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Tuesday, June 1, 2010

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Chair

Mr. Paul Szabo

Standing Committee on Access to Information, Privacy and Ethics

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• (1105)

[English]

The Chair (Mr. Paul Szabo (Mississauga South, Lib.)): This is meeting 17 of the Standing Committee on Access to Information, Privacy, and Ethics. Our order of the day, pursuant to Standing Order 108.(3)(h)(vi), is a study on allegations of interference in access to information requests.

We do have witnesses today, but before that I want to just confirm to the committee certain actions the chair took, as authorized by the committee. On Thursday last, after the steering committee meeting, I issued invitations to Mr. Togneri, Ms. Jillian Andrews, and Mr. Dimitri Soudas to appear at our next three meetings sequentially, so the Tuesday and the following week on Tuesday and Thursday. The clerk requested as usual the confirmation of their appearance on those dates, and there was no response from any of the three people requested to appear.

Last Friday we reissued the request to the same three people, again requesting that they respond so the committee could plan its calendar. We did not have any responses by the end of Friday. We waited until yesterday, and by noon there was still no response from any of the three invited persons.

As a consequence, yesterday afternoon I signed and delivered summonses to Ms. Andrews and Mr. Soudas; and as you know, Mr. Togneri is already under summons. I wanted to inform the committee that this has happened, because once they're issued they tend to become public.

Our witnesses today are, from the Department of Public Works and Government Services, Tom Makichuk, director of access to information and privacy; from the Department of Human Resources and Skills Development, Jackie Holden, director, access to information and privacy; from the Privy Council Office, Ann Wesch, director, access to information and privacy; from the Department of Foreign Affairs and International Trade, Monique McCulloch, director, access to information and privacy; and from the Treasury Board Secretariat, Denise Brennan, director, access to information and privacy. Welcome to you all.

I apologize that we had to panel up the witnesses, but due to the declining number of committee meetings available to us to complete our work, it was necessary for us to try to get more efficiency into the meetings. As a consequence, we've indicated to you that we would like a brief opening statement, if you wish—it's not necessary, but if you wish—and then we could get on to the questions from the members.

Do any of the witnesses have any questions? No? Terrific. So let's start at the top of my list.

Mr. Makichuk, from the Department of Public Works and Government Services, please proceed.

Mr. Tom Makichuk (Director, Access to Information and Privacy, Department of Public Works and Government Services): Thank you for this opportunity to appear before you.

My name is Tom Makichuk. I've been a public servant since 1987, and spent 10 of those 23 years in the field of access to information and privacy. I joined Public Works and Government Services Canada as director, access to information and privacy, on July 6, 2009. My role is to lead the ATIP program for the department. I carry out this responsibility with a staff of 27 full-time equivalents and a combined budget of \$2.6 million.

As you know, access to information is considered one of the elements of our democracy. Public Works and Government Services Canada takes this responsibility seriously. This is proven by our record of handling requests under the Access to Information Act. Over the past three fiscal years, the department has responded to over 1,900 requests under the act. This represents a release of almost half a million pages of information. Furthermore, since 2008-09, PWGSC has responded on time to more than 95% of access to information requests received. To date, less than 1% of access requests received in the last fiscal year have resulted in valid complaints investigated by the Office of the Information Commissioner.

As well, the Information Commissioner recognized the department's performance with above-average marks in the 2008-09 report card. Of the 24 institutions assessed, PWGSC ranked in the top three, with a rating of four and a half stars out of five, and a B letter grade. These results clearly demonstrate the department's commitment and dedication to both transparency and legislative compliance. As well, they reflect PWGSC's values of respect, integrity, and excellence in leadership.

I'm happy to respond to your questions.

• (1110)

The Chair: Thank you, Mr. Makichuk.

We'll move now to Jackie Holden, director, Department of Human Resources and Skills Development.

Ms. Jackie Holden (Director, Access to Information and Privacy, Department of Human Resources and Skills Development): Thank you very much.

I do not have a prepared opening statement. However, I would like to note that I'm pleased to appear before the committee today and to respond to any questions you may have for me.

The Chair: Thank you very much, Ms. Holden.

From the Privy Council Office we have Ann Wesch, director, access to information and privacy.

Ms. Ann Wesch (Director, Access to Information and Privacy, Privy Council Office): Thank you, Mr. Chair, and good morning to members of the committee.

I would like to explain to the committee my role and how my office interacts with the Prime Minister's Office and ministerial staff in responding to requests sent to the Privy Council Office under the Access to Information Act and the Privacy Act.

The access to information and privacy division reports to the assistant deputy minister for corporate services in PCO. The division has 28 positions. The PCO ATIP division processes all of PCO's access and privacy requests in keeping with statutory obligations and Treasury Board guidelines.

The PCO ATIP work process is divided into five stages. Generally, about four days before the due date a copy of the release package is sent to PCO communications and to PMO issues management. Records appear as they will be released to the applicant. This copy of the release package allows ministerial staff to keep the Prime Minister informed of upcoming releases and to prepare for media and parliamentary questions. No records review or sign-off by PMO is involved, and the procedure causes no delay in completing a request. The practice does not single out particular requests. It is a routine and consistent action for every access to information request.

There is no mechanism within the routine to alter a decision, to vet records content, or to delay access. The identity of the requester remains protected. Information is also delivered to the PMO via memorandum. For every access to information request, the ATIP division forwards a memorandum to the chief of staff to the Prime Minister called a notification of pending release. In addition, I meet with PMO issues management staff weekly to provide information on ATIP requests and consultations that come into PCO and those that are closed. This is purely an information session.

These are the practices used by the ATIP division to keep ministerial staff and senior PCO officials informed about what information is being released in response to requests. The Privy Council Office does not categorize requests or label specific files for any kind of special handling. It processes all requests in the same manner. Ministerial staff in the PMO play no part in the approval process and have never asked me to alter a decision, to vet content, or to delay, deny, or withhold access. All decision-making about the release of information in response to requests is done by departmental officials in PCO.

This upward flow of information is entirely consistent with the constitutional responsibility of a minister for the operation of his or her department, including its ATIP functions. A minister has to be informed. However, the work process—the decisions about what exemptions apply and what information is released—remains the sole purview of departmental officials exercising their delegated authority.

[*Translation*]

I would also highlight for the committee the progress that the ATIP Division has made in improving its performance. I was appointed ATIP director in April 2007. Over the last three years, we have improved efficiency and effectiveness in responding to requests. The division has been restructured into three lines of responsibility. We have made procedural changes to streamline our process, adopted new technology and staffed up.

An Officer Development Program was established to mentor new ATIP officers. We have sought out best practices in other departments. All this is to say that we have been working, and continuing to work, toward an efficient work process, and awareness for the principle of access. I can also say that I have been fully supported in this effort by senior management at every level.

●(1115)

[*English*]

PCO's ratings under the Office of the Information Commissioner have improved. Last year, the division processed 545 access requests, involving the review of 75,000 pages of records as well as responding to 350 consultations from across government. For the year that just ended on 31 March 2010, we closed 82% of requests on time, the equivalent of a C grade. This is solid progress. Three years ago we had over 230 late requests in a backlog. We've reduced this backlog by 98%.

Let me close by saying that the application of the Access to Information Act to records under the control of government is a profound responsibility. The ATIP professional has to strike a balance between the public's right of access to information and legal protection of the information under the act.

I thank you and the members of the committee for your attention and this opportunity to speak.

The Chair: Thank you, Ms. Wesch.

We'll now go to the Department of Foreign Affairs and International Trade. We have with us today Monique McCulloch, director of access to information and privacy.

Ms. Monique McCulloch (Director, Access to Information and Privacy, Department of Foreign Affairs and International Trade): Thank you.

Good morning, ladies and gentlemen.

As director of the access to information and privacy protection division at the Department of Foreign Affairs and International Trade, I am the delegated authority for administering the Access to Information Act, the Privacy Act, and all related Treasury Board policies. In this capacity, I am pleased to appear before you today.

At the outset, I would like to assure the committee that in accordance with the principles of openness, accountability, and transparency, the Department of Foreign Affairs and International Trade is committed to respecting the Privacy Act and applicants' rights of access to information. In fact, DFAIT follows Treasury Board Secretariat's best practices in its administration of the acts. For example, the access to information coordinator, which is the position that I occupy as director, has full authority delegated by the head of the institution for the administration of the acts. My position is at most two positions removed from the deputy head in our organizational structure. My department has sound practices for the processing of all access to information requests. There is a collaborative approach that exists between my ATIP office, the offices of the heads and deputy heads of the institution, our communications branches, our parliamentary affairs people, and our program officials.

A process is in place to notify officials of the imminent disclosure of records when the processing of a request is in its final stages. This is DFAIT'S COMM Alert process, which allows senior department officials, including the minister's staff, to prepare required communication products such as media lines and question period notes. This is done 72 hours prior to the release of records under the act. These written COMM Alert procedures are established across the department, including in the minister's offices. The main principles of the ATIP COMM Alert process are as follows:

It allows the department to prepare in case questions arise from releases under the Access to Information Act. It is not an approval process of packages to be released by the minister's office.

The identity of applicants is never shared outside my ATIP office, and this COMM Alert process does not delay releases. In fact, it is departmental policy not to provide the minister's office a 72-hour timeframe when the legislative due date cannot permit it.

To ensure that the ATIP process is well understood, and that there is a culture of ATIP commitment across the department, my office introduced additional measures in the fall of 2008. For example, DFAIT implemented a new streamlined ATIP tasking process across the department with single gateways into each branch and bureau, along with dedicated ATIP liaison officers. A department-wide ATIP awareness program was implemented to ensure that officials across the department understand their ATIP roles and responsibilities.

Monthly ATIP performance reports to senior management have been introduced, and these reports have already improved turnaround times from program areas.

