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Chair

The Honourable Shawn Murphy

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• (1530)

[English]

The Chair (Hon. Shawn Murphy (Charlottetown, Lib.)): I call the meeting to order.

I want to welcome everyone here.

This meeting, colleagues, is called pursuant to the Standing Orders. As a little background, back in April of last year this committee decided to do a study on open government or proactive disclosure, whichever term you use. There were certain hearings held. Actually, the Information Commissioner appeared before the committee back in April.

It did not continue, because of the summer adjournment. There have been some changes made on the committee, and the committee decided to continue with the study.

Many developments have occurred in Europe, Australia, and recently in the United States. To recalibrate the information we received six months ago, the committee decided to call again before it the Information Commissioner of Canada.

We're very pleased to have with us today Suzanne Legault, the Information Commissioner. She is going to give us a summary or backgrounder on some of the basic principles of open government. It's something she and the members of her office have spent a lot of time and energy and effort on.

We're very much looking forward to hearing from you, Ms. Legault. The floor is yours.

Ms. Suzanne Legault (Information Commissioner, Office of the Information Commissioner of Canada): Good afternoon, Mr. Chairman, and thank you for providing me with an opportunity to discuss once again the subject of open government.

As early as 2008 the OECD became interested in the notions of open government. It developed a recommendation inviting member countries, including Canada, to take the necessary steps to enhance access and promote more effective use of public sector information.

Since then, governments engaged in open government initiatives have recognized the social and economic benefits of sharing information with the public in accessible and open formats. These governments, at various levels, understand that collaborating with citizens helps their citizens to make informed decisions promotes their engagement, instills trust in government, and stimulates innovation and economic activity. These are all fundamental to the development of our democratic institutions.

I am delighted to report that since I appeared before the committee last spring, much has happened around the world as well as in Canada.

[Translation]

For instance, the United Kingdom's Prime Minister, David Cameron, affirmed his government's commitment to opening up data. He set a timetable for the publication of a list of datasets and made due on the early deliverables. The Australian government responded to the Government 2.0 Task Force Report, tabled amendments to the Freedom of Information Act, established the Office of the Information Commissioner of Australia and committed to a culture of public sector openness, transparency and engagement by way of a Declaration of Open Government.

Here at home, at the federal level, some institutions have been involved in projects to make their datasets available to the public. In May 2010, the government launched an online public consultation aimed at creating a digital economy strategy for Canada. Any members of the public were invited to take part in an ideas' forum where they could submit, share and rate ideas. Two out of the three most popular ideas were directly related to open government: participants voted in favour of creating a data portal for Canada's public sector information and supported having greater access to publicly funded research data.

[English]

As well, the chief information officer of Canada presented during the summer a five-point plan on open data that includes a prototype for a government portal from which raw data can be searched and extracted for re-use. At the outset, a handful of institutions would include existing data sets within the government's data portal, with the objective of encouraging more departments to participate.

There has also been a policy proposal by opposition members on open government that proposes a number of initiatives, including an open data portal and a single window for accessing information requests and disclosure packages.

At the national level, I along with my federal, provincial, and territorial access-to-information and privacy counterparts issued in September a joint resolution on open government to call for greater openness and transparency from our respective levels of government.

I am pleased that all these projects and initiatives are helping to bring open government to the forefront of public policy development in Canada and hopefully will lead to significant changes.

• (1535)

[*Translation*]

Mr. Chairman, the last time I appeared before this committee on this subject, I articulated five principles for a “made in Canada” open government strategy for your consideration and that of the committee. These principles were the result of a review and discussions with jurisdictions that are leading the open government movement.

I still stand by these five principles, which are found in the documents that you have before you. In addition, I would like to offer the committee possible short, medium and long-term suggestions for achieving greater openness.

In terms of possible short-term improvements, there is a lot of information currently created by federal institutions that could be proactively posted on their websites. Institutions like National Defence, the Atlantic Canada Opportunities Agency, the Treasury Board Secretariat and my office are posting online a list of summaries of access to information requests.

