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Insights from the www.openbydefault.ca database project

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Abstract: Despite Canada's history of public records access legislation and its commitment to open government policies that seek to advance the disclosure of government records, significant quantities of Canadian federal government information remain not only inaccessible but vulnerable to destruction. This article describes the www.openbydefault.ca project, which aims to preserve and publicly disclose federal government records released through formal Access to Information Act requests by making them immediately available online. From concept to implementation, Open by Default underwent many developments in its life cycle. This article examines the evolution of this project, including as it pertains to data acquisition and processing, database and website design and development, and document storage and hosting, as well as project sustainability and evolution. Using primarily a project development methodology that outlines the evolution of the project during the period from conceptualization to launch, this article discusses and analyzes how the research for the project was carried out and provides a framework to allow researchers to understand how the work might be replicated in future efforts to make government information more accessible.

Keywords: Access to information, Informal requests, Open by default, Open government, Records preservation

1. Introduction and context

This article describes the genesis of www.openbydefault.ca, an online database created by non-governmental stakeholders that makes available copies of records released under the federal access to information regime in Canada, the country's public records access legislation. The www.openbydefault.ca website is a practical tool designed and intended to disseminate records previously released to individual requesters by collecting them in one central, open-access repository and enhancing the searchability of those records themselves. The tool works in contrast to the Open Government portal maintained by the federal government, currently housed on the www.open.canada.ca website,

which provides only summaries of records released through the access to information system, without making the underlying records themselves available or searchable. Recognizing this significant and critical inadequacy of the Open Government portal, the article discusses the problems the site was designed to address, how the site was designed and built, the obstacles encountered (both technical and legal), and, finally, the outcomes the project achieved.

A core premise of Canada's access to information legislation is that the public should have broad access to government information, unless there are specific, justifiable reasons to withhold it (ATIA, s 2(a); Criminal Lawyers). As Justice La Forest noted in his dissent in Dagg v. Canada (Minister of Finance) (1997), a seminal Supreme Court of Canada decision on the personal information exemption in the federal legislative framework: "Access laws operate on the premise that politically relevant information should be distributed as widely as reasonably possible." However, this principle has historically been recognized through the Access to Information Act in the context of processing specific requests to which the government reacts by disclosing records to the individual who has requested them. Unlike in the United States, where there is a binding statutory requirement to post copies of previously released Freedom of Information Act requests after three persons have requested them (see FOIA), at the federal level in Canada, the proactive publication of copies of previously released records is not addressed in legislation; instead, these practices are governed by an array of non-binding policy instruments. This approach is at odds with the bold purpose statement of the Access to Information Act, which, among other objectives, includes the goal of enabling "public debate on the conduct of [federal] institutions." (ATIA, s 2(1)). In other words, while statutory rights to access to information are individualized, many of the benefits of the system, like public debate, are collective; and while the duty to provide copies of requests to individuals is accompanied by certain protections, the public interests served by wider disclosure are unfulfilled by the government's failure to more widely disseminate the records.

2. Identifying the problem

Canada's federal access to information system is widely acknowledged to be in crisis, with a "culture of secrecy" endemic across federal institutions (Cardoso & Doolittle, 2023). In October 2023, all of Canada's information commissioners, the figures responsible for processing complaints about the operation of those systems, signed a joint statement expressing their shame at the failure of Canadian governments to modernize these systems (Office of the Information Commissioner, 2023). That same year, a prominent federal affairs columnist for the national newspaper The Globe and Mail quipped in the title of a widely-read opinion piece: "The Trudeau government was supposed to be 'open by default.' Open at all, ever, would be a nice start" (Proudfoot, 2023). As the columnist described: "At this point, the Liberals' open-by-default declarations register as cruel farce" (Ibid). By 2023, the language of "open by default" that had once appeared in all ministerial mandate letters for cabinet ministers in the Trudeau government in 2015 had been dropped from all of those mandate letters – a fact that current Information Commissioner Caroline Maynard told Parliament "speaks volumes" (Standing Committee on Access to Information, Privacy and Ethics, 2023a). Canada Research Chair in Information Law and Policy Prof. Teresa Scassa has also criticized in the federal government's deployment of this language, commenting on the absence of hard legislation to accompany it:

"'[O]pen by default' is not really 'open by default' unless the law says it is. Until then, it is just an aspirational statement and not a legal requirement" (Scassa 2016).

Deploying rhetoric that fails to live up to reality is not a new phenomenon when it comes to access to information. But one important consequence of this reality has been its dissuasive effect on researchers. While the Government is an undeniably important source of information relevant to the work of scholars in many domains, many scholars have prejudiced views of the access to information system as the exclusive domain of journalists and lawyers. Scholars who use the system in their research are rarely trained on it. This is unsurprising, given that when requesters use the system, results are often predictable (Malone 2024). The relationship between access to information and research ethics approvals, which may be necessary to conduct research, can also be fraught, since the latter favors disclosure while the former often imposes strict requirements of confidentiality. And yet the research potential of the system remains, even if, for all these reasons, it is largely untapped.

The limited use of the access to information system by researchers is mirrored by the government's own discomfort with the rights it enshrines, often generating institutional resistance and resentment. As inaugural Information Commissioner, Inger Hansen noted in her Annual Report, 1987-88, "[t]he existence of access rights appears to stimulate more federal government resentment than does any other right or entitlement" (Office of the Information Commissioner of Canada, 1988). People using the system, she noted, "are often seen as adversaries rather than as someone entitled to a government service" (Office of the Information Commissioner of Canada, 1988). From the perspective of government officials, processing, responding to, or resisting an access to information request can consume valuable resources. The phenomenon of "monster requests" – single requests that consume an overwhelming number of resources, such as one request in 2017-18 to the Canada Border Services Agency that resulted in processing 14.8 million records – poses significant burdens (Beeby, n.d.-b). Additionally, the system faces the problem of requests that are vexatious or frivolous. The explosion of information and data brought about by advances in information and communication technologies has also complicated the administration of the law. And these procedural challenges only exacerbate a core reality: the results from disclosure of an access to information request might embarrass the government. As Hansen wrote in the early years of the Act:

