

North America and Caribbean Regional Report

ICIC Closed Meeting – June 25, 2025

Presented by Caroline Maynard,
Information Commissioner of Canada

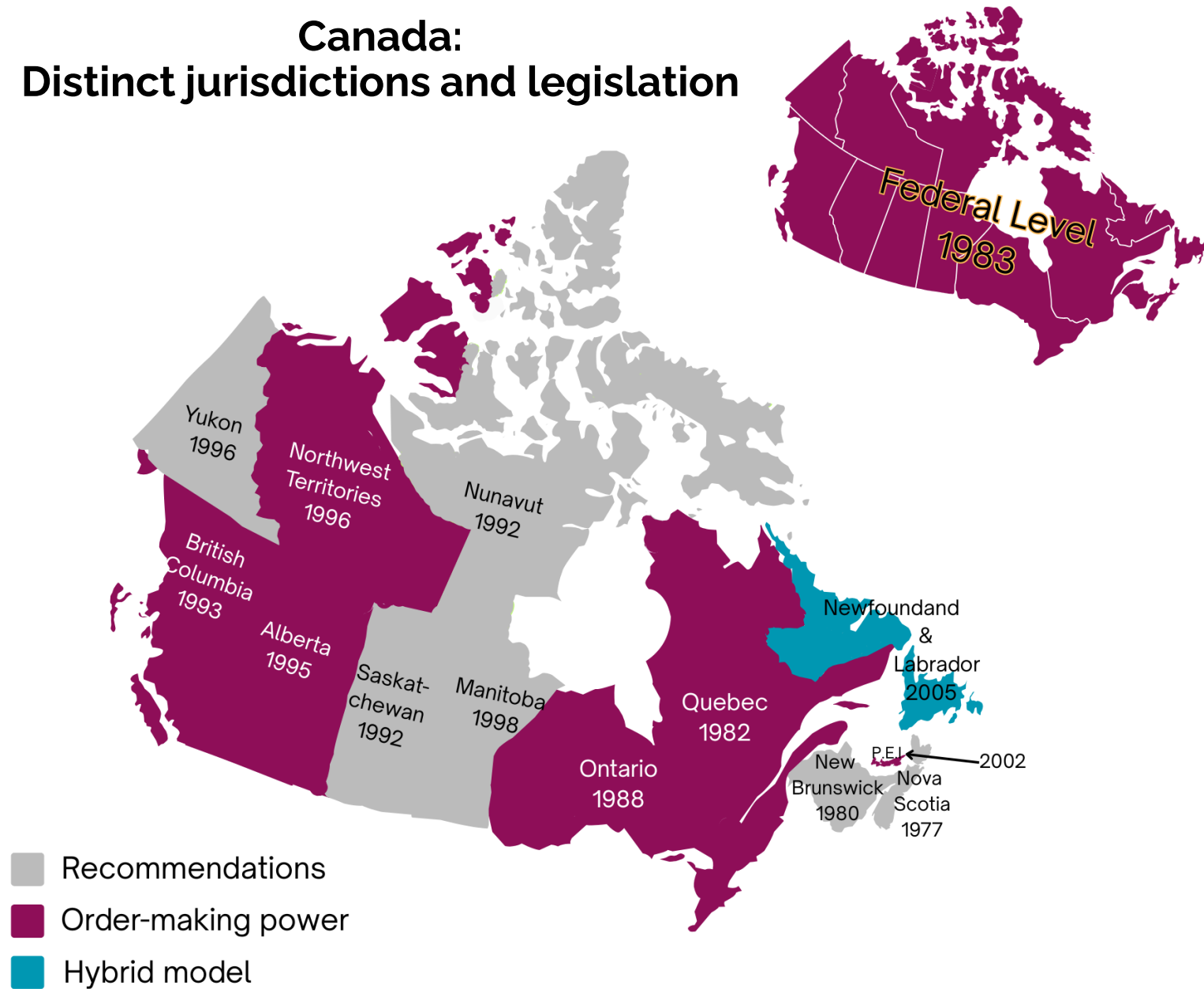


Information
Commissioner
of Canada

Commissaire
à l'information
du Canada

Canada

Canada: Distinct jurisdictions and legislation



Independent funding



- Variation in funding models between jurisdictions
- Matter of independence and credibility of our role
- Special case: Yukon - [Officers petitioned the court to maintain budgetary independence](#)

