



HOUSE OF COMMONS
CANADA

**ACCESS TO INFORMATION REQUEST FOR THE
DEPARTMENT OF FOREIGN AFFAIRS AND
INTERNATIONAL TRADE INTERNAL REPORT
ENTITLED "AFGHANISTAN 2006: GOOD
GOVERNANCE, DEMOCRATIC DEVELOPMENT
AND HUMAN RIGHTS"**

**Report of the Standing Committee on
Access to Information, Privacy and Ethics**

**Paul Szabo, MP
Chair**

April 2008

39th PARLIAMENT, 2nd SESSION

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THE STANDING COMMITTEE ON ACCESS TO INFORMATION, PRIVACY AND ETHICS

has the honour to present its

FOURTH REPORT

Pursuant to its mandate under Standing Order 108(2), the Committee has studied the Access to Information request for the Department of Foreign Affairs and International Trade internal report entitled "Afghanistan 2006: Good Governance, Democratic Development and Human Rights" and has agreed to report the following:

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REPORT ON THE ACCESS TO INFORMATION REQUESTS FOR *AFGHANISTAN 2006: GOOD GOVERNANCE, DEMOCRATIC DEVELOPMENT AND HUMAN RIGHTS*

INTRODUCTION

During the first session of the 39th Parliament, the House of Commons Standing Committee on Access to Information, Privacy and Ethics undertook a study of four access to information requests for an internal report from the Department of Foreign Affairs and International Trade (DFAIT) entitled *Afghanistan 2006: Good Governance, Democratic Development and Human Rights*. The requests, submitted in January and March 2007 under the *Access to Information Act* (ATIA), had been seeking information about human rights in Afghanistan at a time when Canadian troops were involved in the conflict there and public concern was high in Canada. Concern stemming from media reports about poor compliance by DFAIT in responding to requests under the ATIA in April and May of 2007 led the Committee to undertake a series of meetings to study the issue.

THE ACCESS TO INFORMATION ACT

The *Access to Information Act*, in force since 1983, gives Canadians a broad legal right to information recorded in any form and controlled by federal government institutions. Individuals may apply for access to certain information, and, unless the requested information falls within certain specific and limited exceptions, the Act will require the release of the information within specified time limits. The exemptions are set out in the Act, and they generally relate to individual privacy, commercial confidentiality, national security or other confidences necessary for policy-making. Cabinet confidences are excluded from the operation of the Act.

The exemption scheme under the ATIA consists of two categories: class-based and injury-based exemptions. Class-based exemptions apply where the information falls within the class of information described in the exemption. It is therefore assumed, or it has been predetermined by way of some other mechanism, that the information is inherently sensitive and an injury or prejudice would automatically flow from its release.¹ Injury-based exemptions under the ATIA require that an injury, harm or prejudice be demonstrated before the exemption can be claimed.² Exemptions may be either mandatory or

1 Examples of class-based exemptions are sections 13, which protects information obtained in confidence from other governments and section 21(1), advice or recommendations to the government.

2 Examples of injury-based exemptions are section 14, injury to federal provincial affairs; section 17, safety of individuals; paragraphs 18(b), (c) and (d), injury or prejudice to the economic interests of Canada; and section 15, injury to international affairs and defence.

discretionary. Where an exemption is mandatory, the head of a government institution must apply the exemption. Where, however, it is discretionary, the head of the government institution may still decide to disclose even if there is a potential for injury.

Section 10 of the ATIA requires that where an exemption is utilized, the head of a government institution must inform the requester, in general terms, of the statutory ground for refusing a record or what the ground would be if the record existed (institutions do not have to confirm the existence of a particular record where such disclosure may, in and of itself, reveal exemptible information).³ As well, an institution must sever those portions of records that are exemptible and provide access to the rest.⁴

Information Commissioner, Robert Marleau, informed the Committee that an amendment to the ATIA under the *Federal Accountability Act (FAA)*, which was passed in December 2006 and came into force in September 2007, may improve departments' performance in processing access requests under the Act.

The amendments that Parliament made to subsection 4(2.1) which will not come into force until September, introduce the notion of an additional duty to provide all reasonable assistance to respond to the requests made by the public. (May 31, 2007)

The new subsection of the Act requires heads of government institutions to make every reasonable effort to assist requesters in connection with their requests, to respond to requests accurately and completely and, subject to the regulations, to provide timely access to records in the format requested.

