Records

Today, there are also new types of records: "you've got Twitter, and Facebook, and Instagram, and email . . . all of those things generate records."[176] One participant reflected on the fact that novel records, such as FaceTime, were never envisioned when FOI legislation was first created.[177]

3. Government Response to Change

Participants acknowledged techniques and tools that have been employed by government in response to these changes. First, FOI services have become increasingly centralized, rather than a departmental or unit function.[178] A benefit of centralization is that there is a consistent pool of expertise to carry out the FOI functions.[179] Second, when a government employee is being trained in one of the three branches (i.e., access to information, privacy, and records management), they will also receive training regarding the other two units.[180] Third, participants reported that their employer placed an increased emphasis on employees protecting their personal information.[181] Fourth, intentional efforts have been made to cultivate an environment of collaboration.[182] Fifth, more information is proactively made available by government.[183] Finally, novel records have created a demand for more education on retaining records and more awareness of the responsibility to provide those records upon request.[184] One participant working in records management noted that their unit is now invited to the "table" a lot more than when they first started.[185] While many participants believed that FOI tends to be devalued by public bodies, at the same time, there seems to be an increased appreciation for records management in government.

---

176 Interview 4, *supra* note 78.

177 *Ibid.*

178 Interview 1, *supra* note 89; Interview 3, *supra* note 81.

179 Interview 1, *supra* note 89.

180 Interview 7, *supra* note 87.

181 Interview 5, *supra* note 79.

182 Interview 6, *supra* note 78.

183 Interview 3, *supra* note 81.

184 Interview 4, *supra* note 78.

185 Interview 7, *supra* note 87.

4. Personal Response to Change

Participants gave examples of how their personal views have changed over time while working in the field of FOI, including the following beliefs: FOI is important work;[186] there should be more disclosure (i.e., some things are withheld unnecessarily by government);[187] certain information should not be disclosed (e.g., because of the impact it can have on someone's livelihood);[188] everyone should be more cautious when disclosing personal information;[189] human error is the main reason for privacy breaches;[190] government should be held accountable (and that the right to ask for records is one way to ensure this);[191] and more appreciation for government.[192]

Participants also gave examples of how their personal practices have changed as a result of their work. These practices include following the news media more;[193] becoming more cautious about sharing personal information;[194] and refraining from sharing opinions about their work, outside of work.[195]

F. Suggestions for Future Changes

Throughout our interviews, recommendations were made by FOI personnel to improve the FOI process: (1) increase funding for FOI resources & staffing; (2) amend timeframes; (3) improve consistency (e.g., amendments to FOI legislation should be clear; there should be more records management training); (4) increase proactive disclosure; (5) expand public education on FOI; and (6) increase fees for applicants who "weaponize" FOI requests. These recommendations are elaborated on below.

---

186 Interview 1, *supra* note 89; Interview 3, *supra* note 81; Interview 9, *supra* note 85.

187 Interview 1, *supra* note 89; Interview 2, *supra* note 80.

188 Interview 3, *supra* note 81.

189 Interview 1, *supra* note 89; Interview 7, *supra* note 87.

190 Interview 1, *supra* note 89.

191 Interview 5, *supra* note 79.

192 Interview 6, *supra* note 78.

193 Interview 8, *supra* note 85.

194 Interview 6, *supra* note 87.

195 Interview 4, *supra* note 78.

1. Increase Funding for FOI Resources & Staffing

While conducting our interviews, it became evident that one of the biggest challenges for FOI personnel is processing requests in time to meet the strict timeframes, as mandated by legislation. One solution to this challenge would be for government to increase the resources available to FOI units. More specifically, government needs to ensure that FOI units are allocated enough funding to process the requests they receive, which have only increased in volume and complexity in recent years.[196] One participant cited the lack of funding for hiring more personnel as the main reason why they were leaving the field.[197] Increasing government funding requires political will and a belief that FOI is valuable work.

2. Amend Timeframes

Participants also suggested that legislation should be amended to include timeframes that are more reflective of available resources, as well as the varying nature and demands of each request.[198] This is not to say that FOI personnel do not value timeframes for processing a request: "I appreciate why there's a timeline . . . If you don't put a time limit, then it'll never happen. I do think, though, that some requests just require more things than others."[199] One recommendation was to amend legislation so that FOI response times are dictated by the number of pages in the FOI response package (currently, response times are usually the same regardless of whether the FOI package is 1 page or 20,000 pages).[200]

3. Improve Consistency: Clear Legislation & More Training

Legislation also needs to be clearly written to ensure that the processes and policies surrounding FOI are consistent across government.[201] The goal, according to one applicant, is that if an applicant submits a request to five different government institutions under FOI legislation, the responses should be consistent.[202]

To further ensure consistency, participants stressed the importance of training all public servants on the processes of FOI.[203] This is true of

---

196 Interview 1, *supra* note 89; Interview 7, *supra* note 87.

197 Interview 1, *supra* note 89.

198 Interview 3, *supra* note 81; Interview 5, *supra* note 79; Interview 9, *supra* note 85.

199 Interview 3, *supra* note 81.

200 Interview 9, supra note 85.

201 Interview 7, *supra* note 87.

202 Interview 6, *supra* note 78.

203 Interview 3, *supra* note 81; Interview 6, *supra* note 78.

training all public servants on proper records management. As one participant stated,

> I think that if the public body did a better job of managing records, as in only keeping what needs to be kept, knowing where it's kept, organizing it, the process would go a lot better for everyone involved . . . It's a by-product of records keeping practices that are not really up to standard that the whole access to information process gets bogged down.[204]