The department also introduced an ATIP professional development program to address recruitment, retention, and succession-planning issues. This program is already demonstrating its key benefits.

Nonetheless, it is true that DFAIT has been carrying forward from year to year a growing backlog of ATIP requests that are beyond the legislative timeframes. This is something of concern not only to the Information Commissioner, but also to the department and the minister. Senior departmental officials are reviewing the allocation of resources at the minister's request with the purpose of clearing this ATIP backlog and building a greater capacity to meet Canadians' requests.

As a final remark, I would like to reiterate that DFAIT is committed to responding to access-to-information requests and to helping applicants to exercise their rights under the Access to Information Act and the Privacy Act.

Thank you.

• (1120)

The Chair: Thank you, Ms. McCulloch.

Finally, from Treasury Board Secretariat, we have Denise Brennan, director, access to information and privacy.

Ms. Denise Brennan (Director, Access to Information and Privacy, Treasury Board Secretariat): Good morning, and thank you for the opportunity to be here before you today.

My name is Denise Brennan.

[*Translation*]

For the past six years, I have been the director in charge of the unit that processes all access to information and privacy requests submitted to the Treasury Board Secretariat.

[*English*]

I hold the full delegated authority in the secretariat to process and approve these requests for final release.

Today I will provide you with a brief overview of the procedures that the secretariat has in place to action access to information and privacy requests.

The Treasury Board Secretariat's access to information and privacy unit is proud of its record and we believe strongly in the spirit of the Access to Information Act and the Privacy Act. We also strive to lead by example.

Our record stands for itself. The Treasury Board Secretariat response rate for responding to access to information requests on time has been 97% and 98% for the past two years and 100% for all privacy requests. Like every other department, this information is published in our annual reports to Parliament, which are also posted on the secretariat's website.

In accordance with the provisions of the ATI act, many of our requests require consultations in order to provide the most complete and accurate information available to the requester. We are confident that our process allows us to respond to requests within legislated timeframes.

Upon receipt of a request, my office identifies the request as routine or “high visibility”. Within the first 10 days, we seek clarification if necessary. We provide a search estimate or we retrieve the records and obtain recommendations from the sector on exemptions.

Within the next 15 days, my office reviews records and recommendations and prepares the records for release. Three days before the file is released, if my office has identified a request as high visibility, we advise the Secretary of the Treasury Board and the Office of the President of the Treasury Board, for information purposes only.

Our communications sector is notified at the same time so that communications products can be prepared if necessary. Our aim is to complete this entire process within 30 days of receiving the initial request. In fact, in 2009-10 we achieved this goal for 74% of our files.

[Translation]

Now, a few words on our best practices. Departmental officials in the secretariat are informed and are well aware of our process, our progress and our performance. We provide weekly updates on progress toward achieving the above deadlines by sector. This report is provided to the president's office and senior officials to ensure we maintain our high performance standards. Upon arrival of a new president, my unit informs the new president's staff of the secretariat access to information process. We also provide training sessions to Treasury Board Secretariat managers and employees on our process and timelines.

[English]

Finally, I would like to address an issue that has been of recent interest to this committee: political interference in access to information requests. Since I have held this position, no president of the Treasury Board or any of their staff has ever prevented the release of a document to respond to an access to information request or asked that redactions be altered.

[Translation]

In conclusion, my team and I are committed to the principles of the Access to Information Act and the Privacy Act, in providing timely access to government documents. We are proud of our performance and our record. I would be pleased to answer any questions that the committee may have. Thank you.

[English]

The Chair: Thank you, Ms. Brennan.

I want to move right to questions. I'm hoping to get two full rounds in, so let's get right on it.

Madam Foote, please.

●(1125)

Ms. Judy Foote (Random—Burin—St. George's, Lib.): Thank you, Mr. Chair.

Thank you to each of our witnesses for appearing before us this morning. I appreciate the important position you each hold in the departments where you work.

Mr. Makichuk, you mentioned that you have a \$2.6-million budget and 27 employees. I assume you're kept very busy, when I look at all of the statistics you've given us here.

I think you're probably also aware, as Ms. Brennan said, that one of the issues our committee has been dealing with is political interference. Of course, I guess that's one of the reasons why we're interested in hearing about ATIP requests, the responses, and how they're being dealt with.

We're told, through a *Globe and Mail* story, that Mr. Tognieri instructed a bureaucrat in your department to “unrelease” a report. I'm curious, I guess, when I listen to you talk about your job and what you're expected to do and what you do. It says that a bureaucrat had to make a mad dash to the department's mail room last July, as the report was on its way to the Canadian Press, and the Canadian Press had requested this particular report. This occurred despite the department's real estate branch having consented to the full release of the report. The Access to Information Office at Public Works—I'm assuming that would have been you as the director—had determined after extensive consultation that there was no legal basis to withhold any of the report. The director general at Public Works stated that the entire report should be released, and justice department lawyers agreed.

In some of the e-mails that Mr. Tognieri wrote he said, “What's the point of asking for my opinion if you're just going to release it!” So who would have asked for Mr. Tognieri's opinion about whether this should be released?

Mr. Tom Makichuk: I don't believe anyone did ask for Mr. Tognieri's opinion.

Perhaps Mr. Tognieri misunderstood his role in the process we have at Public Works and Government Services Canada. Much like other government institutions, we have a method through which requests are reviewed, in terms of their texts, to determine if any are sensitive and require communications products or briefings associated with their disclosure.

Mr. Tognieri participated in that process by reviewing the texts of the requests as we received them on a weekly basis. This particular request was identified as requiring media products, communications products, and that it would be given a heads-up throughout the department to the responsible assistant deputy minister, the associate deputy's office, and the minister's office.

Through that process there is a routing slip that simply indicates that the disclosure package has gone for this heads-up, this review. It would have been through that process that Mr. Tognieri would have seen the disclosure package to go.

So in specific answer to the question, it is my belief that Mr. Tognieri misunderstood his role in reviewing those documents, subject to release, and believed he was actually being asked for an opinion. In fact, he was not being asked for an opinion.

Ms. Judy Foote: Why did Mr. Tognieri have the authority to get a bureaucrat to actually run down and withhold that information or “unrelease” the information—that there was consensus, among everyone who appeared to have been in authority, to release it?

Mr. Tom Makichuk: That situation transpired in a very few brief moments. There was a concern raised about the file. I was informed that a concern had been raised. My associate deputy's office contacted me. It was not clear what the concern was, but it was clear that the release package had been placed in an envelope and left for the mail room to pick up.

We did not know the nature of the concern or the full nature of the concern, and whether or not the envelope had actually left in the mail stream from the department. So it was a matter of a few brief minutes to assess the situation and determine what the next steps of action would be.

The decision was made to attempt to retrieve the envelope from the mail room, if at all possible, and then later assess what the concerns were. It was at the end of the day. As I recall, it was close to 5 o'clock. There was concern about whether or not the envelope had been placed in the mail stream and had left the department.

Fortunately, in this case the envelope had not been stamped, had not left the department, and was retrieved from the mail room. Then, based on that, decisions could later be made as to what was the nature of the concern regarding the file.

•(1130)

Ms. Judy Foote: Do I understand that it took three weeks for the information to be released?

Mr. Tom Makichuk: There was a delay from the time that the request was retrieved from the mailroom to the time that it was eventually disclosed. Yes, that is correct.

Ms. Judy Foote: And the three weeks, is that the timeframe you're familiar with?

Mr. Tom Makichuk: As I recall, it was a period of two and a half months, Mr. Chair.

Ms. Judy Foote: Thank you.

If there was such a consensus that the information should be released, based on anyone who should have had some say in this, why would it have taken that long to release the information?

Mr. Tom Makichuk: There are a variety of situations that contributed to the delay. For one, I had only joined Public Works and Government Services Canada three weeks prior. Two, the next day I was given an acting assignment as director general, which lasted for an additional two and a half weeks, and during that period of time I was also responsible for my own duties.

Furthermore, our concern in Public Works and Government Services Canada is always to respond to our requests as fast as possible and on time.

Ms. Judy Foote: I understand that, and I appreciate that. I'm just thinking that three months seems to be an inordinate amount of time,

when anybody who is anybody who would have been familiar with that file, who had agreed to it, would have allowed it to go that day.

Mr. Tom Makichuk: Mr. Chair, it was not as simple as it sounds.

The Chair: Okay, I have a feeling that's going to come back more.

If I may, just for clarity, it was released under all the normal circumstances, and I think the second-last question that Ms. Foote asked was—

Mr. Randy Hoback (Prince Albert, CPC): Point of order.

The Chair: Just a moment. The chair is in the middle of a question. Just a second and I'll get to you.

Mr. Randy Hoback: Point of order, Chair.

Whose time are you using at this point in time?

The Chair: I'm using the chair's time because I'm asking for clarification to an answer. Okay? Thank you.

Now, the question as I heard it was what authority did Mr. Tognieri have to require the unreleasing of the document? And I think from your opening statement and from other statements, political staff don't have that authority. So what is the answer to that question?

Mr. Tom Makichuk: Mr. Chair, I can answer that at the time I was not aware of what Mr. Tognieri's authorities were, having just recently arrived in the department. But what I do know today is that Mr. Tognieri did not have any delegated authority under the Access to Information Act in Public Works and Government Services Canada.

The Chair: Thank you for that clarification.

Mr. Laframboise, please.

[*Translation*]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Thank you very much, Mr. Chairman.

I will put my question to you, Mr. Makichuk.

Earlier, you talked about the person who challenged your decision. Finally, you were the one who made the decision to accept the request and to send the 137 pages to the media. Did you make this decision?

[*English*]

Mr. Tom Makichuk: The decision to disclose the documents was made by a member of my staff, Christian Lefebvre, who was a delegated authority to make disclosures under the Access to Information Act.