Jim Alexander, Deputy Chief Information Officer, and Donald Lemieux, Executive Director of the Information and Privacy Policy Division, testified about the role of the Treasury Board Secretariat (TBS) in implementing the ATIA within the federal government. TBS supports the President of the Treasury Board by developing policies and guidelines governing the operation of the Act, and providing ongoing training to access to information and privacy (ATIP) officers. The TBS policy and guidelines are contained in a sizeable manual which is relied upon by ATIP officers in performing their duties. The Committee noted with interest that at page 2, tab 2-4 of that manual, ATIP officers are already advised, when dealing with a request that is expressed in broad terms, to contact the requester to clarify the nature of the request and provide other assistance.

3 It should be noted that in *Vieneau v. Canada* 1988 3 F.C. 336, the Federal Court held that there is no requirement that exemptions be linked to specific deletions in material that is released. That said, the Court has encouraged this standard practice, calling it highly commendable and in keeping with the basic purposes of the Act.

4 Information Commissioner of Canada, *Response to the Report of the Access to Information Review Task Force: A Special Report to Parliament*, 2002 at p. 62.

Within the Department of Foreign Affairs and International Trade, where the Minister's Office wants a copy of a disclosure package as part of the access request disclosure process, a "MINA, MINA/MINT or MINT Alert" is noted or flagged on file. The alert is identified from a list, which is circulated weekly, of new access requests received by the department. Testimony from DFAIT officials indicated that where there is a MINA Alert, the Minister's office reviews the proposed disclosure file just prior to release to the requester. Thus, if the disclosure material is redacted, the Minister's office receives only the redacted version. Although some members of the Committee expressed concern that the MINA Alert process could potentially open the door to political interference in the access request process, it was submitted in testimony from DFAIT officials that the MINA Alert process occurs at the end of the redaction process and in no way influences the exemption analysis under the ATIA. It would appear that the MINA Alert process is a fairly common practice, in this⁵ and other departments, that keeps ministers abreast of potential issues that could come up, for example, in Question Period or media scrums and as such is not, in and of itself, evidence of political interference.

If an ATI requester is not satisfied either with the time taken to respond to a request or with the substance of the response received, a complaint may be made to the Information Commissioner of Canada. The Information Commissioner has broad powers to investigate any aspect of a government institution's handling of an access request. The Commissioner also has the power to compel the uncensored requested information for the purposes of review and determining whether the exemption was properly applied.

According to testimony provided to the Committee by the Information Commissioner on April 26, 2007, where the Commissioner investigates a discretionary exemption, such as section 15(1) of the ATIA, his office will require the head of the government institution to explain the factors, pro and con disclosure, that were weighed in exercising the discretion. The Commissioner will then assess whether these were the correct factors to be taken into consideration and whether they were given the appropriate weight. Where the exemption is injury-based, the Commissioner will also look to ensure that there is a reasonable basis for an expectation of injury should the information be disclosed.

Given that the Commissioner is an ombudsman, he only has the power to make recommendations to government institutions. Consequently, where a government institution does not disclose information pursuant to his recommendation, either the Commissioner (with the requester's consent) or the requester can seek judicial review of the refusal in the Federal Court.

5 During the first eight months of 2006-2007, 43% of the access requests received by DFAIT had a MINA Alert. Office of the Information Commissioner: Annual Report, Report Cards 2006-2007, Department of Foreign Affairs and International Trade Canada, at <http://www.infocom.gc.ca/reports/Cards/2006-2007/dfait-e.asp>

WHAT WE HEARD

In its fourth report, the Committee's subcommittee on Agenda and Procedure recommended that:

The Committee begin its study of the Department of Foreign Affairs internal report *Afghanistan 2006: Good Governance, Democratic Development and Human Rights* in relation to Access to Information requests for the document by inviting the following people to appear at its Thursday, May 17, 2007 meeting — Jeff Esau, Professor Amir Attaran, and Jocelyne Sabourin, Department of Foreign Affairs — and further, that the Clerk of the Committee request from the Department of Foreign Affairs a copy of the censored version of the report.