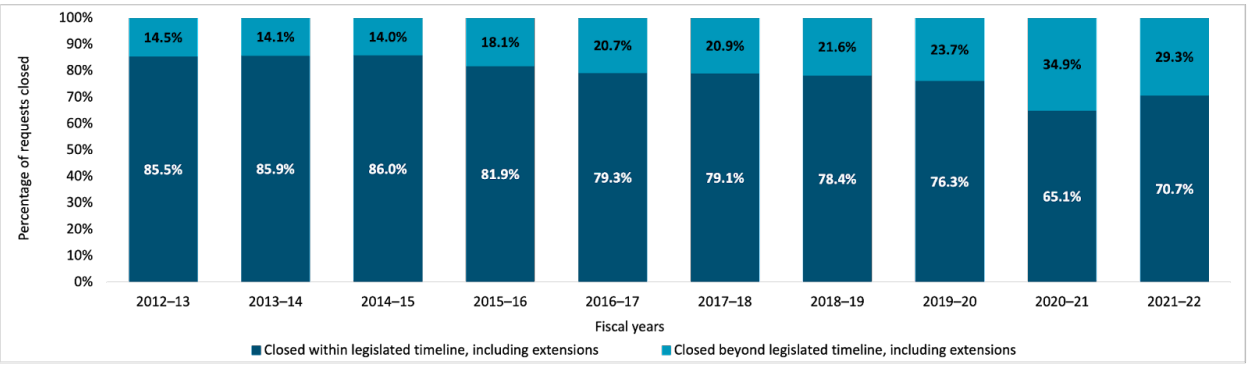
> *Living with access to information may be compared to having uninvited guests constantly drop in. You never know when they will show up, how many there will be, whether they will look under the carpet, on top of the cupboard, or behind the sofa; you may not feel up to having company, nor do you know whether the children will behave. Such visitors intimidate anyone (Office of the Information Commissioner of Canada, 1988).*

In turn, the tendency not only to control information but also to prevent necessary system reform becomes tempting for many government officials, even if those officials gained power on promises of transparency. In 1993, the Liberal Party platform ("Creating Opportunity," colloquially known as the "Red Book") stated that "[o]pen government will be the watchword of the Liberal program" (University of Laval, Department of Political Science, n.d.). In 2006, the Conservative Party platform also made important promises of system reform (University of Laval, Department of Political Sci-

ence, 2006). In 2015, the Liberal Party promised sweeping changes, too (University of Laval, Department of Political Science, 2015). Few of these promises ever resulted in meaningful change. Former Information Commissioner John Reid once described these types of broken promises this way: "Time after time, régime after régime, scandal after scandal, government leaders raise expectations by promising to be more accountable and transparent." But he added: "Just as routinely, governments maintain their deep addiction to secrecy, spin, foot-dragging and decision-making by nods and winks" (Office of the Information Commissioner, 2004). As Yan Campagnolo has described, there is an established pattern of neophyte politicians, regardless of their stripe, ramping up promises of transparency and openness, only to reverse course once elected: "Increased transparency is usually not in their interest [after they are elected], as it opens them to more scrutiny, criticism, and accountability" (Campagnolo, 2020).

These dynamics engender two key problems with the contemporary system – delays and over-redactions. Although the Access to Information Act establishes that federal institutions must respond to a request within 30 days, either by providing the record or by giving notice of a reason for not doing so, delays are endemic in the system. It is a common occurrence for requests in certain cases to take years to process, only to turn up useless information (Hannay, 2023a). Ten years ago, less than 15% of requests were being completed after the legal deadlines; today, the average is around 30% (Cardoso, 2022). As the Treasury Board Secretariat (TBS), the federal institution responsible for overall guidance and policy for the system, notes in its statistics on the administration of the Act, delays are trending upwards (see Figure 1):

Figure 1. "[Access to Information] requests closed within and beyond legislated timelines, 2012–13 to 2021–22." (Treasury Board Secretariat, 2022)



The excessive redaction of records released under the federal access to information framework is widely acknowledged to be another serious problem (Malone, 2024b). Information as basic as the amount of government contracts is now regularly being redacted (Hannay, 2023b). Federal institutions working at the core of procurement, like Innovation, Science, and Economic Development Canada and Public Services and Procurement Canada, routinely invoke sweeping redactions for third-party information in a quarter to half of all their requests (Malone, 2022). This problem persists, despite the many policies and guidance documents that underscore the general bias to-

wards disclosure that is supposedly applicable when responding to requests and assisting requestors, –which are intended realize the statutory purpose of the Act "that government information should be available to the public," and that "necessary exceptions to the right of access should be limited and specific" (ATIA, s 2) (emphasis added). In addition to these policies and guidance documents, the Access to Information Manual serves as a reference tool for federal institutions to interpret and administer the Act (Treasury Board Secretariat, n.d.-a). TBS also currently requires administrators of the system to take a one-hour online "Access to Information and Privacy Fundamentals" course, followed by a nine-hour virtual "Access to Information in the Government of Canada" course (Canada School of Public Service, n.d.-a; Canada School of Public Service, n.d.-b).

The foregoing observations pertain to formal requests made available under the Access to Information Act's right of access (ATIA, s 4). These requests carry various rights, including the right to submit complaints about the processing of access to information requests to the Office of the Information Commissioner, as well as to seek judicial review of the Information Commissioner's investigations (ATIA, ss 4, 7, 30, and 41). By contrast, informal requests occur outside of the legislation. Although there are many different types of informal requests (e.g., obtaining information via a different channel, like media; or the government processing a request without treating it as a formal request), the most common type of "informal request" is for copies of records that have already been processed (henceforth, "informal requests" in this article will refer to these requests). Unlike formal requests, those making informal requests have no rights in such requests, because they are "not made or not processed under the [Access to Information Act]" (Treasury Board Secretariat, 2022). To cover these informal requests, TBS has issued a Directive on Access to Information Requests – a policy document whose only enforcement and sanctions are internal to government (and, thus, significantly limited) – which states informal requests should be provided "to the requester within established service timelines" (Treasury Board Secretariat, n.d.-b). However, the Directive also notes that: "There are no deadlines for responding [to informal requests]. In addition, the requester has no statutory right to complain to the Information Commissioner." Elsewhere, TBS affirms "there are no deadlines to which institutions must adhere" (Treasury Board Secretariat, n.d.-c). In other words, informal requests fall into a gray zone, with best practices governing their publication and circulation that are largely unenforced (and unenforceable to those outside government). Unsurprisingly, the result is a large degree of fragmentation in the practices of disclosure. Some federal institutions have tended not to provide them at all.