Joint resolution on transparency by default

Canada's Information Commissioners and Ombuds issue joint resolution calling for enhanced transparency in government operations

- New standard in Government Service
- Taking transparency into account in the early stages of designing any new systems, administrative processes, procedures, and governance models

Systemic investigations and audits

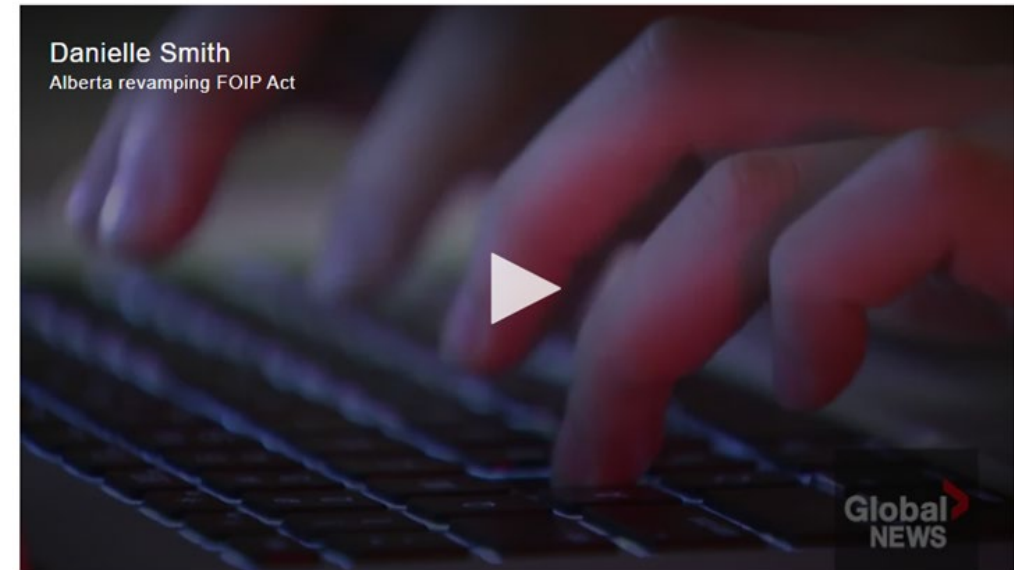
- [Systemic investigations on various chronic issues: Special reports tabled to Canada's Parliament](#)
- [Investigation into British Columbia municipalities' disclosure of records](#)
- [Audit Report on Vancouver Coastal Health Authority's duty to assist](#)
- [Systemic investigation into Alberta's public bodies' compliance](#)

INVESTIGATIONS

Investigation finds Alberta government non-compliant with freedom of information laws

By Jack Farrell • The Canadian Press

Posted May 9, 2025 5:22 pm • Updated May 9, 2025 5:28 pm • 1 min read



WATCH FROM NOV. 6, 2024: Alberta is revamping the current law around how private information is protected. The new legislation surrounding the Freedom of Information and Protection of Privacy Act also touches on political staffers and what the public can know about their communications. Erik Bay has more – Nov 6, 2024

Points of interest: Challenges

Enforcing compliance with access to information obligations

- [Order with the BC Supreme Court](#)

Role of Commissioners in the process of legislative change

- Not always consulted; Recommendations not necessarily considered
- [Information and Privacy Commissioner called for changes to new proposed public sector access and privacy legislation for Alberta](#)

Points of interest: Key initiatives

Ad Hoc Information Commissioner (Federal)

- Office of the Information Commissioner subject to *Access to Information Act*
- Ad Hoc Commissioner reviews complaints made against my office

Transparency Showcase (Ontario)

Improving efficiency / Providing guidance (multiple jurisdictions)

- Enforcing admissibility of complaints
- Providing guidance to all parties (i.e. [Requesting records of a deceased individual; Information Commissioner's guidance](#))