[*Translation*]

Mr. Mario Laframboise: Good.

You said that there was a deputy minister... You had a meeting. As Ms. Brennan told us earlier, in the case of a sensitive document, you would have probably submitted it to the cabinet. Is that in fact what you did?

[English]

Mr. Tom Makichuk: Yes, that's correct. In Public Works and Government Services Canada, as with other government institutions, there are some disclosure packages that are circulated as a heads-up so that the department can be prepared for their disclosure. So in this particular case—

• (1135)

[Translation]

Mr. Mario Laframboise: All right.

What is the name of the deputy minister who asked questions?

[English]

Mr. Tom Makichuk: There was an associate deputy minister, and it does not circulate to the associate deputy minister but to someone in the associate deputy minister's office. In this particular case it was Katia Dalpé-Charron.

[Translation]

Mr. Mario Laframboise: This person asked questions and asked you to get the document back. And you did this. You ran to the mailroom to retrieve the document, right?

[English]

Mr. Tom Makichuk: Katia had contacted me urgently and asked for my assistance with the situation. And I decided, with a member of my staff, with the departmental security officer, and with the director responsible for the mailroom, to enter the mailroom.

[Translation]

Mr. Mario Laframboise: You retrieved your document, correct?

[English]

Mr. Tom Makichuk: In the course of the search of the mailroom, the unstamped envelope was retrieved.

[Translation]

Mr. Mario Laframboise: Then, for 82 days, you held on to the document and worked. Initially there were 137 pages, but 30 pages were made public. You provided a censored version that was made public.

Who made the decision to censor the document?

[English]

Mr. Tom Makichuk: The legal decision was made by the delegated authority on the file, who again was Christian Lefebvre of my staff.

[Translation]

Mr. Mario Laframboise: He is the one who authorized the first uncensored version. You are telling me that the same individual decided to censor the document? There must certainly have been somebody who told him to censor it or to remove the pages.

[English]

Mr. Tom Makichuk: Yes. This particular request had not followed the normal path in Public Works and Government Services Canada, and there was an interest to first brief up to my director general and then again to my assistant deputy minister, and the decisions, as I understand it, were rendered at that level.

[Translation]

Mr. Mario Laframboise: Who made the decision? Name the person, please.

[English]

Mr. Tom Makichuk: I was not present at the meeting where the decision was made, but I was advised that the direction came from Caroline Weber. Caroline Weber is the assistant deputy minister of corporate services, policy and communications branch.

[Translation]

Mr. Mario Laframboise: Were you involved in any of the steps of this decision-making? Were you involved or did you let your staff look after it?

[English]

Mr. Tom Makichuk: I had an involvement in the sense that I had begun to draft a briefing note that would explain the situation that had occurred and the various options for moving forward.

[Translation]

Mr. Mario Laframboise: You drafted the first note... Someone must certainly have ordered this. Who is your superior? To whom do you report?

[English]

Mr. Tom Makichuk: At the time the note was drafted, I was reporting to Sylvie Séguin-Brant, director general, executive secretariat.

[Translation]

Mr. Mario Laframboise: Were you in contact with Mr. Togneri?

[English]

Mr. Tom Makichuk: No, I was not in contact with Mr. Togneri.

[Translation]

Mr. Mario Laframboise: I want to make sure that I have understood correctly. Earlier, you said that you were brand new. Who held the division before you?

[English]

Mr. Tom Makichuk: The position of director of access to information and privacy at PWGSC was previously held on an acting basis by Rachelle Delage.

[Translation]

Mr. Mario Laframboise: You're never in contact with the political staff?

• (1140)

[English]

Mr. Tom Makichuk: The only contact I ever had with political staff was by virtue of the weekly meeting, which is the meeting where the newly received requests are reviewed for their text to determine sensitivity. And at those meetings, the only political staff I ever encountered was Sébastien Togneri.

[Translation]

Mr. Mario Laframboise: How many times did you meet them? There may not be a ton of sensitive documents, but there must certainly be a good number of them. How many times did you meet with these people?

[English]

The Chair: Thank you, Mr. Togneri; your time.... I'm sorry—

Mr. Mario Laframboise: No problem. I'm not Mr. Togneri.

The Chair: *Je suis désolé, monsieur.*

But I would like to give the witness an opportunity to answer.

Mr. Tom Makichuk: Mr. Chair, the maximum I would meet with Mr. Togneri would be once a week; but in reality, I met with him far fewer times than that.

The Chair: Merci.

Mr. Siksay, please.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Thank you, Chair.

I want to thank all the witnesses for appearing this morning. I know that this is probably an unusual moment for you, and not one you probably expected to see as part of your duties.

Mr. Makichuk, I want to come back to the line that we were just exploring with Mr. Laframboise. You mentioned this weekly meeting where you review the text of original requests for access to information. Am I correct in assuming there is really a two-stage process here, one where you review all the requests that come in, then the department goes away and prepares what information they believe should be released, and then there's a notification of the minister's office when the information is about to be released?

Mr. Tom Makichuk: There is a two-stage process in the sense that some requests are deemed to be sensitive and others are deemed to be non-sensitive. The non-sensitive ones are processed within the department and disclosures are made on a routine basis. These are the vast majority of requests at Public Works and Government Services Canada.

A smaller portion are those that are deemed sensitive by way of this weekly meeting, and it is these requests for which communications products are prepared and a variety of stakeholders within the department are informed prior to the release.

Mr. Bill Siksay: Who is involved in this weekly meeting in this determination of sensitive requests?

Mr. Tom Makichuk: At the time that this occurred the weekly meeting had a representative from the minister's office, which would have been Mr. Togneri. There was a representative from the associate deputy's office, which would have been Katia Dalpé-Charron. There would have been a representative from my office. There would have been representatives from the communications sector as well.

Mr. Bill Siksay: What are the established criteria for sensitive or non-sensitive...?

Mr. Tom Makichuk: The criteria are not set by my office or by my staff but are determined by a consensus as to the content or the nature of the request. If the request is something that has been of media or public interest or of parliamentary interest, that would be an indication of a sensitive nature.

Looking through documents recently, I understand that other criteria were applied, and this included whether the request was from the media or from a parliamentarian.

Mr. Bill Siksay: So there is a process whereby certain requests are deemed to be more important or more sensitive than other requests?

Mr. Tom Makichuk: Yes, more sensitive requests....

Mr. Bill Siksay: And political staff are involved in making that determination?

Mr. Tom Makichuk: Yes, one political staff person was a participant in that meeting.

Mr. Bill Siksay: But you said it's a consensus process, so they obviously have the ability to block that consensus if there is a disagreement about sensitivity.

Mr. Tom Makichuk: There would arise situations where any member of the committee would have different information or a different point of view. As the remainder of the participants in the weekly meeting were public servants, they would necessarily lack information or a point of view that would lead to have greater understanding of political sensitivities. For that reason, Mr. Togneri would bring that perspective to the table.

• (1145)

Mr. Bill Siksay: If it was deemed non-sensitive, is the minister's office still informed when that information is about to be released?

Mr. Tom Makichuk: If deemed non-sensitive, it's a routine disclosure, and the disclosure, once it's ready, just goes out from the department.

Mr. Bill Siksay: So there's no further notification of the minister's office?

Mr. Tom Makichuk: There is no further notification.

Mr. Bill Siksay: Thank you.

Ms. Wesch, I wanted to come to you in terms of your presentation. You mentioned that you meet with PMO issues management staff weekly to provide information on ATIP requests, consultations that come into PCO, and those that are closed. Is that a similar process to what we've just been discussing with Mr. Makichuk?

Ms. Ann Wesch: No. Our process is totally different. We don't categorize our requests in any way. We don't have any kind of special handling. As I described in my opening statement, we send the release package to PMO issues management a few days before it's released. We send a memorandum to the chief of staff in the Prime Minister's office and in the weekly meeting we provide a listing of the requests that have come in and the ones that have been closed. We treat all requests the same way and we don't categorize them or label specific files for any kind of special handling.

Mr. Bill Siksay: You don't receive any feedback from political staff on the list of requests you present at that weekly meeting. Is that right?

Ms. Ann Wesch: No, I don't.

Mr. Bill Siksay: There's no discussion about what's more sensitive than others, or what's non-sensitive. It's merely an information of what lists are being considered.

Ms. Ann Wesch: I provide information only on the requests that have come in, the consultations that have come in, the requests that we have closed.

Mr. Bill Siksay: Thank you.

Ms. Brennan, I wanted to ask you about the same process. On page 3 of your statement, you mentioned that when a request is received in your department you identify the request as routine or high visibility. Can you tell me who's involved in making that decision? Is there any representative of the minister's office or political staff at that meeting?

Ms. Denise Brennan: Once we get a request for access to information, normally I deem that as high visibility or routine based on what's in the news, what could have significant impact, or possible questions in the House for the president. I do that myself.

Mr. Bill Siksay: You do that personally.

Ms. Denise Brennan: Yes.

Mr. Bill Siksay: Are the criteria for that written down anywhere? Have they been discussed with other folks? Where do those criteria that you use to make that decision come from?

Ms. Denise Brennan: The criteria are simply based on the subject matter of the request. Again, the requester has no bearing on us determining whether it's high visibility or routine.

Yes, there are clearly defined criteria within the Treasury Board Secretariat, and everyone is aware of those criteria.

Mr. Bill Siksay: Thank you.

Ms. Holden, is there a similar process in the Department of Human Resources, any discussion of what requests have come in with political staff before the actual information is gathered on those ATIP requests?

Ms. Jackie Holden: Within HRSDC, we have a process by which we prepare a weekly report of new requests that have been made to the department, and we also prepare two weeks ahead a list of what requests are going to be released or scheduled to be released. Those two reports are the subject of a weekly meeting with ourselves, communications staff, parliamentary affairs staff, and a representative from the minister's office for information only. We share those lists so that appropriate media lines can be developed, if so desired, by communications.