Parliament has called for the inclusion of these materials under the Access to Information Act, alongside formal requests (Standing Committee on Access to Information, Privacy and Ethics, 2023b). The Information Commissioner has previously recommended that institutions should "post the responsive records of completed access to information requests within 30 days after the end of each month" (Office of the Information Commissioner, 2016). But the federal government has ignored these calls, too. This approach contrasts with peer jurisdictions, which make such records open by default as a matter of practice (e.g., New Zealand), as well as some jurisdictions in Canada that proactively publish copies of previously released access to information requests as a matter of practice, including British Columbia, Newfoundland and Labrador, and Nova Scotia (Te Puni Kōkiri, n.d.; British Columbia, n.d.; Newfoundland and Labrador, n.d.; Nova Scotia, n.d.). In Quebec, certain government entities publish copies of their completed requests, too, such as the Treasury

Board, the Ministry of Finance, and the Ministry of Health and Social Services (Quebec, n.d.-a; Quebec, n.d.-b; Quebec, n.d.-c). At the municipal level, both Montreal and Vancouver publish some copies of freedom of information requests (Montreal, n.d.; City of Vancouver, n.d.). As noted above, the Canadian federal government's approach also contrasts with the American approach, where the Freedom of Information Act requires that when "copies of all records, regardless of form or format [...] have been requested 3 or more times," federal government agencies shall make them "available for public inspection in an electronic format" (FOIA). Although a small collection of federal institutions in Canada has historically made copies of completed access to information requests available through platforms on their respective websites, there is no central repository of these requests (CBC/Radio-Canada, n.d.; Library and Archives Canada, 2024).

The Open Government portal provides rudimentary metadata about previously completed formal requests, including the year and month in which the request was answered, the request number, a summary of the request, and the name of the federal institution that released the record. Pursuant to the Mandatory Procedures for Publishing Summaries of Completed Access to Information Requests, which is an Appendix in the Directive on Access to Information Requests, since July 13, 2022, federal institutions must post this information "on the Open Government portal within 30 calendar days after the end of each month" (Treasury Board Secretariat, n.d.-b). These summaries must also be published in both official languages (Treasury Board Secretariat, n.d.-b). Prior to July 2022, these summaries were posted online for only two years, until being purged from the Open Government portal; however, since July 2022, the Treasury Board Secretariat has made representations to Parliament that these summaries now remain online indefinitely (Treasury Board Secretariat, 2016; Standing Committee on Access to Information, Privacy and Ethics, 2023b).

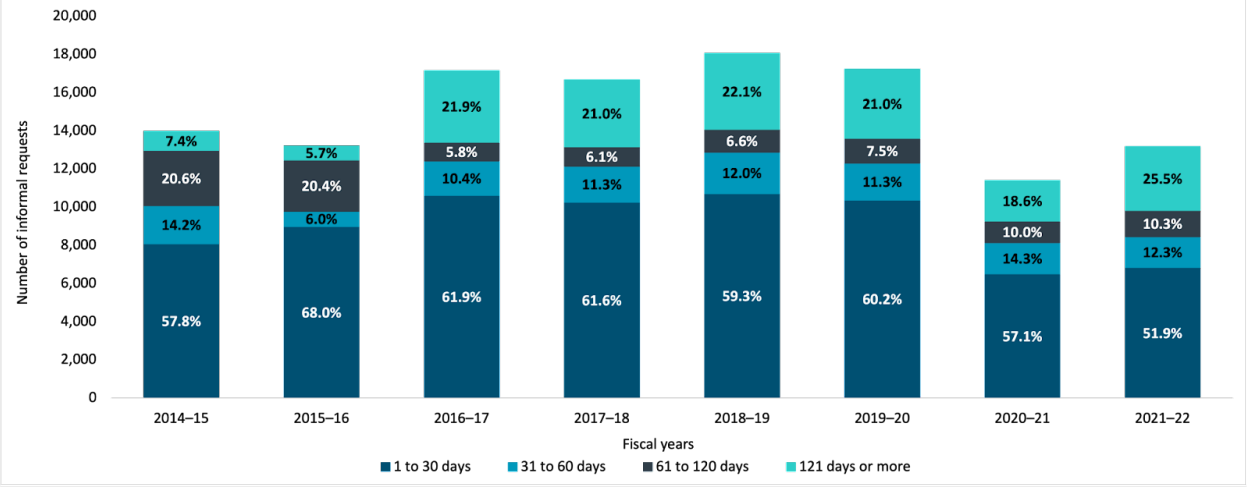
The Open Government portal also provides a standard web form for visitors to make informal requests for previously disclosed information. This web form requires visitors to provide certain personal information (requester category, name, email, telephone, and address, along with a consent to the privacy notice for the collection of this information) to obtain a copy of the previously disclosed record at no cost. Until 2024, when an individual made an informal request for a copy of a previously disclosed record through the Open Government portal, it was manually answered. (Interestingly, a year into the www.openbydefault.ca project, one federal institution, IRCC, created a bot to answer and respond to our informal requests. The Open by Default was informed that their bot had a turnaround time of 15 minutes to respond to requests. As the Open by Default bot (described later in this article) operated on a five-minute interval, IRCC requested the Open by Default team slow down the bot, as the discrepancy often resulted in the IRCC bot crashing. The Open by Default team politely refused, due to the need to complete all completed requests in a targeted timeline. IRCC subsequently made modifications to its bot that prevented it from crashing, which accelerated disclosure.)

Sometimes, the informal request packages themselves are also manually re-reviewed, despite having been reviewed prior to disclosure in the first instance (e.g., the TBS's "Best practices for posting summaries of completed access to information requests" provides: "In some cases, because of the amount of time that has passed or changes in circumstances, an institution may have to review the documents again.") (Treasury Board Secretariat, 2016). This approach is resource-intensive,

prone to delay, error, and inconsistencies; contributes to longer processing times for both formal and informal requests, due to the diversion of resources; and presents an obvious area where automation or default openness could streamline the process, reduce the burden on human resources, and ensure consistency in responses. (The team running the www.openbydefault.ca project routinely receives emails by accident that contain previous requesters' personal information, and others have shared that they routinely received the team's contact information by accident.) The way informal requests are processed exemplifies a critique by Amanda Clarke – namely that "the bureaucracies comprising today's governments have proven to be impressively steadfast in their ability to evade the disruptive impacts that digital technologies have had in other sectors and the daily lives of citizens" (Clarke, 2019).