That report was concurred in, and the study commenced, on May 17, 2007, with the appearance of Jeff Esau, freelance journalist, and Amir Attaran, professor at the University of Ottawa. Both of these witnesses testified that they had applied under the ATIA for access to a particular report on human rights in Afghanistan.⁶

Mr. Esau first applied to DFAIT in March 2007 for “a copy of DFAIT's 2005-06 annual or semi-annual report (or the 2006-07, if it's been drafted) on human rights performance in countries around the world.”

Five days later, the department replied, in a letter signed on behalf of Jocelyne Sabourin, Director, Access to Information and Privacy Protection Division, “Please be advised that Canada does not produce an annual human rights report analogous to reports produced by, for example, the United States or the United Kingdom. Therefore no such report on human rights performance in other countries exists.”

In a follow-up e-mail conversation with Ms. Sabourin's office, Mr. Esau endeavoured to clarify his request because he felt that there was a document in existence that was not being produced by the department.

Mr. Esau simultaneously applied for “a copy of the latest assessment by DFAIT of the human rights practices, compliance, and performance of Afghanistan,” the second access request being motivated by a concern that the first was not going to result in the disclosure of the report that he sought.

In response to that request, DFAIT informed Mr. Esau that they required an extension of 90 days for production of the report, which extended well beyond the point at which “redacted” or blacked out portions of the report were appearing in newspapers. Mr. Esau followed the procedure outlined in the ATIA and complained to the Information

6 In fact, the witnesses submitted four requests: Professor Attaran's were numbered 466 and 649 by the Department, and Mr. Esau's were numbered 604 and 605.

Commissioner on April 26, 2007 about DFAIT's refusal to disclose records and for knowingly and falsely claiming the requested records do not exist. He finally received his copy of the redacted report after his May 17 appearance before the Committee.

Professor Attaran made his access to information request on January 24, 2007, requesting copies of the human rights reports for Afghanistan and the United States. On February 5, DFAIT replied that he would receive the reports in 30 days, but that deadline was not met. On March 29, Professor Attaran submitted a second request, asking for the document by its title. Following the procedure prescribed in the ATIA, on April 4, Professor Attaran complained to the Information Commissioner about the January 24 request, as it was overdue, in breach of the timelines set out in the Act.⁷ Within a week of making the complaint, he heard from the department several times that the document was being reviewed and prepared for release, and on April 23, 2007, he received the 2002, 2003, 2004, 2005 and 2006 reports on Afghanistan. He told the Committee that the U.S. Report, which he had also requested, was not given to him.

In the report that Professor Attaran received, many portions of the text had been blacked out, most with indications that the department was relying on section 15(1) of the ATIA as the basis for the non-disclosure.⁸ In his evidence to the Committee, Professor Attaran objected to the redaction of the report, stating that he "found the excisions very heavy-handed and alleged that a criminal infringement of section 67.1(c) of the ATIA had occurred." Section 67.1(c) prohibits the concealment of a record "with intent to deny a right of access" under the Act.

The Committee heard from a number of officials from DFAIT, including Lillian Thomsen, Director General, Executive Services Bureau; and Jocelyne Sabourin, Director, Access to Information and Privacy Protection Division. In her opening comments, Ms. Thomsen admitted that "the overall compliance of the department in meeting its obligations has been consistently substandard in the past years, as determined by the Information Commissioner in his report cards on the department's performance and as reported to Parliament in his annual report" (May 29, 2007). She reported significant improvement in the department's performance since the implementation of an action plan in 2006.

Ms. Sabourin explained to the Committee that, as the delegated authority for DFAIT under the ATIA, she had authority to decide what parts of the *Afghanistan 2006* report were blacked out, and that she made her decisions based on the recommendations of her staff. Ms. Sabourin also answered Members' questions about the manner in which the

7 Although the department had intended to ask for an extension in February, the draft extension letter was inadvertently not sent, according to the chronology provided by the Department (see entry for February 28, 2007 in the Appendix to this report).