The Chair: Thank you very much.

Mr. Poilievre, please.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): Thank you.

My questions are for Mr. Makichuk, director of access to information, PWGSC.

Can you explain to us in detail how an access to information request is processed, right from receiving the request to sending the response?

Mr. Tom Makichuk: The access to information process begins with a written request from a requester that identifies the Access to Information Act. It also includes a \$5 filing fee.

From that point, the text of the request is tasked out to a variety of organizational divisions within the department to determine who has records that are responsive to the request.

At the same time, and concurrently, this weekly meeting occurs that I've made mention of, in which the text of the request is reviewed to determine whether it is sensitive and requiring communications products.

Following that, documents are received by my office from the department, and those documents are reviewed by my staff. It's a painstaking review. It's a word-by-word review. Many times we could have requests that constitute thousands of pages, so you can imagine the time to review each individual word to apply any one of the 12 exemptions, or two exclusions of the Access to Information Act, is quite an undertaking to carry out.

Once the information has been assessed and the exemptions and exclusions applied, fees are then assessed. Fees can be assessed for the number of pages beyond 125. Fees can be assessed for search and preparation time. Fees can be assessed for the manner in which the records are disclosed—for example, if they were on tape recording. Fees are then received or paid from the requester and the request is disclosed.

There is one additional element that I should add that also runs concurrently at the time the disclosure package is prepared. That's if the request is one of the few that has been deemed to be sensitive. In that case, the disclosure package is circulated first to the responsible assistant deputy minister, then to the associate deputy's office, and finally to the minister's office. Again, the purpose of this is to first provide a heads-up to the department to indicate that the following information is about to be disclosed and to ensure that necessary communications products are prepared.

● (1150)

Mr. Pierre Poilievre: Could you describe to us what the requester had asked for in the case in question, the Togneri issue?

Mr. Tom Makichuk: Certainly. The request was for "All analyses created since Jan.1, 2008, on the relative difference between PWGSC operating expenses...indexed by the Canadian Building Owners and Managers Association (BOMA-Canada)".

Mr. Pierre Poilievre: Is that the asset report card?

Mr. Tom Makichuk: It was in response to this request that the department identified the asset report card.

Mr. Pierre Poilievre: Okay. And what was the precise concern raised by Mr. Togneri to this release?

Mr. Tom Makichuk: Mr. Togneri reviewed the content of the asset report card, which is a 137-page document, and determined that only one chapter, chapter 11—which is, I believe, a 30-page excerpt from the report—was responsive to the request.

Mr. Pierre Poilievre: So he believed that only chapter 11 was necessary to fill the request.

Mr. Tom Makichuk: That was the opinion expressed by Mr. Togneri.

Mr. Pierre Poilievre: So in light of his remarks, you re-examined the request and determined the appropriate response?

Mr. Tom Makichuk: Mr. Togneri's observations were brought forth at the very end of the process, after the documents had been placed in an envelope and left...

Mr. Pierre Poilievre: I don't need you to go through all that again. You did review his concern, and.... Is that true?

Mr. Tom Makichuk: Could you repeat that?

Mr. Pierre Poilievre: You re-examined the request to determine if the response was appropriate? That's all I need to know on that question.

Mr. Tom Makichuk: I did not review the entire report to determine whether the entire report was responsive. The department did give consideration to the concerns raised by Mr. Togneri, and a decision was later rendered.

Mr. Pierre Poilievre: And what was the decision?

Mr. Tom Makichuk: The decision rendered was that chapter 11 would be disclosed.

Mr. Pierre Poilievre: It would be disclosed. Okay. Great. Thank you. I'm done.

The Chair: Thank you.

Mr. Easter, go ahead, please, for five minutes.

• (1155)

Hon. Wayne Easter (Malpeque, Lib.): Thank you, Mr. Chair.

Mr. Makichuk, did you have any heads-up of what the parliamentary secretary might be asking at this meeting today?

Mr. Tom Makichuk: Can you clarify who the parliamentary secretary is?

Hon. Wayne Easter: It's Mr. Poilievre—or for that matter, a government representative.

Mr. Tom Makichuk: Yes, this morning I received some general questions.

Hon. Wayne Easter: Okay. Thank you very much. Because the answers to the parliamentary secretary seem, from my view here, to have been read, and that worries me.

In any event, would it be possible for us to receive a copy of those questions that government members might ask, which seem to have landed on your desk ?

Mr. Tom Makichuk: Certainly, Mr. Chair.

Hon. Wayne Easter: Okay, coming back to the Togneri issue, I just want to make sure I have this right.

According to previous questions, this is basically the scenario. The release package was left in the mailroom, ready to be picked up. A request came from exempt staff. Then a decision was made to retrieve it, which it was possible to do. The envelope was retrieved, and then there ended up being a delay of two and a half months. Does that about sum it up, in short?

Mr. Tom Makichuk: Yes, that sums it up in short.

Hon. Wayne Easter: Now, we were told under previous testimony that the information that was then released went down from 139 pages to 30. Is that accurate, roughly?

Mr. Tom Makichuk: Yes, that's accurate, roughly.

Hon. Wayne Easter: Then who changed that information or who made the request that the information to be released be changed?

Mr. Tom Makichuk: The original request was initiated by Mr. Togneri.

Hon. Wayne Easter: That's fine. We know.... He has admitted before this committee that his unrelease memo—"unrelease that".... I believe he called it "stupid", but it's clearly a violation of the act.

In any event, the key point here is that the department was willing to release 139 pages and they felt that was appropriate information to be released—and it in fact would have gone out if the mail had gone—and Mr. Togneri stepped in as exempt staff, for whatever reason.... We do know that this is a highly secretive government that seems to be involved consistently in delay and coverup, etc. That's becoming well known.

But in terms of the access to information being reduced from 139 to 30 pages, who made that decision? And was there any exempt staff, anybody from the PMO or the minister, involved in that tremendous reduction in information that was released? Do you know?

Mr. Tom Makichuk: I am not aware of any representative of the Prime Minister's Office or any other political exempt staff, with the exception of Mr. Togneri, being involved with this.

Hon. Wayne Easter: We understand that, and of course we're trying to get.... Mr. Togneri, when he was before this committee, stated that he passed on the information. We asked him what happened with the information—how did it get reduced? He passed on that information to a Jillian Andrews, who we've asked to come before this committee. The clerk has issued a summons. You haven't mentioned her as yet.

By whom or where was the release of information changed to reduce the amount of 139 pages to 30? Do you know ? If it was within your department, somebody had to make a decision somewhere to take out 109 pages of information that at one point in time were going to be released.

Mr. Tom Makichuk: As I've already answered to a previous question, this was an extraordinary circumstance, and it was escalated up from my level to my director general, then from my director general to my assistant deputy minister, where, I understand, the decision was rendered.

• (1200)

Hon. Wayne Easter: But we're missing 109 pages here. Do you know who made the decision on them, and where did they go? If you don't, that's fine, but somebody sure as the devil made the decision somewhere.

The Chair: Okay. Sorry, Mr. Easter, sir. We're past your time.

A quick response if you care to, Mr. Makichuk.

Mr. Tom Makichuk: Mr. Chair, as I said, I understand that the decision was rendered at the assistant deputy minister level. The legal authority to make the disclosure was done by a member of my staff. I should also further underline that we later received a complete request specifying the report by name and the report was disclosed in full and on time in response to that request.

The Chair: Thank you.

Mr. Rickford, please.

Mr. Greg Rickford (Kenora, CPC): Just before I start officially, you don't have any follow-up questions for your colleague...?

The Chair: Mr. Rickford, it's your time.

Mr. Greg Rickford: Okay. Good.

Thank you to the witnesses for appearing today.

My questions are going to be focused to you, Mrs. Wesch, and I want to say from the outset that I appreciate you guys coming here today and giving answers to our questions.

We are hearing from more and more witnesses, including today's panel, and I want to commend the work of the departments in their adherence to rules and policies respecting the access to information and privacy. The allegations that the opposition members—particularly the Liberals—are advancing appear more and more baseless as time wears on and are probably more a function of another failed anecdote for blowing \$39 million worth of taxpayers' money in the Liberal ad scam.

That said, there are two really important consequences. First of all, by my assessment, they're smearing the good work of the relevant departments and the transparency of this government. Secondly, which is more and more clear, we're getting in the way of important and substantive work on privacy matters that this committee has set down to work on.

Mrs. Wesch, you mentioned in the outset of your comments that you have never been asked to delay, alter, or deny a request. Is that what I heard you say?

Ms. Ann Wesch: That is what I said, and it is true.

Mr. Greg Rickford: I want to build on a few good questions from my colleague Mr. Siksay. You mentioned you had weekly meetings with the Prime Minister's Office. I'd like to know a little bit more about this. You said that these are informational meetings.

Ms. Ann Wesch: That's correct.

Mr. Greg Rickford: How long are these meetings?

Ms. Ann Wesch: They last 10 or 15 minutes. I go to the issues management office. We usually discuss the requests. We print them from our database, the requests and consultations that have come into PCO during the last week. I also provide a list of requests that were closed and have gone out. The issues management group would already have received these requests prior to the release, so they would have seen the records.

Mr. Greg Rickford: You mentioned in your response to Mr. Siksay that you don't categorize, label, or get feedback from the PMO on these issues. It's simply an informational session.

Ms. Ann Wesch: That's right. We don't categorize our requests or do any special handling. We provide them with information on all

requests. Before documents are released to the applicant, we always give them a release package.

Mr. Greg Rickford: Do you play any sort of advisory role, other than just providing information?

Ms. Ann Wesch: We provide information.

Mr. Greg Rickford: Could you give me an example? Is that appropriate?