As a practical matter, the lack of statutory protections and the procedural and administrative challenges in processing informal requests result in informal requests being routinely ignored. During the early stages of the www.openbydefault.ca project, when the main method of data collection was by making manual requests through the web forms on the Open Government portal, several federal institutions outright refused to provide records in response to these informal requests (e.g., Correctional Service of Canada, Employment and Social Development Canada, and the Privy Council Office). In response to these refusals, the team submitted access to information requests to these institutions, denying access (the language of the request was as follows: "Copies of every previously released [access to information] request, within the A-YEAR-NUMBER title of the request as the name of the file or folder of files for each request.") In general, the trend across all departments is towards slow processing of informal requests. As the chart below demonstrates, since 2015, processing times for about a quarter of informal requests have now taken more than 121 days to process (see Figure 2).

Figure 2. "Time required to close informal requests, 2014–15 to 2021–22." (Treasury Board Secretariat, 2022).



One of the most significant challenges facing those making informal requests is the lack of legal requirements on the part of federal institutions to preserve (i.e., or at least, not destroy) copies of previously released access to information records. At the federal level, government or ministerial records may not be disposed of, including by being destroyed, "without the written consent of the Librarian and Archivist or of a person to whom the Librarian and Archivist has, in writing, delegated the power to give such consents" (Library and Archives Canada Act, s 12(1)). Disposition authorizations are the main instrument issued to enable federal institutions to dispose of records lacking any operational utility. As Library and Archives Canada has noted, "[d]isposition authorizations implicitly cover all records created and gathered by a government institution, including records related to access to information requests" (Library and Archives Canada, 2023). However, Library and Archives Canada also notes that it treats copies of formal requests for access to information as non-archival – that is, as materials that are not subject to a disposition authority or any other obligation under the Library and Archives of Canada Act – because they themselves are copies of underlying government records. "By default," it states, "records related to access to information requests are considered non-archival, and institutions are therefore permitted to dispose of said records at the end of their self-determined retention periods" (Library and Archives Canada, 2023). On the web forms for informal requests on the Open Government website, TBS also provides caveats for each request: "Availability of records is subject to retention timelines as established by institutions" (Treasury Board Secretariat, n.d.-d). These self-determined periods need only follow Treasury Board directives, including the Directive on Service and Digital and the Policy on Service and Digital. The former only establishes vague requirements surrounding recordkeeping, while the latter also contains only vague obligations surrounding the duty to document (Treasury Board Secretariat, n.d.-b; Treasury Board Secretariat, 2019). The Policy also maintains that it is Library and Archives Canada's responsibility to issue records disposition authorities "to enable departments to carry out records disposition" (Treasury Board Secretariat, 2019). Despite the non-inclusion of access to information records under its disposition authorities, Library and Archives Canada publishes Generic Valuation Tools (GVT), which establish suggested retention timelines for business records. The GVT tools recommend a retention period of "2 years after last administrative use" for copies of access to information records (Library and Archives Canada, n.d.).

3. Previous efforts to address access to informal requests

Considering the problems of delay, over-redaction, and document destruction described above, various efforts have been undertaken by grassroots actors, journalists, and academics to try to preserve records and increase access. In 2023, The Globe and Mail began its Secret Canada initiative to draw attention to Canada's "broken freedom of information system" (The Globe and Mail, n.d.). Journalists Tom Cardoso and Robyn Doolittle led a team creating a database of summaries of previously released access to information requests in most Canadian jurisdictions, and created guides for how fees, rules, and processes vary in jurisdictions. Retired investigative journalist Dean Beeby's personal site offers tipsheet tools to help journalists and others using the system, as do other civil society actors' websites, such as the BC FIPA (Dean Beeby, n.d.-a; BC Freedom of Information and Privacy Association, n.d.). Ken Rubin, an Ottawa-based public interest researcher, shares materials on his personal site pertaining to advocacy, reform, services, and tips (Rubin, n.d.). Canada Declassified, a

self-described "digital repository of government records declassified under the Canadian Access to Information Act" established by Prof. Tim Sayle at the University of Toronto, has records available online focusing on Canadian history and national security (Canada Declassified, n.d.). Former Citizen Lab Research Associate Christopher Parsons did the same with his personal website (Parsons, n.d.). Alex Luscombe, Jamie Luscombe, Abby Deshman, Alexander McClelland, and Kevin Walby have all made strides in using access to information in target areas, in particular in law enforcement (Policing the Pandemic Mapping Project, n.d.). One other notable tool was the @CDNATI bot created by Laurent Bastien, which operated off a script that automatically requested copies of access to information summaries (about two hundred requests every two weeks) and then posted them on the accompanying Twitter account (CBC, 2018). The foregoing efforts are all inspiring. However, none of them adopted a systematic approach to gather all records. The closest effort to that is a foreign one. In the United States, Muckrock, a non-profit organization created by graduates of Cornell University to assist filers with filing Freedom of Information Act requests, provides "a repository of hundreds of thousands of pages of original government materials" on its site (MuckRock, n.d.). Although its main function is to streamline and assist with making requests, it also has a repository function. (Muckrock served as an inspiration for Open by Default in several respects, including in the way in which the www.muckrock.com website prominently lists the number of filed requests and the number of released pages).

4. Overcoming obstacles

4.1. Scraping available metadata to make informal requests

The Directive on Access to Information Requests currently provides that federal institutions must adhere to "Mandatory Procedures for Publishing Summaries of Completed Access to Information Requests," which require, among other obligations, the posting of summaries on the Open Government website "within 30 calendar days after the end of each month" (Treasury Board Secretariat, n.d.-b). TBS aggregates this data in the "Summaries dataset" for those institutions that post their summaries online (Treasury Board Secretariat, n.d.-b). This large dataset is updated almost daily. Under the terms of the Open Government license on the Open Canada website, anyone is permitted to "[c]opy, modify, publish, translate, adapt, distribute or otherwise use the [dataset] in any medium, mode or format for any lawful purpose," so long as the source of information is acknowledged (Government of Canada, n.d.-c; Investigative Journalism Foundation, n.d.-c).

Until January 2022, this dataset was regularly purged by certain federal institutions to remove data older than two years. Targeting data collection using the database, the Open by Default project initially used metadata to make manual requests using the webforms for the corresponding requests on the Open Government portal, noting each request in the dataset. To expedite this process, one of the most helpful tools available was journalist Tom Cardoso's bookmarklet, Piggyback, which he made available beginning in 2019 on GitHub using an open license (Tom Cardoso, 2019). Within the access to information community, "piggyback" refers to a request that is made, which maps onto a preexisting request; often, if a requester submits a request for a document that is already in process, the access to information unit at a federal institution will allow the requester to "piggyback" on the

request. As Cardoso explains on his GitHub page, his bookmarklet interacts with the Open Government portal's web form for making informal requests "pre-filling out all the fields so that you can just hit 'Submit'" (Tom Cardoso, 2019). This greatly speeds up the process of making requests.