United States of America



U.S. Department of

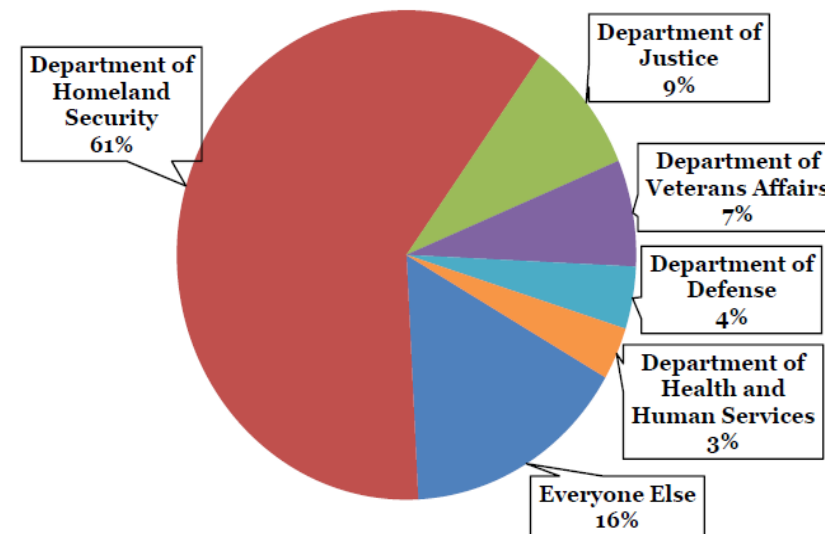
JUSTICE

2024 Annual FOIA Report Summary

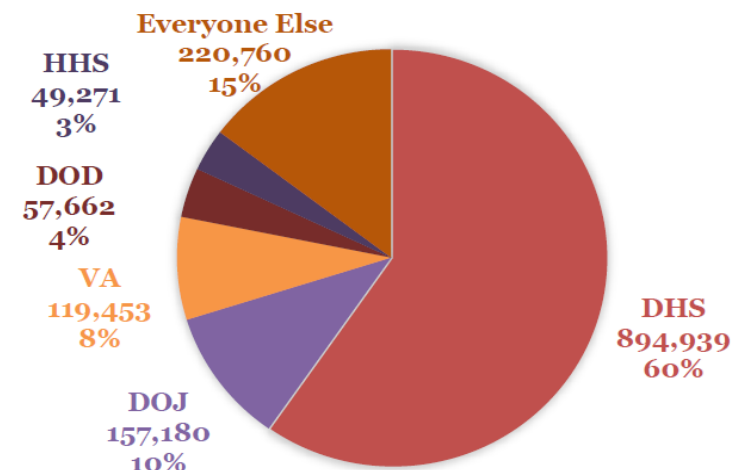
Major U.S. FOIA Developments

- ❑ Federal government received 25% more Freedom of Information (FOIA) requests over prior year; topped 1.5 million requests for first time. Also processed 34% more FOIA requests
- ❑ U.S. Department of Homeland Security (DHS) received and processed the highest number of FOIA requests
- ❑ Backlogs continued to increase - federal agency with largest pending backlog of requests: DHS (53%), followed by Departments of State, Justice and Defense (8% each), Health and Human Services (5%) and remaining 117 agencies (18%)
- ❑ FOIA personnel increased by 13.83% over prior year
- ❑ Privacy exemptions (Exemptions 6 and 7(C)) once again asserted most often by federal agencies
- ❑ Total costs of all FOIA-related activities: \$723,415,561.35 (92.51% in administrative costs and 7.49% for litigation)
- ❑ Total FOIA fees collected from requesters: \$2,434,243.69 (0.34% of the total estimated cost of the government's FOIA-related activities)

Top 5 Agencies in Requests Received



Top 5 Agencies in Requests Processed



Caribbean

Bermuda Information Commissioner's Office



- **Jason Outerbridge is the new Information Commissioner (IC) of Bermuda.**
- **Recent legislative amendments, including:**
 - IC now has **delegation powers**, allowing him to delegate any duty, power or function to staff.
 - **Personal information is now the responsibility of Privacy Commissioner.**
 - **New fees are introduced**; authorities can now charge a \$60 per hour fee for every hour over “appropriate” time limit of 16 hours.
 - Any **request expected to take 100+ hours to complete can be denied by authority.**
- Neither IC nor public were consulted during policy development.
- **Budget concerns persist**; two critical vacancies which are underfunded.
- Public awareness quite high – **87% of survey respondents indicated access to information is important to them.**
- No judicial review or other legal action in 2024.