8 Sections 13(1) and 21(1) were also relied upon in some instances. Section 15(1) of the Act permits the head of a government institution to refuse disclosure of a record, or part of a record, that could reasonably be expected to be injurious to the conduct of international affairs, the defence of Canada, or the detection, prevention or suppression of hostile activities.

requests by Mr. Esau and Professor Attaran were handled by the department. It seemed that Mr. Esau's initial request was refused because officials understood that he was looking for an international report composed of chapters relating to different countries, and they did not consider offering him individual country reports.⁹ By the time he contacted the department again to clarify, he had already submitted his second request, asking for the Afghanistan report.

In relation to Mr. Attaran's request, Ms. Sabourin testified:

I would like to confirm to the Committee that there was no pattern of concealment with regard to the Afghan human rights reports. This request came into my office and was examined, we sought the records, we obtained the records, and we processed the records, all in accordance with the provisions of the Act. Mind you, we didn't meet the deadline. As I said, I'm very apologetic about the fact that we didn't meet that deadline. Yes, we were dead in the water, but we continued the processing. At the end of the day, on April 23, we provided him with both a response on the Afghan reports and a response to the effect that the U.S. report did not exist. We did a search, and that particular record does not exist within our department. (May 29, 2007)

During her appearance before the Committee, Ms. Sabourin was unable to provide the detailed chronological information the Committee sought about the four ATI requests because, as she said, she did not have her files "at her fingertips." Some members of the Committee felt that they were hindered in their efforts to clarify the course of events that had led to the controversy. They were critical that senior officials, like Ms. Thomsen and Ms. Sabourin, would appear before a House of Commons committee to discuss a specific file and issue, and not bring any files, paperwork, facts, or chronology of the events in question. This led to their request that Ms. Sabourin provide the Committee with detailed chronologies in relation to each of the four requests. A summary of the information provided by the department, combining the most significant of the events listed, is included as an appendix to this document.

The Committee also heard from Information Commissioner Robert Marleau, and Daniel Brunet, his Director of Legal Services, and also Robert Walsh, Law Clerk and Parliamentary Counsel, and Denis Kratchanov, Director / General Counsel, Information Law and Privacy Section, of the Department of Justice. The Information Commissioner concurred with the DFAIT officials who indicated that the department's compliance with the ATIA had improved in the most recent year.

There has been considerable improvement this year. In my annual report that was tabled this week, the department was awarded a D. Although it might not seem like much, the percentage of cases not handled within the stipulated timeframe has dropped from 60 per cent to 17.2 per cent. (May 31, 2007)

9 The Director of the Human Rights, Gender Equality, Health and Population Division indicated in her evidence that because it sounded like the requester was informed, in her response she indicated that "Canada does not produce a report on the global situation of human rights around the world". (June 19, 2007).

The Committee also heard from the Deputy Minister of DFAIT, Leonard Edwards, and several other departmental officials, including the Director of the Human Rights, Gender Equality, Health and Population Division, which was the office of primary interest for three of the four requests that were the subject of the Committee's study. In his evidence, Mr. Edwards quoted from the findings of Commissioner Marleau in response to the complaint filed by Professor Attaran, to the effect that the Commissioner found that, although the department had been slow in responding to the request, there had been no concealment of records by DFAIT amounting to an obstruction of a right of access under section 67.1 of the ATIA.

IDENTIFYING THE PROBLEM

The witnesses who requested the report at issue offered their views as to what might be the sources of DFAIT's failure to meet their legislated deadlines under the ATIA. Professor Attaran's evidence was that there was a systemic problem in the federal government with releasing information about Afghanistan. Mr. Esau agreed that he had heard that there is a "chill" currently within the federal government with respect to information about Afghanistan, torture and detainees. He also suggested that one root of the problem is a natural reluctance on the part of those who create government documents to release them, since officials often fail to differentiate between the importance of their documents and the need for secrecy.

Mr. Esau made it clear that he felt the problem lay in the interactions between ATIP officers and the people within departments who hold the documents:

It has been my experience that the ATIP organization within a federal institution is extremely anxious to please a requester. Their goal, in virtually every case of which I'm aware, is to provide to the requester the documents that the requester wants. They want to serve their clients. The difficulty, the dynamic that I have found within National Defence and in other federal institutions — especially the large, highly publicly visible ones — is that the ATIP people have to go to the individuals within the department who actually hold the records. Getting the records from the people who create them or hold them is a challenge for anybody in ATIP. (May 17, 2007)

As Mr. Esau testified, the ability of the ATIP officers to get the required documents out of the department, in order to release them to a requester, also depends on the manner in which the information is stored in the department and how readily it can be identified in response to a request.