While Piggyback was helpful, it was too slow for the volume and scale needed to collect all records. Even with pre-filling the forms, the manual process of filling out each web form for each request was slow-going, considering the volume of new requests being posted. From a record-keeping perspective, it was also hard to note each request that had been made. Some federal institutions did not even upload their materials to the Open Government portal. Accordingly, a different approach was adopted: collecting the email addresses of all individuals on the "List of access to information and privacy coordinators by institution" – an alphabetized list with the names, addresses, and numbers of those individuals charged with administering access to information in various federal institutions – and corresponding with designated administrators directly, asking them for copies of every completed request they had provided (Government of Canada, n.d.-a). Certain federal institutions responded by rejecting the request. Others redirected the inquiry to the Open Government portal web form. However, many institutions greeted the request with welcome and immediately started sending records, obviating the need to file requests through the Open Government portal and saving manual resources. Some institutions were hesitant or requested further clarification about the specific requests being made, which resulted in opportunities to build relationships with individual institutions by liaising or meeting directly with them (Government of Canada, n.d.-b). A relationship was developed with TBS's Access to Information Policy and Performance Division (AIPPD), where regular updates on rates of responsiveness were provided in exchange for support internally within government to provide requests in response to these informal requests.

4.2. Reconciling challenges with formatting and naming

As informal requests began to pour in, the records came in various formats, presenting significant challenges for intake. Federal institutions delivered documents in many formats, including through the mail in the form of USB sticks, CDs, and paper copies that had to be converted into electronic documents. Several institutions preferred to use email, while others used various file sharing services, including Google Drive, Dropbox, Sharepoint, OneDrive, and Canada Post Connect – each often requiring its own user login credentials. It became apparent that different recordkeeping and delivery conventions had been imposed across federal institutions. Some institutions used an informal request number – one that did not correspond with the formal request number – making it difficult to connect the information package with a formal request number on the Open Government portal's dataset. Even where the correct file name was used, files had to be renamed to correspond with the request number as it appeared in the Open Government portal dataset, in order to match the summary to the file package. Some request numbers corresponded with multiple files (i.e., large files), which necessitated consolidating them into a single folder. In cases where a file was associated with multiple identifiers, duplicates were created with each file renamed accordingly. All files pertaining to a specific institution were organized into a dedicated folder for that institution, named to reflect the institution's exact name as specified in the government list. This work was challenged by the fact that institutional names have been revised over the years (e.g., the department known as "Status of Women Canada" until 2018, when it became "Women and Gender Equality Canada,"

while the department known as "Environment Canada" until 2015 is now "Environment and Climate Change Canada"). If an institution's name did not match any entry in the government list, a new institution entry had to be created within a growing document management system. As files were processed, they were dropped into relevant folders in a cloud service, which was initially Dropbox.

4.3. Prototype 1.0: Creating a proof of concept

In summer 2023, a research assistant designed a user-friendly interface to make the Dropbox files easily accessible. Using the datasets compiled by scraping the available metadata to make informal requests and reconciling challenges with formats and naming, this research assistant constructed a proof of concept consisting of a rudimentary and hard-coded (i.e., fixed and not dynamic) HTML file for records from one federal institution, the Royal Canadian Mounted Police, containing a list of documents with links that would grant the user access to shared files in the Dropbox account. The rudimentary page collected metadata from the dataset available on the Open Government portal and linked this data, through the matching request number, to files in the repository on Dropbox. Clicking the links would then take the viewer to non-indexed websites consisting of the file in a view-only format on Dropbox. This proof of concept – ultimately never published online – consisted of a table of information. A sample of the proof of concept is provided in Figure 3.

Figure 3. Sample of the initial proof of concept. (Note: This table reproduces the first three requests; the actual HTML page had over 1,000 rows.)

Year	Month	Request Number	Summary	Owner	Link
2014	11	A-2014-02766	Any financial reports and estimates, as well as invoices or requests for funds, as they pertain to reimbursing Bell, Rogers, or any telecommunication company under PIPEDA (both voluntary and warranted) Timeline: 2010 - present.	RCMP	DROPBOX LINK
2012	3	A-2012-01201	The entire and complete CPIC Policy Manual.	RCMP	DROPBOX LINK
2013	2	A-2011-06549	All records relating to lawful access/electronic surveillance techniques from October 1, 2010, to the present	RCMP	DROPBOX LINK

While this HTML page succeeded in making the records available, several limitations were evident in the proof of concept. First, there was no search function built into the page, preventing users from searching within the records themselves. While users could avail themselves of the search functions of their respective browsers, search was enabled only for summaries – not the records themselves. Later, a search box was added to the HTML code; however, this search feature again only searched within the page, limiting the search to the summaries themselves. Dropbox did not enable optical character recognition of the documents in the view-only format, so even when the links opened, they were not searchable. An additional limitation was the prototype's focus on a single institution, the RCMP; bringing in all institutions covered in Schedule I of the Access to Information Act would necessitate the use of additional metadata to organize and filter the material. Finally, because the prototype was hardcoded in HTML – not operating on a server or cloud – it was never tested and released in an online format. Instead, the hard-coded HTML could be loaded from a user's own device to access the links, enabling the proof of concept to be shared for the purpose of finding a sponsor or partner. This limitation made it impossible to update the project with new links in a "live" manner.