Another participant reaffirmed the importance of records management training:

> I think that this is an area, in my experience at least, that a lot of people could use more training in. I think it's an undervalued skill that every public servant should know how to do. It should be one of the first things that all of us are trained in the public services, how to manage our records well.[205]

4. Increase Proactive Disclosure

Government today leans toward the protection of information, even when that information would carry no risk if released. This was a common frustration expressed by participants. A popular solution from participants was for government to shift toward the proactive disclosure of information. Participants believed that this would help lessen the administrative burden surrounding FOI requests. Proactive disclosure would reduce the time and resources spent on processing requests for information that is unnecessarily guarded.[206] Proactive disclosure would also better satisfy the public's right to information, and consequently, promote trust of government institutions.[207] Improving trust is critical when it comes to the few applicants that seek anything and everything through requests "because there may have been a breakdown in trust . . . they think there's a story to be found if I just get everything possible. Those types of requests, for the most part, don't produce anything that's helpful to the applicant and they take an incredible amount of time from the public body perspective."[208]

5. Expand Public Education

Applicants may also be asking for "anything and everything" simply because they are not in a position to know what they necessarily are asking

---

204 Interview 3, *supra* note 81.

205 Interview 6, supra note 78.

206 Interview 3, *supra* note 81.

207 *Ibid.*

208 *Ibid.*

for.[209] Educating the public on FOI processes may be part of the solution. One participant suggested that this education should take place in secondary schools, where curriculum should delve further into government, the public's right to transparency, and the role of transparency within democracy.[210]

6. Increased Fees for Applicants Who "Weaponize" FOI

While participants insisted that applicants are reasonable overall, they also suggest there is a small pool of applicants who "weaponize" freedom of information, "using it to almost inflict pain on a government department."[211] As explained by one participant, "if you have an individual with $5 requests, you could actually paralyze a department. $200 a week, that's 40 requests a week that you could put in . . . All your energy is devoted to one individual."[212] It was suggested that in these instances, fees should be increased:

> Within my office, we almost had this little practice where we would say—we don't ever charge any fees to anybody until you become what we consider a "sophisticated FOIP-er" and at that point you should know the rules. If it took a few more hours than what we could charge, we're fine, but at a certain point in time when you became more sophisticated, we had an unwritten expectation that your requests should be a little bit more finite and so we'd start charging the fees, which the Act does permit us to do. We have public interest, which is hard to define, it's hard to rationalize. I don't have any answers, I just think we need to rationalize fees, how they're used and when they're used.[213]

V. CONCLUSION AND RECOMMENDATIONS

FOI is an important facet of democracy and FOI coordinators are the people who make this happen. In this paper, we investigated the challenges and barriers that FOI coordinators face in their work. When FOI coordinators do not live up to the letter of the law and when FOI regimes are starved of resources by politicians, what can emerge are what Koningisor calls "transparency deserts", where there is a vacuum of public information and public records on the conduct of government.[214] It is understood why

---

209 *Ibid.*

210 Interview 8, *supra* note 85.

211 Interview 5, *supra* note 79.

212 *Ibid.*

213 Interview 4, *supra* note 78.

214 Christina Koningisor, "Transparency deserts" (2020) 114:6 Nw UL Rev 1461.

some politicians might starve FOI units, making it impossible for FOI coordinators to do their job. After all, Cuillier and Pinkleton point out some persons of conservative political backgrounds are suspicious of the citizenry and are suspicious of projects of transparency and accountability.[215]

More research is needed on the functioning and the variation that we find in FOI laws in practice, especially from a comparative perspective.[216] But we know that the right to know is an important one. And we know that social movements fomented the rise of the right to know.[217] Any attempts to correct poorly functioning FOI regimes or laws should not fall on the shoulders of FOI coordinators alone, as our data revealed there are many limits to what FOI coordinators can do to change the regimes in which they work. At the same time, their observations provide insights into the problems that persist with FOI and offer practical solutions for addressing them.

While we believe that governments should be transparent and reflect what Stewart and Davis call "full disclosure", or what many others are calling "open government", what we see today is piecemeal reform of FOI and fragmentary implementation of open government.[218] Therefore, we would suggest that in the interim, those responsible for FOI law and policy listen to FOI coordinators who are on the front lines of this work and listen to FOI users about their concerns. Too often, there is a change toward secrecy and more information control. If governments would listen to what FOI coordinators are saying and what FOI users are saying, we could move towards a society where there is a free flow of information from the government to its citizens when they exercise their right for public records. If the resource deprivation of FOI offices continues, it is likely, as Mann put it, FOI coordinators will continue to be the meat in the sandwich getting chewed on from both sides.[219]

---

215 David Cuillier & Bruce E Pinkleton, "Suspicion and secrecy: Political attitudes and their relationship to support for freedom of information" (2011) 16:3 Communication L & Policy 227

216 See Stephan Grimmelikhuiijsen et al, "Do freedom of information laws increase transparency of government? A replication of a field experiment" (2018) 1:2 J Behavioral Public Administration 1.

217 See Michael Schudson, *The Rise of the Right to Know: Politics and the Culture of Transparency, 1945-1975* (Cambridge, MA: Harvard University Press, 2015).

218 Daxton R Stewart & Charles N Davis, "Bringing Back Full Disclosure: A Call for Dismantling FOIA" (2016) 21:4 Communication L & Policy 515.

219 Mann, *supra* note 6.