Annex

Yukon: Independent Funding of Independent Offices



Yukon: Independent Funding of Independent Offices

Background

1. In the Yukon, there are five independent officers of the legislative assembly: The Information and Privacy Commissioner, the Ombudsman, the Public Interest Disclosure Commissioner, the Child and Youth Advocate, and the Elections Officer (Collectively the “Legislative Officers”).
2. All five offices contain clauses (or references to them) in their home legislation which provides for the mechanism to have their budgets reviewed and supplied.
3. In short, the process is as follows:
 - a. Each office develops their anticipated budget for the coming fiscal year;
 - b. The budget is submitted to the Members’ Services Board (MSB) – A multi-party sub-committee of the Legislative Assembly chaired by the Speaker of the Legislative Assembly.
 - c. The Members’ Services Board reviews the budget estimate(s);
 - d. The Speaker of the Legislative Assembly, as Chair of the Members’ Services Board, “transmits” the budget estimate to the Minister of Finance;
 - e. The Minister of Finance includes the budget estimates in an appropriations bill “for recommendation to the Legislative Assembly”.

Yukon: Independent Funding of Independent Offices

4. In the fall of 2024, having followed the process above, instead of the Minister of Finance including the estimates reviewed by the MSB, they were referred to the Management Board¹ for further review, contrary to past process and, in our view, contrary to the budgetary process above.
5. In November of 2024, an analyst of the Management Board sent reviewed (and reduced) budget estimates back to the Legislative Officers.
6. The Legislative Officers collectively advised the Speaker of the impropriety of the Yukon Government reviewing the budget estimates of Legislative Officers. Of specific concern was the issue of fiscal independence. Correspondence to and from the MSB can be found [here](#).
7. The dispute escalated and in January of 2025 the Ombudsman filed a Petition with the Yukon Supreme Court seeking an order that the Minister of Finance comply with, *inter alia*, the provisions of the *Ombudsman Act*.

¹ The Management Board is a board of the Yukon Government, which is empowered by the *Financial Administration Act* to, *inter alia*, review, approve, and set forms for the submission of budget estimates for the various departments of the Yukon Government.

Yukon: Independent Funding of Independent Offices

8. The matter was heard in February of 2025 and an oral decision given on March 3, 2025. The judge later issued a written decision. It can be found [here](#). The learned justice found the following:

- a. The home legislation of the Legislative Officers **does** require the Minister of Finance to recommend, via inclusion in an appropriations bill, the budget estimates of the Legislative Officers as transmitted by the Speaker **with no modifications**.
- b. **However**, the *Financial Administration Act* grants broad authority to the Minister of Finance and the Management Board to review and vary the estimates of **all** expenditures of the Yukon Government.
- c. The *Financial Administration Act* contains a supremacy clause which makes its provisions prevail in the event of a conflict of laws.
- d. The provisions of the Legislative Officers home legislation conflicted with the provisions of the *Financial Administration Act*.

The judge ended with the following comment:

However, I would like to add that, while the executive has an obligation to act in good faith, the Ombudsman and the Child and Youth Advocate have put forward legitimate concerns regarding their ability to fulfill their mandates as independent Officers of the Legislative Assembly if their budget estimates are submitted to the review and approval of the executive branch of government they are tasked with scrutinizing. However, considering my decision, it is for the Legislative Assembly to consider those concerns along, potentially, with other relevant public policy considerations to determine what actions, if any, are warranted on their part.
(Para 146)

Yukon: Independent Funding of Independent Offices

9. No appeal was brought as the relevant Legislative Officers determined that seeking legislative amendments to address the conflict of laws would be the best way to safeguard their independence in the long-term.

10. Despite previously making revisions to the budget estimates of the Legislative Officers, the estimates included with the omnibus appropriations bill in March of 2025 were ultimately the same as the budgets review by the Members' Services Board and transmitted by the Speaker.