4.4. Prototype 2.0: Going "live"

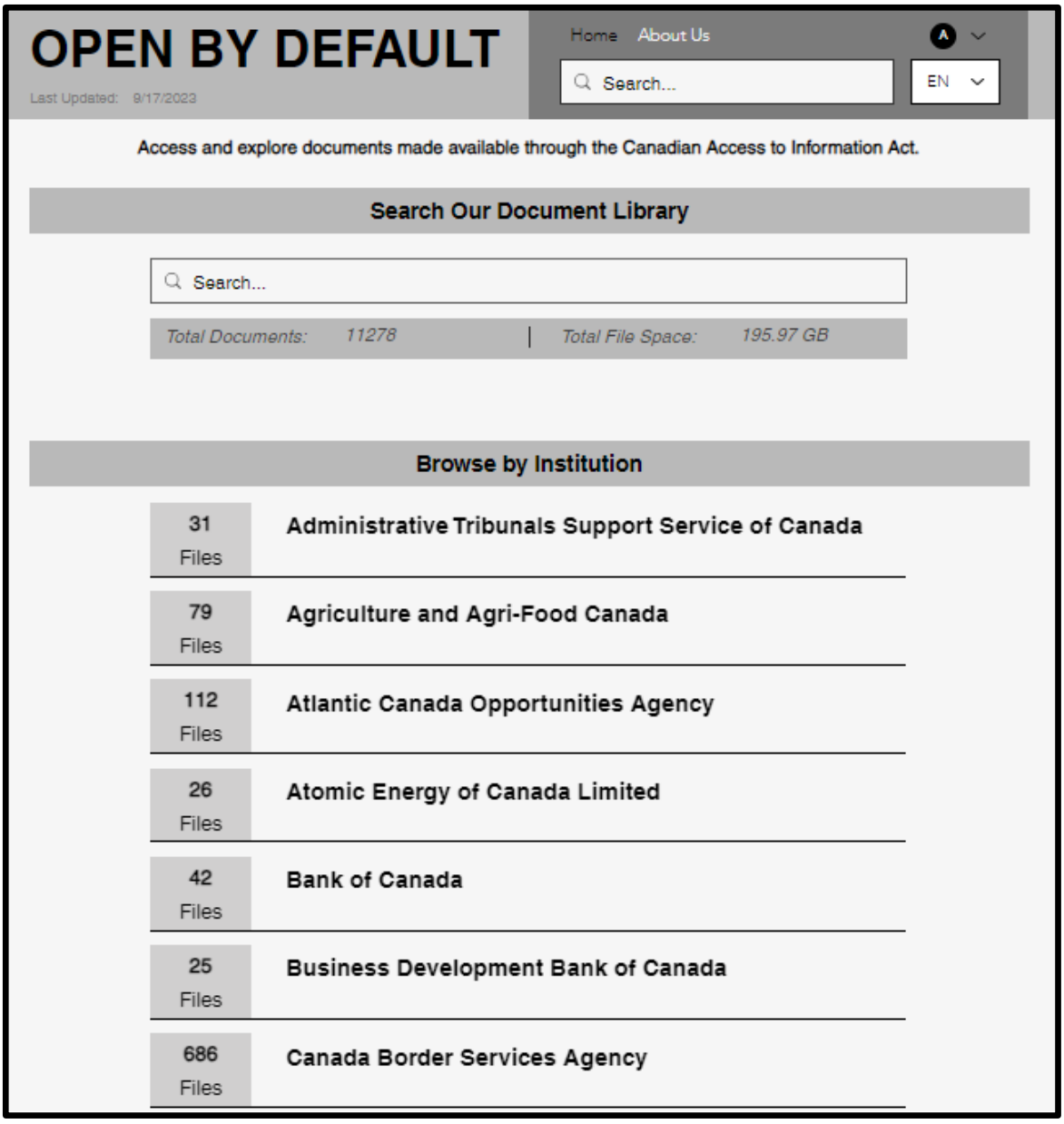
To evolve the prototype to a usable database that updates in a live manner, a Google Workspace account was opened to take advantage of its integration with Google Apps Script, which allowed documents stored in the Google Drive to be read and manipulated automatically in various features. Accordingly, the copies of the requests were all transferred from Dropbox to Google. A research assistant devised a system linking a rudimentary WIX website – run through a WIX Website Editor account – to this Google Workspace account. The WIX Website Editor account was used to control and edit the appearance and function of the webpage elements, review site activity, manage domains, accept/reject requests for new users to become members, and import data from the Google Workspace account. The Google Workspace account stored and managed the files themselves, along with a local copy of the Open Government portal's "Summaries dataset." It also ran scripts that linked these two sets of information together. Using these platforms, a research assistant developed a system within Google Workspace where the files were indexed in a spreadsheet, which linked to "Summaries data." Like the prototype HTML page, this made documents easily searchable and linked to other metadata such as date and institution. This process resulted in the creation of tables that could then be exported into the WIX Content Management System, automatically using integrations with WIX's VELO API. The main benefit of this system was that the website could be managed entirely from the Google Workspace account and continuously updated. Documents that needed to be added could be managed easily by anyone capable of rudimentary data entry, including anyone with only a limited understanding of web design and coding. It included rudimentary features, such as allowing high-impact users to "Save" documents.

The resulting system proved effective, though it was not a long-term solution due to several limitations. Notably, the WIX/Google Drive combination had size limitations that would pose upper limit constraints on growth. Like Dropbox, Google Drive also did not automatically incorporate optical character recognition features on the subscription plan being used. Moreover, the code that was scraping the Open Canada's "Summaries data" was rudimentary: it replaced the dataset every day,

completely deleting the previous list, rather than simply adding new files sequentially. Given the size of the "Summaries data" dataset, this was an onerous and slow process. Moreover, a ceiling of 50MB on the CSV file in these formats resulted in frequent crashing. As well, the site was not making automatic backups, which created tremendous risk for data loss. (Indeed, at one point in the life of the project, 700 records were accidentally destroyed; the government institution in question was one of the early supporters of the project and quickly provided them again).

The intent was for the WIX/Google Workspace system to act as a usable product that could draw in more funding, which could then be used to build a more scalable product, with the anticipated final product using a SQL or other database to manage files, with the website managed using a more flexible platform, such as WordPress. In this format, tools such as optical character recognition and AI-generated summary information might even be implemented, which would further increase the value and utility of the product. However, while the project was still limited to WIX, with funds running out, the author decided to attempt to scale the site to all federal institutions for which there was available data. During this period, the website was ported over to www.openbydefault.ca. Due to concerns about potential exposure to liability, the website was kept behind a login with shrink-wrap terms and conditions that stated the website operators were neither responsible for the accuracy of information nor for reviewing the content, including for third-party links. Open by Default successfully offered users 11,278 documents – representing a total of 195.97 GB. The author began granting access to the rudimentary site to a few individuals with expertise in information law and policy for their thoughts and comments on the project. A screenshot of the website's user-facing interface is reprised in Figure 4.