Ms. Ann Wesch: I'm not sure....

Mr. Greg Rickford: When you give a piece of information and it's not categorized, not labelled, how would it come across?

Ms. Ann Wesch: Before the request goes out, we send over what we're going to send to the applicant. We include a copy of the memorandum that went to the chief of staff, describing the request. So the records are there, just as the applicant will get them.

Mr. Greg Rickford: I don't have any more questions. I will share my time with Ms. McLeod.

The Chair: Welcome, Ms. McLeod.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Thank you.

Being new to this committee, I'm interested in finding out what the processes are. There was a comment about best practices in different departments. You're all directors general, so you have the same role in different departments. Are there a lot of opportunities for collaborating and learning from one another?

• (1205)

Ms. Denise Brennan: Yes, Treasury Board Secretariat offers ATIP community meetings, in which we're able to share best practices and comment on different issues. We collaborate with one another. If we want to see how things are working in similar departments, we call them to get feedback. There are various ways of collaborating.

Mrs. Cathy McLeod: Can you talk about the ATIP approval process at Treasury Board? Is there anything different from what we've heard already?

Ms. Denise Brennan: We have full delegation. I have full delegation as ATIP director. Once a request is ready to go out the door, we have three days....

The Chair: Please continue. I just wanted to mention that we have to move on to another person after your answer.

Ms. Denise Brennan: Depending on whether the request is routine or high visibility, I or my senior director will sign off on the file. Ultimately, though, I'm responsible for approving the release. If it's a high-visibility file, the secretary's office, as well as the office of the president, is provided a full copy of the release package. This is for information purposes only—we don't wait to hear back from them. After the three days are up, we release the information to the requester.

The Chair: Thank you.

Mr. Plamondon.

[*Translation*]

Mr. Louis Plamondon (Bas-Richelieu—Nicolet—Bécancour, BQ): Thank you, Mr. Chair.

Mr. Makichuk, when you were appointed to your position, I would presume that, before accepting it, you had a good idea of what was in store for you.

Did you speak with your predecessors to find out whether, for instance, under the former government, things happened the same way that they do today?

[*English*]

Mr. Tom Makichuk: After accepting the position at Public Works and Government Services Canada, I did meet with my predecessor, where we discussed matters of how the office operated. But I did not enter into a discussion about how the ATI process functioned under this particular government.

[*Translation*]

Mr. Louis Plamondon: If I were to put myself in the shoes of the citizen who is listening to you testify today, I would say that that means requests for information that the government does not want known. Without directly giving you these orders, he is telling you which path to take, namely, whether you should agree to the request or keep something secret. When I hear you speak, this is what you seem to be saying.

It seems that this is what happened in the case of Mr. Togneri. You were told to retrieve the envelope. For 82 days, you were told to remove 109 pages and to keep 30, which you could then forward to the requester. Essentially, you and your team were subject to political pressure from the government in order to proceed in this fashion. You agreed, in order to buy some peace and to demonstrate that you were accommodating. This accommodation between you and the government is always aimed at serving the government, and not necessarily at serving the truth, right?

[*English*]

Mr. Tom Makichuk: I would like to clarify that my authority under the Access to Information Act is an authority that is delegated by the minister. I have no one overseeing my exercise of that authority. I have no one asking me or compelling me to make changes. I am a delegated authority. I have that authority, and I exercise that according to my experience, my judgment, and situations.

I cannot recall any time when I felt that I was being asked, from a political point of view, to protect, hide, or cover information—not at all.

In the specific case that has been raised, the situation was clear. There was a concern raised on the file. What the full nature of that concern was remained unknown. There was a very brief few moments in time, perhaps 30 minutes, under which to take action, and it was based on that compression of time that the decision was made to attempt to retrieve the envelope.

• (1210)

The Chair: Monsieur Laframboise, you have less than a minute.

[*Translation*]

Mr. Mario Laframboise: Earlier, you mentioned that the assistant deputy minister, Ms. Weber, had made the decision. You said that you had 30 minutes and that you were the only one making the decision, but the assistant deputy minister nevertheless exerted some pressure.

[*English*]

Mr. Tom Makichuk: I was contacted by a member of the associate deputy's staff, who raised the urgency of the concern with me—that a concern had been raised and that it was urgent and needed to be dealt with. But that was the extent to which I had direction from the associate deputy's office.

The Chair: We'll have to move on. Sorry.

Ms. Davidson, please.

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Thank you very much, Mr. Chair.

And thanks very much to each of you for being here. I think we're certainly getting a much better understanding of how things operate.

Can you hear me?

Ms. Monique McCulloch: Yes. I'm sorry, I was just trying to catch your name.

Mrs. Patricia Davidson: Oh, that's okay. It's Davidson.

Ms. Monique McCulloch: Thank you, Ms. Davidson. I'm sorry.

Mrs. Patricia Davidson: I want to address my first questions to Jackie Holden, if I might, please.

Certainly we've heard a fair amount from your department, and we've had the minister here a couple of times discussing issues. I think we've also heard how well your department is doing with the numbers and with the access to information requests and how you're processing them. Congratulations for that. I know it's certainly a huge job.

Are you the one who has the delegated authority in your department?

Ms. Jackie Holden: That's correct. As director of access to information and privacy, I have full delegated authority.

Mrs. Patricia Davidson: How many people do you have working in this area?

Ms. Jackie Holden: There are approximately 40 individuals within our division.

Mrs. Patricia Davidson: Okay. What would you do in your department if there were a problem with a request? I don't even know what a problem would be, so perhaps you can help me define that as well. Do you flag a problem—whatever that is—and do you report to somebody else? How does that work?

Ms. Jackie Holden: With respect to the handling of access to information requests, we have a very well defined process and procedures in place within our department. As I mentioned earlier, we have two reports that we generate on a weekly basis to ensure full awareness and a no-surprises environment within the organization. As a result of that, there is early notification to all branches, regions, senior management, and the minister's office of upcoming events and upcoming releases.

We find that serves us very well. There's no differentiation or categorization of types of requests as such. We treat all requests in the same manner and respect the legislation and the timelines that are in place. In terms of the information that we share up, the reports serve us well in terms of laying out the timelines for the release of each request, and we work with communications, as I mentioned earlier, through our weekly meetings to determine whether or not media lines are deemed to be of interest or need to be developed. But that's not our decision to make within the access to information area. We just make the reports available.

Mrs. Patricia Davidson: You said none of them are categorized or... I forget which exact word you used. You don't deem any of them sensitive, then, as we have heard from another department?

• (1215)

Ms. Jackie Holden: That's correct. Within the access to information division of HRSDC, we do not make that determination. We have our weekly meetings, at which point, if communications, parliamentary affairs, and a representative from the minister's office are in attendance, if there is an interest in that meeting in having media lines developed, our communications branch is responsible for the development of those lines, working with the responsible program area or region.

Mrs. Patricia Davidson: That happens at or after the weekly meeting.

Ms. Jackie Holden: That's correct. We do it early in the process, so that we are able to meet our legislated deadlines.

Mrs. Patricia Davidson: What are your deadlines? How long do you have to respond to a request?

Ms. Jackie Holden: We have 30 days to respond to a request. And we have assigned times within our department for the scoping and collection of records within the responsible area, be it a branch or a region, that's deemed to be the holder of those documents. Then there's the processing and the actual review of the materials by our division and our experts in our ATIP division to see if there are any necessary exemptions or exclusions that are required.

Then the package is provided to the lead assistant deputy minister or regional head for review, for seen-and-noted signature—not for approval but for seen-and-noted signature—to ensure that they're aware of what materials are scheduled for release. Then it's our decision and we move forward with the release of the package under my full delegated authority.

Mrs. Patricia Davidson: What happens if you receive a request that isn't relevant to your department? Do you automatically refer it on to whomever it does apply to, or do you turn it back?

Ms. Jackie Holden: We always would check to see if it seems likely that there would be another government department that would have the relevant information, and we would contact that department—that happens relatively frequently—to make sure the requester receives service.

Mrs. Patricia Davidson: Thank you very much.

The Chair: Thank you.

Mr. Siksay.

Mr. Bill Siksay: Thank you, Mr. Chair.

Mr. Makichuk, I want to come back to the issue Mr. Easter raised about the advance notice you were given of some questions from Mr. Poilievre. You confirmed that you had received advance notice of some of those questions or all of those questions?

Mr. Tom Makichuk: Yes, I received a document earlier this morning.

Mr. Bill Siksay: Who did you receive that document from?

Mr. Tom Makichuk: The document was passed to me by my director general.

Mr. Bill Siksay: Did that document also include suggested answers to those questions, Mr. Makichuk?

Mr. Tom Makichuk: No, there were no suggested answers.

Mr. Bill Siksay: It's just a list of possible questions that might come from the government this morning.

Mr. Tom Makichuk: It was simply a list of possible questions.

Mr. Bill Siksay: Okay. Was it identified as possible government questions, or just general questions that might come up at the meeting this morning?

Mr. Tom Makichuk: I can't recall that detail.

Mr. Bill Siksay: Have the questions that were on that document come up from other members this morning, or specifically from Mr. Poilievre?

Mr. Tom Makichuk: The only questions that I recall receiving from that list came from Mr. Poilievre.

Mr. Bill Siksay: Ms. Brennan, did you receive an advance notice of any possible questions this morning?

Ms. Denise Brennan: No, I did not.

Mr. Bill Siksay: Ms. McCulloch, did you receive advance notice of any possible questions?

Ms. Monique McCulloch: No, I did not.

Mr. Bill Siksay: Ms. Wesch?

Ms. Ann Wesch: No, I did not.

Mr. Bill Siksay: And Ms. Holden?

Ms. Jackie Holden: No, I did not.

Mr. Bill Siksay: Okay. Thank you very much.