OUR CONCLUSIONS AND RECOMMENDATIONS

While there was significant common ground among members of the Committee as they concluded their consideration of this subject matter, there was not unanimity. At the minimum, the Committee's investigation uncovered a department that is unable to meet statutory deadlines under the ATIA, something that had already been amply demonstrated

and is the subject of a significant effort to improve by DFAIT. Some Members were also convinced that it revealed a systemic difficulty in terms of openness with respect to documents dealing with the difficult topics of Afghanistan, torture and detainees. All Members agreed that the ATIA was not complied with in the case of the requests by Jeff Esau and Amir Attaran for the *Afghanistan 2006* report, at least in terms of meeting deadlines.

Despite differences in the conclusions drawn by members of the Committee, there was agreement about some steps that could be taken to prevent a recurrence of such a problem in the future. Although the Committee heard little evidence about how to improve the department's performance, or indeed the performance of any government institution under the ATIA, the following recommendations derive from this study as well as the Committee's long-standing interest in ATI law reform:

1. This Committee has long called for a new access to information act to be introduced by the Government of Canada. This study has reinforced Members' awareness of and concern about the poor performance of some government departments under the ATIA, something that has been well documented in the annual reports of the Information Commissioner. Access to information law reform has been an item of concern for the Committee almost since its inception, resulting in the passage of motions and reports urging the Minister of Justice to produce a draft bill for its consideration, including its first report in the first session of the 39th Parliament.

Recommendation 1

This Committee recommends that the government introduce a new access to information act, and consider in the development of reform legislation the content of this and other reports of this Committee.

2. When the Director of the Human Rights Division of the Department of Foreign Affairs received Mr. Esau's request for a global report on human rights in different countries, she wrongly assumed that his interest was specifically for that kind of multi-chapter compilation, and responded to the ATIP official that no such document existed. If she had spoken directly to Mr. Esau, he might have realized the nature of the misunderstanding, and been able to clarify that it was a report on Afghanistan that he sought. Having an ATIP officer, even a highly experienced and competent one, operate as a go-between made comprehension difficult. The request was not fulfilled in a timely manner. As noted earlier in this report, the TBS access to information policy and guidelines are contained in a sizeable manual which is relied upon by ATIP officers in performing their duties. It is clear that the responsibility of these officers, which is set out at page 2, tab 2-4 of that manual, to contact the requester when necessary to clarify the nature of the request and provide other assistance, was not effectively fulfilled in this case. It seems to this Committee that much of this controversy could have been

avoided if the officials had done a better job clarifying the requests, particularly Mr. Esau's first request. It might be effective if ATIP officers, when dealing with a knowledgeable requester who is confident that a requested document exists, were required to consider allowing the subject matter expert in the office of primary interest to speak directly to the requester.

Recommendation 2

This Committee recommends that the Treasury Board Secretariat up-date the access to information policy and guidelines to better prevent miscommunication between requesters and ATIP officers or departmental staff in the future.

3. Training for ATIP coordinators has been the subject of a number of reports on access to information law reform. ATIP coordinators should be required to have extensive training and be certified pursuant to national standards. The current Information Commissioner has made it a personal priority to get the Treasury Board, as the federal employer, to support the University of Alberta Information Access and Protection of Privacy Certificate Program and to recognize new national standards in the recruitment and advancement policies for ATIP officers. The Commissioner drew the following parallel for the Committee:

The Government of Canada, Treasury Board, has set standards for recruitment of internal auditors. They set standards for recruitment of financial officers, and certification is required. I believe the same thing should apply to ATIP coordinators, so that a deputy minister who gets a report from his coordinator's office that says "This has to be divulged" can look at that report with the same kind of confidence as if he were getting it from an SFO or from an internal auditor. (April 26, 2007)

Recommendation 3

This Committee recommends that the government require that all ATIP coordinators have extensive training, including the Information Access and Protection of Privacy Certificate Program at the University of Alberta courses or compatible ATIP training program, and be certified pursuant to national standards and that all training programs be available in both official languages.