Figure 4. Screenshot of an early prototype of Open by Default. (Screenshot taken by the author, February 20, 2024)



4.5. Legal risks with prototype 2.0

On August 2, 2023, the project team had a call with various representatives from TBS and the Canadian Digital Service regarding the project. During that call, several public servants expressed their excitement around a project that made publicly accessible a database that proactively published copies of access to information requests and stated that issues of official languages and accessibility currently prohibited them from making such a resource available themselves. One lawyer strongly warned against proceeding with the proactive publication of copies of informal records, due to potential violations of Crown copyright and liability arising from the publication of third-party private information. Although the Access to Information Act explicitly immunizes the federal government

from liability for the publication of records it discloses under the Act, it does not extend this protection from liability to other parties (ATIA, s 98). In response to these concerns, a more sweeping set of terms and conditions was placed into shrink-wrap for the site.

In September 2023, investigative reporter Roberto Rocha at the Investigative Journalism Foundation (IJF) reached out to a team member regarding a story he was writing on federal procurement data and amendments to contracts for IT and management consulting companies (Rocha, 2023). The project team reviewed the IJF's mandate, funding, and publication record (Investigative Journalism Foundation, n.d.-a). Following this review, they sent an email to the CEO & Editor-in-Chief of the IJF, Zane Schwartz, about "collaborating on a transparency-related project together." Schwartz responded the following day, expressing an open attitude to collaboration and requesting more information. After reviewing the hard-coded HTML proof of concept and the second prototype, the IJF and the original team decided to form a partnership with a statement of governing principles. The IJF agreed to provide funding for the project in exchange for assuming ownership of the database and branding it with an IJF logo while keeping it open access, with the author's approval required for any future change in ownership and other "major changes." Through this model, the IJF agreed to assume all liability for issues arising out of potential civil proceedings or prosecutions, funding the technical work necessary to elevate the product and the data entry work necessary to grow it.

5. Final execution

Once the IJF came on board, the WIX/Google Workspace prototype was dismantled, and a new site was set up to be hosted within the IJF's web infrastructure. The intention was to build the database in a new suite using next.js. As the team explored document storage ideas, one idea was to use neo4J for the backend. This tool had been used by the team that had received and reviewed the Panama Papers. Another member proposed the use of DocumentCloud, which was used by MuckRock and had been used in the Unredacted project in the United Kingdom, a project that examined national security documents not dissimilar to Open by Default (Unredacted, n.d.). The main considerations for any document storage solution are centered on automation capabilities – specifically, the ability to script and automate tasks such as file movement, renaming, and extraction of metadata. As well, aware of the total number of access to information formal requests being processed each year, it was evident that the project would consume significant data storage resources. This necessitated expandable storage starting at 1 TB and integration capabilities with both website front ends and databases like SQL and S3. Additionally, there was a keen desire to integrate optical character recognition and indexing tools, alongside a straightforward process for uploading files, to make the files searchable. Accordingly, the team settled on DocumentCloud. However, this solution engendered various development challenges later on, including challenges with large PDF files and preventing the team from uploading other file formats. A technical solution saw the team able to convert into PDF any records with these extensions: eps, gif, jpg, jpeg, htm, doc, docx, ppt, pptx, rtf, psd, png, svg, tif, tiff. However, this solution did not cover all file formats. For example, embedding and delivering videos on the website posed significant challenges, while Excel files – often helpful for data journalism – could only be converted to PDFs for website upload; however, the loss of their interactive functionality weighed heavily in the decision-making process against this approach. Nevertheless, to ensure

uniform accessibility and ease of use across our platforms, the team opted to limit the project to standardized PDF documents. This decision aimed to streamline content delivery while maintaining compatibility with the most easily available and existing infrastructure.

As the new format for the project continued to develop, various tools to streamline and accelerate work were also created. For example, one tool was built to fix names for files (e.g., stripping away unnecessary information to conform the title to something recognizable by the scraped metadata – for example, taking "Reqeust_Number_A-2023-00023_2023-12-09" or "RCMP_A202300023" and transforming it into "A-2023-00023"). Another tool automated the process of zipping and unzipping files. But perhaps the most important tool was an automated file requester – a tool automating the making of requests through the Open Canada website – using a bot that automatically requested any files not already in the possession of the project team, every five minutes. The development of these tools took considerable time, but helped ease workflow. The requester bot continues to operate and is vital to the low-effort but sustainable growth of the project.

As the project prepared to launch, the team contacted various stakeholders to increase the document count prior to launch by soliciting "donations" for records from trusted stakeholders. As the team put out this call, donations of records then came in from several stakeholders (all donors are listed on the website). Additionally, the team focused on fixing OCR issues associated with the records that would strengthen the power of the search features. All of these files, once they were made OCR searchable, were also backed up. The front-end search feature included a broad search bar (with "Examples" provided to show users the power of the database), along with filtering options by organization, for Relevance, Release Date, and Shortest/Longest; as well as by time. Anticipating potential takedown requests for records containing third-party content, we also created a tool to report issues with specific documents ("Report an issue with this document").

Along with these elements of the interface, the website included a text entitled "About the project," which stated:

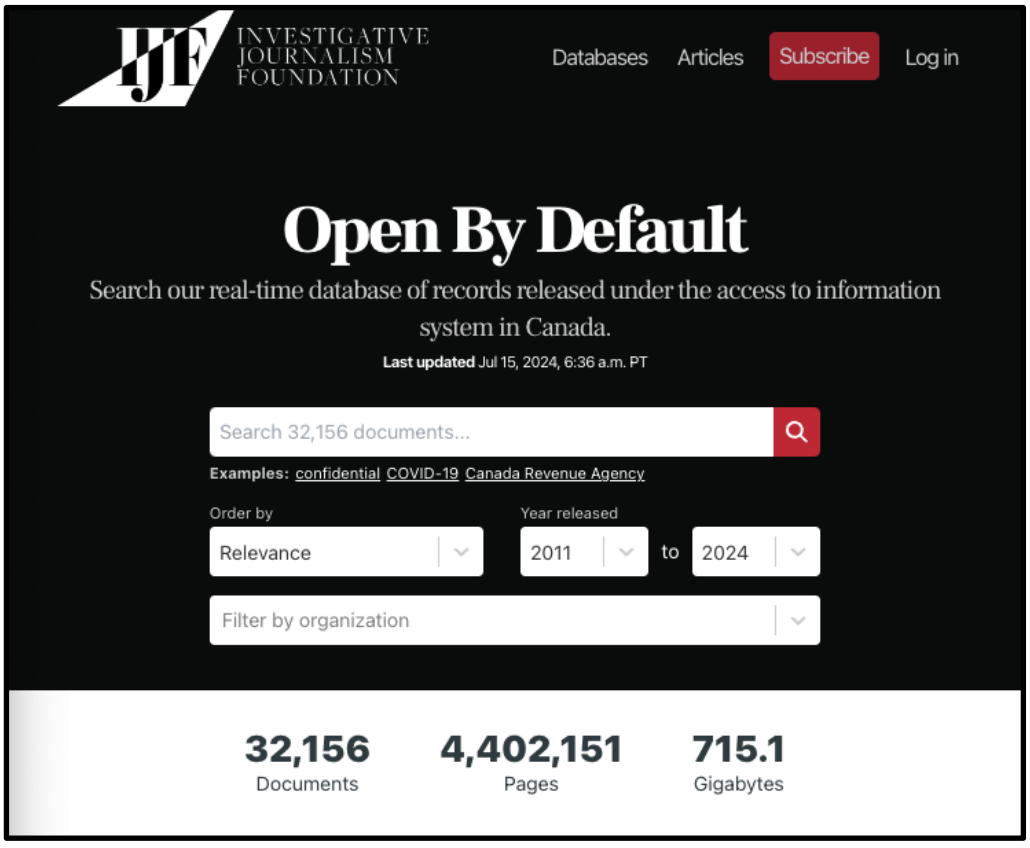
> *Open By Default is the biggest database of internal government documents never before made publicly accessible, and we're still adding more records. All our records come from access to information requests released by the federal government.*
>
> *Our goal is to strengthen democracy by giving all Canadians easy and immediate access to the information governments use to make decisions.*
>
> *Want to know how the government discusses climate change, taxes, or house prices? You can do keyword searches using the search bar. You can also filter for records from a specific year or department. Not sure where to start? Check out our handful of records for "caribou meat" or the plethora we have for "Justin Trudeau" (Investigative Journalism Foundation, n.d.-b).*

Finally, the team was ready to launch Open by Default to the general public. An agreement with the CBC allowed the CBC to use the database for two weeks prior to launch in exchange for the CBC donating their in-house collection of copies of access to information records – a potentially large trove of records. The rationale behind this move was also intended to enhance the publicity of the database. (In the end, the CBC never donated its in-house collection of copies of completed access to

information records, although one CBC journalist shared his personal collection of copies of access to information requests.) Finally, the project was launched on March 5, 2024.

Over the subsequent few months, several modifications were introduced to the website. While the website retained the metadata information for the database about documents, pages, and gigabytes, it initially did not have a date or time stamp for recent updates, which resulted in several individuals emailing the "Contact Us" email on the web page to inquire about the frequency of updates. Accordingly, the team implemented a date stamp feature on the site, allowing users to know when the site had last undergone an update. This date stamp also had the effect of routinizing updates by incentivizing the team to run regular updates. Additionally, one user requested a function that would permit reviewing records by the category of "Newly Added." This feature was subsequently added, too. A screenshot of the final website interface is provided in Figure 5.

Figure 5. Screenshot of the final Open by Default page, as it appeared in July after launch. (Screenshot taken by the author, July 22, 2024)



6. Reflections on the project methodology

The Open by Default project took an action-oriented and engaged research approach to access to information, deploying methodologies to address a specific legal and administrative problem: the federal government's failure to publish copies of previously released access to information requests. This project required the use of participatory research methods, including community-based involvement, participatory action research, technical expertise, and the co-production of knowledge with other stakeholders who became involved in the research process and decision-making. Many of these stakeholders came from non-legal backgrounds, where their respective expertise in areas of journalism and computer science drew on interdisciplinary perspectives.

Building the www.openbydefault.ca website provided many insights into the creation of a resource in resource-deficient circumstances, which necessitated iterating and repeatedly pivoting the final project. Ultimately, the evident public interest in the database was an important conceptual driver for the project. The presence of a clear and simple mission statement – to make records belonging to or under the control of the government that had been released through the access to information system open by default – also helped overcome the challenges of creating the database, in particular during moments of resource deficits and project development hurdles. It also led to unexpected outcomes and partnerships – including with a not-for-profit committed to public interest journalism using data-driven techniques. The project demonstrated the power and truth of the adage that "if one builds it, they will come": creating a valuable, new, and promising project – even without support along the way – is the best way to attract support for the project to grow, especially when it fulfills a simple, important, and high-integrity mandate. As of this writing, the project continues to grow and offers immediate access to more than 50,000 records, representing almost one terabyte of information

7. Outcomes

Open by Default addressed a core gap in the delivery of government goods and services with the access to information system: publishing copies of previously released requests and making them easily searchable. By identifying a core problem with the federal government's access to information system – the failure to widely circulate previously disclosed information packages – the project used existing open government infrastructure to iterate a project that made underlying records more widely accessible. The project achieved several surprising objectives by spurring the government to act, including in retaining metadata on the open government portal indefinitely and nudging federal institutions to use more automation in responding to informal requests. By operating outside of the legal and policy strictures of the federal government itself – notably with respect to imperatives around official languages and accessibility – the product was able to identify and address a gap to circulate more widely in the public domain copies of previously disclosed information requests. By addressing challenges pertaining to data acquisition and processing, database and website design and development, and document storage and hosting, as well as project sustainability and evolution, the project also created a roadmap for future projects to scrape and utilize open government information to advance the purpose of the Access to Information Act.

Ultimately, the rhetoric in recent years of "open by default" remains at odds with the system defined by serious performance problems (such as delays and over-redactions) as well as inertia around reform. Efforts to embrace innovation have been slow, including in legal grey areas, such as informal requests for previously released information packages. This has only further undermined the right of access in practice. However, as this case study demonstrates, non-governmental actors can often prototype solutions faster. By scraping data and automating the disclosure of this information to a wide audience, technical hurdles can be solved in a more responsive and flexible manner. Yet non-governmental actors engaging in this work still rely on effective relationships with government to provide them with records and to avoid serious risks of liability. They also operate with resource and power asymmetries (compared to the government).

It remains to be seen whether, in the case of Open by Default, the creation of the database nudges the federal government to enhance its proactive disclosure practices; however, one of the broader implications of the website may be helping to advocate for further refinement of the federal government's statutory proactive disclosure obligations – a clear area for policymakers to drive change. Even if the database does not motivate change in that area, it has both drawn attention to deficient practices and created a little bit more sunlight in the world of Canadian government records.

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