Ms. Wesch, I want to come back to you. The referrals that you receive and deal with as the ATIP coordinator in your office, do those include referrals from other departments of things that might have to do with intergovernmental relations or relations with other governments, ATIP requests that came into a different department and then end up in PCO or the Prime Minister's Office?

Ms. Ann Wesch: I just want to clarify: you're saying requests that came somewhere else that were referred to us?

Mr. Bill Siksay: Yes.

Ms. Ann Wesch: That happens on occasion if another department feels that we would be better suited to respond to the request.

Mr. Bill Siksay: You say "on occasion". How frequently does it happen?

Ms. Ann Wesch: Infrequently.

Mr. Bill Siksay: Infrequently.

I gather that it is possible for the PCO to say that the release of information may affect relations with another government or another country. Is that used very often to deny access to information, in your experience?

Ms. Ann Wesch: Well, we do, yes, we would use that exception when it applied to the records.

Mr. Bill Siksay: How often does that happen?

Ms. Ann Wesch: I really would not know how often we use the various exemptions. I really don't know. I could look into it.

Mr. Bill Siksay: All right. But that one doesn't stand out, though, for you, as someone who deals with these things, as one that's used more frequently than others, for instance.

• (1220)

Ms. Ann Wesch: Oh, it probably would be one that we use more frequently. But I wouldn't be able to tell you the exact....

Mr. Bill Siksay: Thank you.

Mr. Makichuk, I want to ask you, when you have contact with or are contacted by political staff, is that contact made by phone or is it made by e-mail? How does the contact happen when it does occur?

Mr. Tom Makichuk: I have had contact in person, I have had contact by e-mail, and I have had, on occasion, contact by telephone.

Mr. Bill Siksay: Since the issue with Mr. Togneri has arisen, has that changed? Is it done in person now more often than by e-mail? Have you noticed any change since this issue has had some publicity?

Mr. Tom Makichuk: I've noticed no change.

Mr. Bill Siksay: I wanted to ask all of you—and it may possibly be an unfair question, so you can feel free to say it's an unfair question. In some of the media around this it was suggested that being an ATIP coordinator in government wasn't necessarily the best career path. I'll read you the quote. I think it came from one member of the media, who said "You do not get promoted based on your ability to move access requests through the system".

I'm just wondering if you think that fairly represents your experience of being an ATIP professional in the public service. Do you see it as a barrier to your future in the public service? Do you see

it as one that is more problematic than other career paths in the public service?

I'll just go down the row. Ms. Brennan.

Ms. Denise Brennan: I think it was the best career choice I have ever made. It's opened up a lot of doors, and it's all based on the way you handle it as a person.

The Chair: Thank you. We'll move on.

Ms. Monique McCulloch: Actually I've been in ATIP at the federal level...I'm in my 28th year, so right from inception of the legislation. So I have to say I've had a very rewarding career in ATIP, and I don't see it as preventing me from exploring other possibilities.

Mr. Tom Makichuk: For myself, I can say that in my ten years I've enjoyed all ten. In particular, in Public Works and Government Services Canada I believe that we are recognized for getting the requests out on time.

Ms. Ann Wesch: I think working as an ATIP professional is a really profound responsibility. It's a very serious position, and I don't feel it has impeded my career.

Ms. Jackie Holden: I've been an ATIP director for approximately a year and a half now. I find the work challenging, fulfilling, and fascinating. I look forward to it helping me in my future career within the public service.

Mr. Bill Siksay: Well, thank you for the work you do.

The Chair: Thank you.

Madam Foote, please.

You'll have another chance. Colleagues, I already have requests in for the third round, so we will continue on. We've been doing very well.

Madam Foote, and then Mr. Hoback.

Ms. Judy Foote: I hope you all continue to have long and rewarding careers as ATIP officers.

I want to go back to the issues management staff weekly meetings that, Ms. Wesch, you said you attend. Who sits on the issues management committee at PMO?

Ms. Ann Wesch: I'm not sure that it's a committee. I know there's a director of issues management, there's an issues management researcher, and an issues management adviser.

Ms. Judy Foote: Can you give me the names of the individuals?

Ms. Ann Wesch: At this time the director of issues management is William Stairs. The issues management researcher is Jason Plotz. The issues management adviser is Adam Taylor.

There may be others in the group; I don't know. Those are the people I deal with.

Ms. Judy Foote: Okay. These are the individuals you meet with on a weekly basis.

Ms. Ann Wesch: I don't meet with all of them. It varies.

Ms. Judy Foote: How so?

Ms. Ann Wesch: Some weeks it's just Jason Plotz. Sometimes it's Mr. Stairs and Jason Plotz.

Ms. Judy Foote: What warrants a weekly meeting?

Ms. Ann Wesch: It's just to make sure that the Prime Minister's Office and the ministerial staff are aware of upcoming releases so they're aware of what has come into the Privy Council Office so that they are able to prepare the Prime Minister for media queries or parliamentary questions.

Ms. Judy Foote: Okay.

Ms. Holden, do you have such meetings as well?

Ms. Jackie Holden: As mentioned, we have a weekly meeting with our ATIP division staff—

Ms. Judy Foote: I'm sorry, do you have them with the issues management committee of PMO?

Ms. Jackie Holden: We've never had any connection or contact with them, no.

Ms. Judy Foote: Okay.

Mr. Makichuk?

Mr. Tom Makichuk: We do, as I've mentioned, have a weekly meeting where we review the newly received requests.

•(1225)

Ms. Judy Foote: With the issues management committee of PMO?

Mr. Tom Makichuk: I'm not aware of anyone specifically assigned responsibility for issues management.

Ms. Judy Foote: So you don't have the weekly meeting in the same way as Ms. Wesch would, with that particular group of individuals?

Mr. Tom Makichuk: I don't have a weekly meeting with issues managers, no.

Ms. Judy Foote: Ms. McCulloch?

Ms. Monique McCulloch: No, we don't have any weekly discussions or meetings with the issues management office at PCO.

Ms. Judy Foote: Ms. Brennan?

Ms. Denise Brennan: It's the same for us—no weekly meetings with issues management.

Ms. Judy Foote: Mr. Makichuk, I just want to come back to you. Who is Jillian Andrews? Mr. Togneri referenced her in an earlier discussion we had. Who is she?

Mr. Tom Makichuk: Mr. Chair, I've never met Jillian Andrews, so I don't know her. But I'm of the understanding that she was a staffer within Minister Paradis' office.

Ms. Judy Foote: All right. Is she still there? Or do you know?

Mr. Tom Makichuk: I'm not in a position to answer that.

Ms. Judy Foote: I want to go back to the issue I started out with. Clearly, Mr. Togneri was in violation of the act, the Access to Information Act. I guess we all acknowledge that. He's acknowledged that, as having made a stupid mistake.

Knowing that he was in violation of the act—you would have known that, and all of those who had reached a consensus that the release of this information was the right thing to do—why would anyone listen to Mr. Togneri when he asked to have the information

unreleased, knowing that what he was doing was in fact in violation of the act?

Mr. Tom Makichuk: I don't recall there being any consideration as to whether the act was being violated or not at that time.

Ms. Judy Foote: Does that ever come into consideration at any time when you're fulfilling requests in terms of ATIP requests or requests from the media? Does it ever come into play whether this is the right thing to do and we need to do it, regardless of what you're being asked to do?

I don't know if others have asked you questions with respect to other exempt staff who have asked you to do things. Obviously Mr. Togneri did. Would that not play into your decision or the decision of the bureaucrats who are in charge, whether or not it was in violation of the act that you're charged with upholding?

The Chair: Thank you.

Please respond and then we'll move on.

Mr. Tom Makichuk: Mr. Chair, as I've mentioned, I'm a delegated authority under the act, as are my staff. Anyone in the department does question us on decisions that we've made. Access to information is a process that's administered by human beings. It's not done by machines or computers. It's a matter of judgment and interpretation of the law. Many times lawyers get involved to assist us in that application of the law. If anyone raises a question on a file, we will take pause to listen and give consideration.

We are experts in the law. We are not experts in the subject matter of the documents.

The Chair: Thank you.

Mr. Hoback, please.

Mr. Randy Hoback: Thank you, Chair, and again I thank everybody for coming out this morning.

Ms. Wesch, you talked about grading. You are graded—you said you had a C grade. Could you just elaborate on what that grading system consists of, and who does it?

Ms. Ann Wesch: The grade I was referring to was a grade by the Office of the Information Commissioner. The Information Commissioner does an annual review, and it's not just a grade. The last report had a letter grade, a star system, and also gave an overall assessment. For the year we just completed, we had 82% of our requests on time, and that would equate—if the commissioner uses the same criteria—to a C grade.

Mr. Randy Hoback: Would she use the same criteria right across other areas, for other ministries?

Ms. Ann Wesch: Yes, she would use the same criteria.

Mr. Randy Hoback: She'd look at the process of how you're meeting internal time limits or timeframes and then how you're getting the documents out. Is that correct?

Ms. Ann Wesch: That's right. A lot of it is based on lates. The business is run by which files go late.

•(1230)

Mr. Randy Hoback: Okay.

I'll just go across the board here. Ms. Brennan, how did you grade?

Ms. Denise Brennan: We've never been graded.

Mr. Randy Hoback: You've never been graded.

How about you, Ms. McCulloch?

Ms. Monique McCulloch: I'm the total opposite of the Treasury Board. For the last decade, DFAIT has had the pleasure of being graded by the Office of the Information Commissioner. I have to admit we are an institution that has been struggling to meet ATIP legislative deadlines due to a number of factors, including capacity issues. This past report card, the Information Commissioner was greatly concerned by DFAIT's inability to meet Access to Information Act deadlines. In fact, we were deemed off the charts—not even an F grade.

Mr. Randy Hoback: You have some work to do, obviously.

Ms. Monique McCulloch: Yes, sir.