4. The implementation of the new duty to assist requesters, added to the ATIA by the *Federal Accountability Act*, may provide an opportunity for improving ATIP processes in cases such as this one. Under section 4(2.1) of the Act, heads of government institutions must make every reasonable effort to assist requesters and provide timely access to records. Expanded government obligations will flow from the application of that duty, and there will be a need for new guidelines to assist officials in operating within the new provision.

Recommendation 4

This Committee recommends that the Treasury Board Secretariat develop new guidelines to aid officials in the implementation of the new duty to assist requesters under section 4(2.1) of the *Access to Information Act*.

5. As discussed above, some Members of this Committee were very dissatisfied with the quality of the assistance provided to the Committee by Lillian Thomsen and Jocelyne Sabourin when they appeared before the Committee on behalf of DFAIT. In particular, members of the Committee objected strongly to the fact that the witnesses were not prepared for the meeting and had failed to bring any of the pertinent documents with them. There is guidance available for deputy ministers and departmental officials who are called to testify before parliamentary committees. Deputy ministers, defined as accounting officers since the passage of the *Federal Accountability Act*, have a legal obligation to appear before committees of the Senate and House of Commons and answer questions on their management responsibilities under section 16.4 of the FAA. According to “Accounting Officers: Guidance on Roles, Responsibilities and Appearances before Parliamentary Committees”, a document posted on the Privy Council Office website, the accounting officer appearing before a parliamentary committee is expected to be fully prepared to discuss relevant matters. Accounting officers are told that it is acceptable to bring supporting officials, but these should be kept to a minimum, and to the extent possible they should be there as resources for the accounting officer rather than as witnesses. The guidance document adds that accompanying officials should nevertheless be well prepared in the event that they are called upon to answer questions. Based on the experience the Committee had in its meetings with officials of DFAIT, the Committee has identified a need for Privy Council Office to clarify or expand these guidelines to deputy ministers and the public service to remind officials that they should be well prepared for appearances before parliamentary committee meetings, including by bringing all relevant documents to which they might reasonably anticipate they might have to refer.

Recommendation 5

This Committee recommends that Privy Council Office amend its document entitled “Accounting Officers: Guidance on Roles, Responsibilities and Appearances before Parliamentary Committees” and take other steps necessary to ensure that deputy ministers and other officials are always well prepared for appearances before parliamentary committee meetings, including by bringing with them all relevant documents to which they might reasonably anticipate they might have to refer.

APPENDIX

COMBINED CHRONOLOGY

This table is based on documentation that was provided to the Committee by officials from DFAIT. It lists in chronological order some of the key events that occurred in relation to the four access to information requests that were made relating to the report *Afghanistan 2006: Good Governance, Democratic Development and Human Rights*.

Date	Action
January 29, 2007	Request 466 (Attaran) received in the Access to Information and Privacy Protection Division (DCP) of DFAIT.
February 16, 2007	Minister's Office/Josée Lessard asked to see proposed release package for request 466; DCP/Serge Label tagged MINA ALERT in tracking system
February 28, 2007	Draft extension letter to applicant was inadvertently not sent. (Usually extensions are signed by Team Leader, but DCP was in the middle of a process change and miscommunication between DCP Analyst and Team Leader resulted in letter not sent.) Original still on file.
March 1, 2007	Request 466 is in a deemed refusal situation (LATE).
March 13, 2007	Request 604 (Esau) received in the Access to Information and Privacy Protection Division (DCP) of DFAIT.
March 22, 2007	Response letter sent to Mr. Esau re: request 605 stating: <i>Please be advised that Canada does not produce an annual human rights report analogous to the reports produced by, for example, the United States or the United Kingdom. Therefore no such report on human rights performance in other countries exist.</i>
March 29, 2007	Request 649 (Attaran) received in the Access to Information and Privacy Protection Division (DCP).
April 4, 2007	Professor Attaran advised DCP that he was filing a delay complaint to the Information Commissioner of Canada (OIC) re: request 466. He also alleges that the information is being suppressed for political reasons.
April 5, 2007	E-mail from Mr. Esau re: request 605 stating: <i>I'm just reviewing the response you sent ... I'm researching human rights issues for an article for the Globe and Mail, and I'm hearing from other sources that DFAIT does in fact produce human rights reports. I just</i>

