

2022: The Year of Information Deals and Vulnerabilities

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Will 2022 be the year of information deals? More information breaches? And will access to information be noticeably changed for better or worse? First up, the art of the information deal is a feature brought on by a continued minority government. Upcoming is the government's offer for ending a parliamentary standoff in dealing with secret documents related to the firing of two scientists from Canada's infectious disease lab in Winnipeg. The Government House Liberal Leader Mark Holland offered to create a secret, ad hoc parliamentary committee of MPs whose in-camera review would be monitored by three former judges applying the many exemptions possible under Canadian law. The Conservatives countered by wanting the House of Commons law clerk to play the pivot role with assistance from national security and access officials. But House Speaker Anthony Rota ruled that previous set up no longer was in force.

Either way, the process will not change the application of national security to many of the documents even if media reports have already uncovered some of what the two scientists, now in China, are alleged to have done in transmitting research data to Chinese collaborators.

Then there is the record deal Crown-Indigenous Relations Minister Mark Miller is advancing that would permit the release of more residential school records to the National Centre for Truth and Reconciliation. Those previously undisclosed records, including church-held records, will, however still have redactions. Miller said he finds their transfer a "moral duty", not a legislated one. His move comes after additional Indigenous pressure and does not include the turning over of documents used in final residential school compensation.

Finance Minister Crystia Freeland's late December economic forecast update is yet another example of limiting disclosure to opposition parties. The economic statement provides a partial glimpse of the federal government's expenditures. Critics wanted more financial details on the massive spending underway and more data on Canada's deficit, debt and inflation trends and on the financial guardrails needed.

Getting more, not less data, is likely to be further compromised when Treasury Board releases its access-to-information review report. It's unlikely to contain much to end secrecy practices in Ottawa despite what it has heard and posted in their entirety from a few dozen groups and individuals. No such postings have been shared of the over 100 federal government agency submissions it received months ago. Indeed, Treasury Board in response to my request for those submissions said wait until the end of 2022 at the earliest to get what could be only partial disclosures. The Treasury Board access

review report will likely offer some window dressing possibilities for Parliament's consideration like a limited public interest override provision to soften Ottawa's many exemption claims.

Treasury Board is not one to offer, as I discovered in response to a request, details of the multi-million costs spent maintaining its very limited “pro-active” open government portal. It has been made clear that they have no intention of changing their practice of deleting posted open government data, including summary information on past access requests after two years.

If one department's actions, National Defence, is any indication, it's not expected that government bureaucrats are more willing in the new year to give up much control of what little gets released. Media stories reveal that DND even forced its own ombudsman to file access requests and had its access officials report to and warn the deputy minister on what sexual misconduct requests it received.

Access users these days are even more vulnerable when responses are increasingly delayed and when the pandemic has been used to freeze access request processing in many agencies. There is no indication that the government suddenly has a desire to make fuller disclosure the new norm. The mandate letter to Treasury Board Minister Mona Fortier does not include reforming the outdated Access to Information Act whereas Justice Minister David Lametti mandate letter does call for to introduce amendments to update Canada's Privacy Act.

Public access to even government websites in 2022 may also be more threatened by cyberattacks. CRA last month temporarily took its online services off line. Quebec temporarily shut down about 4,000 government websites given yet one more potential cyber threat from a software product called Apache.

What could well dominate 2022 is not any limited advance of information disclosure but cyber security threats to even posted information Canadians count on.

The year 2022 is the 40th anniversary of the Access to Information Act's passage. But it may be the year that its information deals and moves are made to more fully secure and control disclosures. That's not the best hand the public could be dealt.

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