Mr. Randy Hoback: I assume you have processes in place to look at what's going wrong and how to fix it.

Ms. Monique McCulloch: We have. I've been at DFAIT for just over six years now, and we have been working continuously toward building the right capacity as well as putting in place all the required processes to meet legislative obligations.

Mr. Randy Hoback: I assume you're reviewing, so is it a lack of capacities as well as financial people?

Ms. Monique McCulloch: It's a combination of factors: the perfect storm. The global environment in which we live has resulted in an increased interest in DFAIT subject matters. From 2004-05 to 2008-09, over that four-year span we had a total increase of 78% in ATIP demands, so our capacity has just not been able to keep pace due to financial restraints. DFAIT had financial restraints, strategic review, like other institutions, but I and my senior officials up to the minister's office all agree that ATIP obligations are to be abided by, and we are working right now on addressing those shortfalls so we can have a better result in the years to come.

Mr. Randy Hoback: Mr. Makichuk, how did you grade?

Mr. Tom Makichuk: I'm very pleased to tell you all that Public Works and Government Services Canada received a B grade, four and a half stars out of five, for the 2008-09 fiscal year. If we were to be assessed for the 2009-10 fiscal year, we would receive an A, five stars out of five. Our performance so far this fiscal year is driving toward that same score of five stars out of five with an A grade rating.

Mr. Randy Hoback: Amazing. That's great.

Ms. Holden?

Ms. Jackie Holden: With HRSDC for the report in question, we graded as a C, or three-star rating. As mentioned, that was for the previous fiscal year. We're trending toward a higher grade for the upcoming year.

Mr. Randy Hoback: Okay. When we look at the actual turnaround time in the ATI requests, do you feel it's improving? Do you feel you're getting the resources? Do you need more resources? I guess we always need more resources, but in this environment do you think you have what you need to do the job?

Ms. Jackie Holden: I think certainly within our operations area for processing access to information requests, we have a team with a lot of experience and a solid structure. I feel that we have adequate resources for our operations area.

The Chair: Thank you kindly.

Mr. Easter, please.

Hon. Wayne Easter: Thank you, Mr. Chair.

I'm still interested in these 100-and-some pages. That's a bit like the missing section of the Watergate tapes to me. In any event, Mr. Makichuk, you said you have delegated authority under the act. Who else would have delegated authority under the act, and would Mr. Togneri have any of that authority?

Mr. Tom Makichuk: Within the Department of Public Works and Government Services, the delegation begins at the minister, is delegated to the deputy minister, the associate deputy minister, the director general executive secretariat, my position, director, access to information and privacy, then to my managers, my chiefs, my senior staff and my staff.

Hon. Wayne Easter: You're certainly hired from within the department. As I said earlier, one of our concerns on this side of the House, and I think increasingly of Canadians—and it comes, to a certain extent, to the questions the parliamentary secretary asked—is that it's always about the message from the government, the manipulation of the message to make it look different from what it really is. That's why we're trying to drill down into this issue on access to information on Mr. Togneri.

You said earlier in your testimony that there is a weekly meeting with representatives from the minister's office, and that Mr. Togneri was one of those people at the meeting. How many people would be involved in that meeting?

● (1235)

Mr. Tom Makichuk: The meeting consists of a representative from the minister's office, a representative from the associate deputy's office, representatives from my office, representatives from communications, and at times there will be branch representatives, if there is specific material related to a branch being discussed, as well as my director general.

Hon. Wayne Easter: Okay.

The difficulty here, in terms of that discussion.... Is the discussion around that weekly meeting on requests that come in, what's to be released, basically?

We know as well that this government is all about intimidation. The fact that somebody from the minister's office is there.... Mr. Togneri, in terms of the decision to unrelease.... We now know that 100 plus pages didn't get released. And as my colleague said earlier, Mr. Togneri was clearly in violation of the act. But does the department feel intimidated by the minister's staff? Is there any kind of intimidation? Do you feel intimidated at those weekly meetings? Because the pressure is on; your job's on the line. You're directly responsible up the line.

Mr. Tom Makichuk: Mr. Chair, there's been a series of questions asked here. I'll do my best to respond to them.

The first matter is that indeed, in the initial disclosure, only 30 pages of the report were disclosed. Furthermore, when a request was received specifically identifying the report in itself, the entire report was disclosed.

Hon. Wayne Easter: Two and a half months later, right?

Mr. Tom Makichuk: Indeed. But the request itself was received two and a half months later as well. Let me clarify that.

The Chair: Mr. Makichuk and Mr. Easter, several questions with less than a minute to go is going to throw us way off.

We've got about half a minute left. There will be another round. I think we have to keep it to one question and the answer, question and answer. So if there's something that you would say in the last half minute, please go ahead.

All right. We'll move on and we'll think about it.

Ms. Davidson.

Mrs. Patricia Davidson: Thank you, Mr. Chair.

I'd like to ask a couple of questions of Ms. McCulloch, please. We've heard a little bit about the challenges you're facing at DFAIT and the backlogs and the challenges of trying to handle that and the reports that you've got from the commissioner's office and so on. I certainly wish you well in that. I know you've got a huge job ahead of you.

You talked a bit about the best practices and you also talked about DFAIT's COMM Alert process. Can you elaborate on that a little bit more? Is it part of your process to try to address the backlogs?

Ms. Monique McCulloch: No. Actually our communication alert process is basically the process in place to provide senior departmental officials, our communication branches, up to and including the minister's office, an opportunity to prepare any communication products, whether QP notes or media lines to prepare for an Access to Information Act release.

Mrs. Patricia Davidson: The 72 hours prior to that, I think it says in your opening remarks, is the timeframe for that.

Ms. Monique McCulloch: Right. If the legislative deadline permits us to provide the department, up to and including the minister's office, 72 hours to prepare our communication products, we will give them the 72-hour heads-up that the ATI response is going out and will share a copy of the final release package.

• (1240)

Mrs. Patricia Davidson: Do you mark things as being sensitive, or are things ranked sensitive or non-sensitive in your department?

Ms. Monique McCulloch: Actually, we engage our senior departmental officials in the identification of communication alert files. I can explain what is meant by that very quickly. On a weekly basis we provide a list of subject matters only—so not the complete text of the requests, but just a list of the subjects of those requests under the Access to Information Act—that are anticipated for release in the following week. We provide that list to the director generals and the associate deputy ministers across the department. They have—I guess I can use the expression—the first kick at the can to identify any subject matters on which they think they need to prepare communication product for the deputy minister or the minister's office, depending on the subject matter. Our communication branches are consulted during that process as well. When the list of files deemed to warrant a communication product is identified, that list is also shared up to the deputy ministers' and minister's offices. They have an opportunity to also identify any other subjects that are anticipated for release the next week, which maybe the program officials had not flagged as warranting a communication product.

Once a file has been identified as a communication alert file, that simply means that when the file is ready for release, if the legislative due date permits, we will provide that 72-hour window for our program officials to work with our communication branches to prepare either QP notes or media lines. All our other releases under the Access to Information Act are finalized as per normal process.

Mrs. Patricia Davidson: So the meetings that take place, then, are just to determine what needs to have the communication alert?

Ms. Monique McCulloch: Actually, at DFAIT there are no specific weekly meetings or anything like that. A list is shared electronically through our e-mail system. We provide a list of anticipated releases for the following week. We receive an e-mail response from our ATIP liaison officers, who are across the department, in terms of whether their directors general or their ADMs have flagged any files as warranting a communication alert. The list is updated to include any such files that have been tagged as requiring a communication alert. The second list is shared on Tuesday. On Thursday the list is finalized with the identification of which ones have been identified as requiring a communication alert. At that point the minister's office, the DMs' offices, the communication branches, as well as all the ADMs and DGs, are once again provided the final list. Basically, it's an alert system that identifies which files do require communication product. There is no approval process of the release.

The Chair: Thank you kindly.

Monsieur Plamondon, *s'il vous plaît*.

[Translation]

Mr. Louis Plamondon: Thank you, Mr. Chair.

According to your testimony, I understand that the government is systematically informed about requests for access to information. But I have to ask myself a question. Does the Access to Information Act provide for such meetings and does it state that you must systematically inform the government about such requests?

Ms. Wesch.

[English]

Ms. Ann Wesch: I'm sorry, I didn't realize you were addressing me.

Yes, that's Treasury Board policy.

[Translation]

Mr. Louis Plamondon: Pardon me, I neglected to mention your name at the beginning. It is my mistake.

Could you answer?

[English]

Ms. Ann Wesch: Yes, I can reply.

Yes, there is a Treasury Board policy that says that it is advisable and permissible to notify the minister's office and other senior officials within your department.

[Translation]

Mr. Louis Plamondon: So it is possible, but not mandatory.

• (1245)

[English]

Ms. Ann Wesch: My colleague from Treasury Board may be more knowledgeable about the policy than I.

[Translation]

Ms. Denise Brennan: Best practices were distributed to all access to information offices a few months ago, I believe. One of these practices states that the ATIP offices may inform ministers' offices.

Mr. Louis Plamondon: That did not exist before?

Ms. Denise Brennan: I do not recall whether or not that existed in the policies or guidelines.

[English]

Mr. Chair, if you'd like, I have Donald Lemieux here from the policy side of the information and privacy section. He could respond to that part. I'm more operations.

The Chair: Not right now, but we'll see.

Carry on, Monsieur Plamondon.

[Translation]

Mr. Louis Plamondon: For example, if opposition parties were to request a weekly briefing, would you comply?

Ms. Denise Brennan: If they submitted a request for access to information?

Mr. Louis Plamondon: If they requested that you call the same meeting with the three opposition parties as you do with the party in power. In your opinion, is that in the Access to Information Act?

Ms. Denise Brennan: Personally, I think that that would be difficult to arrange, on a weekly basis.