Date	Action
	<p>want to confirm DFAIT's position on this — that human rights reports DO NOT exist — and that my request was not interpreted with undue narrowness by DFAIT ... Accordingly, if the records do exist, but I failed to use the precise title of the report(s), please let me know.</p>
April 5, 2007	<p>DCP sends follow-up e-mail to Mr. Esau re: request 605 from ATIP analyst stating:</p> <p style="padding-left: 40px;"><i>[A]s far as I can see, we have responded to the wording of your request. However, if there has been some misinterpretation of the wording or misunderstanding in what you are requesting, please provide me with more information that I may in turn provide it to the responsible division.</i></p>
April 5, 2007	<p>DCP receives follow-up e-mail from Mr. Esau re: request 605 stating:</p> <p style="padding-left: 40px;"><i>Perhaps I tried to be too specific — in the genuine interests of being helpful — by using the words “annual or semi-annual” ... I am assuming that every year there is some kind of “state-of-the-world” summary or report prepared for the Minister or interested parties or parliament that describes progress and problems with human rights in various part of the world. I understood this assessment included a section/chapter/case summary entitled “Afghanistan-2006: Good Governance, Democratic Development and Human Rights,” for example, and that there are section/accounts dealing with China, Russia, Iran, etc. I wasn't even aware there was an entire Division for human rights at DFAIT. Does that organization not regularly report its perspectives/concerns/findings for use by decision-makers?</i></p>
April 10, 2007	<p>Director of Human Rights Division (GHH) re-confirmed via e-mail that DFAIT does not produce “annual” or “semi-annual” reports on human rights performances in other countries like the Americans and the British do. The Division does produce reports following certain situations that may develop in individual countries (i.e., Afghanistan or Haiti). If the requester wants the Division to search for each report, it would take “hundreds” of hours to locate all the reports. This information was e-mailed to Mr. Esau (re: request 605) by DCP.</p>
April 11, 2007	<p>Mr. Esau sent e-mail asking DCP analyst to confirm the key points mentioned re: request 605 so that he could</p>

Date	Action
	<p>pass them along to his editor:</p> <ol style="list-style-type: none"> 1. <i>DFAIT does not produce an annual or semi-annual report that summarizes human rights trends or findings in countries around the world.</i> 2. <i>DFAIT only produces reports on a "situational" basis from time to time, which deal with one country at a time.</i> 3. <i>It would take more than 100 hours of search time to obtain all these individual reports produced over the past year.</i>
April 11, 2007	E-mail from DCP analyst to requester confirming the correctness in all points re: request 605, and adding that the search fees could be reduced if he provides specific countries of interest. The requester thanked the analyst.
April 17, 2007	E-mail to Professor Attaran from the DCP Director/Jocelyne Sabourin re: request 466 providing a commitment date and status on various other active files.
April 17, 2007	Proposed release package on request 466 sent to Minister's Office/Alain Latulippe, due date is April 20, 2007.
April 17, 2007	DCP Director/Jocelyne Sabourin signs off letter to Professor Attaran re: request 649, confirming that these records are being processed under his previous file and release is being sent.
April 17, 2007	Director/Jocelyne Sabourin sent e-mail to Professor Attaran re: request 649 with electronic copy of response letter, which was also sent in regular mail.
April 23, 2007	Response to request 466 with CDROM provided to the Professor Attaran by hand at 15:00, letter signed by DCP/Jocelyne Sabourin.
April 23, 2007	Professor Attaran asks via e-mail to Director/Jocelyne Sabourin that DFAIT reconsider the use of exemptions re: request 466.
April 24, 2007	E-mail to Professor Attaran from Director, DCP/Jocelyne Sabourin will examine the use of Section 15 re: request 466.
April 24, 2007	E-mail to Professor Attaran from DCP/Jocelyne Sabourin confirming that DFAIT will maintain the exemptions re: request 466.
April 25, 2007	<i>Globe and Mail</i> article: <i>What Ottawa doesn't want you to know.</i>
May 15, 2007	Letter re: request 604 signed by Director, DCP/Jocelyne Sabourin.