Mr. Louis Plamondon: That is easy for the government.

Ms. Denise Brennan: I cannot speak to that because I don't do that within my department.

Ms. Monique McCulloch: If I may, I would like to respond.

The Access to Information Act allows people to make a request for information which already exists and which is kept by the Government of Canada. It is not a process whereby a person can request to meet with someone every week and discuss issues which may be... These documents must already exist and must belong to a department.

Mr. Louis Plamondon: Thank you.

In your statement, Ms. Brennan, you alluded to questions asked in the House. Does this mean that when you receive a request for information, and you believe that disclosing this information might embarrass the government in the House, it is your duty to warn the government?

Ms. Denise Brennan: It would not be because the issue might embarrass the government, but rather because the Speaker might have to answer some questions in the House. I would therefore designate this type of request as "high visibility", so that information is available just before the information is disclosed.

Mr. Louis Plamondon: Therefore, it is done to help prepare for question period.

Ms. Denise Brennan: It is to help prepare question period, but it is also so that he can answer questions from the media, in case they call him once the information has been made public.

Mr. Louis Plamondon: When you give me that kind of answer, I have the impression that you are the minister's assistant, and that you are not an objective person anymore.

Ms. Denise Brennan: I am very objective. Every request is processed in accordance with the law...

Mr. Louis Plamondon: But when you inform the government in a manner that helps it deal with the media and House of Commons, you become partisan.

Ms. Denise Brennan: All I do is identify requests that are "high visibility", that may attract attention. That being said, it is the communications directorate that decides whether information should be prepared in advance. But that is not my responsibility.

Mr. Louis Plamondon: Can the official from the department please take a seat?

The Chair: You have 20 seconds left, Mr. Plamondon.

Mr. Louis Plamondon: The witness suggested that the official could provide an answer.

The Chair: I understand, but

[English]

perhaps we could ask in writing for that additional information, okay? Because your time is now up.

Ms. Denise Brennan: Okay.

The Chair: Mr. Siksay.

Mr. Bill Siksay: Thank you, Chair.

Ms. Brennan, you mentioned the best practices document that you said was distributed recently. Could you provide a copy of that or could the chair obtain a copy of that? I think it would be very helpful for us to see that.

Ms. Denise Brennan: Yes. I'll go through my director of parliamentary affairs for that.

Mr. Bill Siksay: Terrific. Thank you very much.

Ms. McCulloch, in your presentation you mentioned some of the steps that your department was taking to improve compliance with the access to information requests, and one of them was the ATIP professional development program. You mentioned that you're trying to address some issues around recruitment, retention, and succession planning in the department through this program. Can you tell me what the specific problems are that have arisen around recruitment and retention in the department, in your ATIP section?

Ms. Monique McCulloch: Well, first of all, the issues we're having are not only with DFAIT. The federal ATIP community is in a critical situation right now due to a lack of experienced ATIP capacity. There are a number of factors for that, including that when the Federal Accountability Act was introduced in December 2006 it widened the coverage of ATIP legislation to some 250 institutions. That really sucked up.... Excuse the expression, but it really ate up the expertise.

There's also a huge wave of what we call the "newbies" coming in. To recruit them, to make ATIP an interesting field, to retain them, and to develop them for their career progression, an ATIP professional development program has been deemed—not only by DFAIT, but by several organizations and several federal departments—to be a very beneficial tool for our field right now, since we have to bring in new blood.

It's a great opportunity to bring in people who have the competencies and the interest in the ATIP field and to develop them into analysts. Yes.

• (1250)

Mr. Bill Siksay: And where are the newbies coming from?

Ms. Monique McCulloch: From a variety of other program areas, from other groups and levels, from people who have entered the federal public service and have just not had an opportunity to work in ATIP and would like to become ATIP analysts. We recruit internally to DFAIT as well as externally.

Mr. Bill Siksay: Are you getting many from specific academic programs that train people to be access to information officers?

Ms. Monique McCulloch: There is the University of Alberta access and privacy program. We have recruited. We have someone with our office right now.

We actually have several individuals who have completed that Alberta certification program. That is definitely one area.

Being at DFAIT, I have to admit that other areas we need to tap into more are the co-op programs and the FSWEF programs, where we can draw in more students in their third or fourth years who are studying international affairs and have a keen interest for DFAIT matters, because doing ATIP at DFAIT can vary quite a bit from

doing ATIP at Agriculture or at PCO, depending on what their own career interests are.

Mr. Bill Siksay: You folks have a lot of experience in access to information in government. In any of your experience, has there ever been an attempt to coordinate a uniform process across departments? We've heard that there are variations between how your departments deal with these issues. Has there ever been, in your experience, an attempt to make that uniform across government? Anyone who has an answer can jump in.

Ms. Monique McCulloch: I'll let my colleagues speak in a minute, but if I may answer, we have been discussing with colleagues in the ATIP community more collective approaches on staffing and recruitment. I personally am taking part in focus groups on developing learning road maps, curriculum with a—

Mr. Bill Siksay: But specifically on the ATIP process that we've heard about this morning, has there ever been a discussion about making that more uniform across government?

Ms. Monique McCulloch: Well, we certainly share, quite routinely, lessons learned and we discuss.... You know, the Treasury Board policies that are there are extremely useful. Of course, we customize them depending on our own departmental organizations.

Mr. Bill Siksay: Okay.

The Chair: Thank you.

Ms. Foote.

Ms. Judy Foote: Thank you, Mr. Chair.

I want to go back to my colleague's question, because Mr. Makichuk didn't get an opportunity to respond. I think several of you have said that on your committees within your departments you do have a representative from the minister's office. I guess the question is a simple one. Do you feel at all intimidated by the fact that there's someone from the minister's office sitting on a committee where you're going to discuss ATIP requests?

Mr. Tom Makichuk: I do not feel intimidated by a representative from the minister's office participating in a meeting.

Ms. Judy Foote: Ms. Holden, I know you referenced as well that there was someone from the minister's office.

Ms. Jackie Holden: Yes—not whatsoever.

Ms. Judy Foote: Have you had an example where requests have been delayed for any matter of time at the request of the minister's office?

Ms. Jackie Holden: We've never had a delay or a request for delay. As a part of what I discussed earlier, with our process we ensure full information and no surprises from the outset, and always respect our legislated deadlines.

Ms. Judy Foote: Ms. Wesch, you mentioned earlier, and my apologies if it wasn't you, about how sensitive requests would come from the media and parliamentarians. They would be....

• (1255)

Ms. Ann Wesch: No, at the Privy Council Office we treat all our requests the same. We don't categorize them. None of them receive special handling. So that was not me.

Ms. Judy Foote: Okay.

Mr. Makichuk, did you mention that requests from parliamentarians and media are being flagged as being sensitive?

Mr. Tom Makichuk: Yes.

Ms. Judy Foote: Okay. Would that be all parliamentarians?

Mr. Tom Makichuk: I'm not in a position to answer that, because quite frankly I don't know.

Ms. Judy Foote: Okay. Who would know then? Why would you not know, as the director?

Mr. Tom Makichuk: Well, as director of the program in my department, I don't keep statistics on how many requests came from political parties, which political party, and which ones were identified as being sensitive or not.

Ms. Judy Foote: So who would have told you then, or where would that decision have come from, that requests from parliamentarians and media are sensitive?

Mr. Tom Makichuk: I discovered that in a recent e-mail.

Ms. Judy Foote: And who was that e-mail from?

Mr. Tom Makichuk: Sébastien Togneri.

Ms. Judy Foote: Is that the case in all departments, may I ask, Ms. Holden? Is that the case...?

Ms. Jackie Holden: Did you want me to respond?

The Chair: How about putting it in the reverse? Let's assume it's the case unless you say otherwise.

Anybody, is it otherwise in other departments?

Ms. Denise Brennan: Our categorization is based on request subject only.

A witness: Ditto.

The Chair: All right, colleagues, I'm sorry, I'm going to have to stop it there.

Mr. Plamondon had asked a question about whether the practice has changed. And since she has not been in the position as long, Ms. Brennan had referred to her colleague, Mr. Donald Lemieux, executive director, information and privacy division.

Could you answer Mr. Plamondon's question very quickly, please?

[*Translation*]

Mr. Donald Lemieux (Executive Director, Information, Privacy and Security Policy, Treasury Board Secretariat): Thank you, Mr. Chairman.

I just want to make sure that the question is about meetings with ministers' offices, and whether anything has changed recently.

Mr. Louis Plamondon: My question is about the fact that Ms. Brennan said that her office had received new directives three or four months ago as to how the process should operate. I asked whether this process was the same as before. She replied that Mr. Lemieux could give a more accurate answer.

Mr. Donald Lemieux: I will be specific, because I don't have much time.

There is nothing new: we are following best practices. These practices were already in place.

As for meetings with ministers' offices, this is not specifically addressed in the legislation—I think you alluded to this. There is nothing in the act which allows for this. We are following a process which typically applies to potentially delicate matters.

[*English*]

The Chair: Thank you.

Colleagues, our time has run out and we haven't been able to get to the committee reports. I will report on the subcommittee at the next opportunity.

I would ask each of the colleagues to consider a dilemma the chair has. I haven't got instruction since, but I have on three occasions written on your behalf to the Minister of Justice, who's responsible for both the Access to Information Act and the Privacy Act, to appear before us with regard to our reports that we actually filed in the last session. Verbally, I have approached the minister in the House three times as well. The last letter, though, went out May 13, and I still have not had a response from the minister. So I would like the members to consider recommending some course of action to the chair for the next meeting, if that's okay with you.

All right? Good, I'll leave it at that.

To all of the witnesses, thank you kindly. I hope you felt comfortable with the committee and certainly that you were treated appropriately by the committee. Thank you for your forthrightness in responding.

We are now adjourned.

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