Date	Action
May 16, 2007	Requester (Esau) called DCP for status of file # 604.
May 16, 2007	<p>Response to 604 mailed to Mr. Esau with CD stamped with A-2006-00466:</p> <p><i>Enclosed on CD Rom, is the records that respond to your request as well as those for the years 2002 to 2005. Please note that some of the information contained in the documents has been exempted under section 13(1), 15(1), 17, 21(1)(a) and 21(1)(b) of the Act.</i></p>
May 17, 2007	Mr. Esau and Professor Attaran appear before House of Commons Standing Committee on Access to Information, Privacy and Ethics.
May 19, 2007	Director, DCP/Jocelyne Sabourin received call from requester (Esau) re: 604; advised that the response had been mailed, that it was exactly the same information/exemptions as the previous release under A-2006-00466, and that if he has not received to please call and we will send another copy.
May 29, 2007	Jocelyne Sabourin and Lillian Thomsen appear before House of Commons Standing Committee on Access to Information, Privacy and Ethics.

LIST OF RECOMMENDATIONS

Recommendation 1

This Committee recommends that the government introduce a new access to information act, and consider in the development of reform legislation the content of this and other reports of this Committee.

Recommendation 2

This Committee recommends that the Treasury Board Secretariat up-date the access to information policy and guidelines to better prevent miscommunication between requesters and ATIP officers or departmental staff in the future.

Recommendation 3

This Committee recommends that the government require that all ATIP coordinators have extensive training, including the Information Access and Protection of Privacy Certificate Program at the University of Alberta courses or compatible ATIP training program, and be certified pursuant to national standards and that all training programs be available in both official languages.

Recommendation 4

This Committee recommends that the Treasury Board Secretariat develop new guidelines to aid officials in the implementation of the new duty to assist requesters under section 4(2.1) of the *Access to Information Act*.

Recommendation 5

This Committee recommends that Privy Council Office amend its document entitled “Accounting Officers: Guidance on Roles, Responsibilities and Appearances before Parliamentary Committees” and take other steps necessary to ensure that deputy ministers and other officials are always well prepared for appearances before parliamentary committee meetings, including by bringing with them all relevant documents to which they might reasonably anticipate they might have to refer.

APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<p>As individuals</p> <p>Amir Attaran, Jeff Esau</p>	2007/05/17	48
<p>Department of Foreign Affairs and International Trade</p> <p>Jocelyne Sabourin, Director, Access to Information and Privacy Protection Division</p> <p>Lillian Thomsen, Director General, Executive Services Bureau</p>	2007/05/29	49
<p>House of Commons</p> <p>Rob Walsh, Law Clerk and Parliamentary Counsel</p>	2007/05/31	50
<p>Office of the Information Commissioner of Canada</p> <p>Robert Marleau, Information Commissioner</p> <p>Daniel Brunet, Director, Legal Services</p>		
<p>Department of Justice</p> <p>Denis Kratchanov, Director / General Counsel, Information Law and Privacy Section</p>	2007/06/05	51
<p>Treasury Board Secretariat</p> <p>Jim Alexander, Deputy Chief Information Officer, Chief Information Officer Branch</p> <p>Donald Lemieux, Executive Director, Information, Privacy and Security Policy</p>		
<p>Department of Foreign Affairs and International Trade</p> <p>Leonard Edwards, Deputy Minister</p> <p>Francine Archambault, Senior ATIP Analyst, Access to Information and Privacy Protection Division</p> <p>Gwyn Kutz, Director, Human Rights, Gender Equality, Health and Population Division</p> <p>Jennifer Nixon, ATIP Team Leader, Access to Information and Privacy Protection Division</p> <p>Gary Switzer, ATIP Consultant, Access to Information and Privacy Protection Division</p>	2007/06/19	55

APPENDIX B LIST OF BRIEFS

Organizations and Individuals

Attaran, Amir

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings from the 1st Session of the 39th Parliament ([Meetings Nos.48, 49, 50, 51, 52, 53, 55, 56](#)) is tabled.

A copy of the relevant Minutes of Proceedings from the 2nd Session of the 39th Parliament ([Meetings Nos.21, 22 and 23](#)) is tabled.

Respectfully submitted,

Paul Szabo, MP
Chair