In my opinion, the public in general would benefit from having this information available from all federal institutions. This is a recommendation that I made to the President of the Treasury Board in the course of my office's investigation into the Coordination of Access to Information Requests System — also known as CAIRS.

Each federal institution could also identify, in consultation with their stakeholders, datasets or types of information that are of interest and could be quickly made available to the public.

[*English*]

Mr. Chair, I also believe and strongly believe that reform of the Access to Information Act must be a medium-term goal. In my view it is important to study possible changes to the act in the context of open government and the digital environment that the act operates in and in light of recent changes made in other jurisdictions. For instance, such issues as mandatory timelines, education and research mandates, publication schemes, and order-making power warrant further consideration.

On a longer-term timetable, an open government policy cannot in my view fully succeed without a fundamental cultural change within public sector institutions. The three countries we have studied, the U.S., the UK, and Australia, present different models for achieving this cultural change. The three offer, in my view, valuable insights on how to transform fundamentally the way public sector institutions use and disseminate their information and engage their citizens in a participatory democracy. These open government strategies engage citizens in a collaborative dialogue that leads to enhanced accountability, generates trust, and leads to innovation.

[*Translation*]

The strength of the open government movement is the participation of a diversity of voices. It is not limited to a small group of insiders.

As Professor Nigel Shadbolt, a member of the UK Transparency Board noted, “it is important that the release of data is driven by what people want, by the formats and frequency in which they want it and by how they wish to use it.”

I have provided you with a list of potential witnesses that could present the committee with additional suggestions on what can be done to achieve the goals of open government.

[*English*]

As always, Mr. Chairman, I'm here to assist the committee in its important study and I'm here to answer any questions that members may have.

The Chair: Thank you very much, Madame Legault.

We'll now go to the first round.

Ms. Bennett, you have seven minutes.

Hon. Carolyn Bennett (St. Paul's, Lib.): Thank you very much. It's great to be here and to have you with us to help us in what I think needs to be transformative. This is what I'm hearing.

In terms of your recommendations short-term, medium-term, and long-term, it sounds as though in the short term, with a little bit of leadership, every department could be asked to put online immediately what a couple of departments have already done. In other countries this is done because the president says “Thou shalt”.

Can you tell me whether, in terms of the change of culture, that kind of leadership is coming from Treasury Board, or is it only coming from your office?

• (1540)

Ms. Suzanne Legault: The difference we're seeing when we look at the other jurisdictions, the U.S., the UK, and Australia, is that what has been significant in the open government movement is that there have been declarations from the prime ministers—or the President, in the case of the United States—declaring the leadership intention to promote open government. It has translated differently in different jurisdictions in terms of how it's implemented, but that's one of the key criteria and one of the five principles that I mentioned.

As to Canada, what I see now is that the Office of the Chief Information Officer at the secretariat is very much engaged in this process now. They're really developing a strategy and they're planning to develop a policy. But we haven't had in Canada a declaration by the Prime Minister to that effect, as far as I know.

Hon. Carolyn Bennett: So when you are citing best practices like some of the things at National Defence, ACOA, and the Treasury Board Secretariat, you're saying to me that the Prime Minister hasn't said anything like Obama did: that other departments need to get with the program immediately within three months, six months, or twelve months, and that “thou shalt” or you will no longer be a deputy minister.

I mean, don't you actually need to have a culture of openness if you're going to move from proactive disclosure, which is a "if you make me" kind of attitude, to an open government, which is "here it all is and go and use it properly", to help a digital economy or all of the things that we know from census data? So you're saying that you've not really heard that from the Prime Minister.

Ms. Suzanne Legault: I haven't seen a declaration on open government by the Prime Minister. What I do see in Canada is that there are various areas of active action at this point. That's what I'm seeing. On the digital economy, as I said, the public consultation is very open and is very much like an open government initiative. They consulted their stakeholders. Two of the most popular recommendations deal with open government. The CIO is now developing a strategy to develop an open data portal for the government, and we'll see where that leads. I think that's one of the witnesses you might want to hear from, because they're the ones that are responsible for this.

But do we have an across government, all-encompassing open government strategy in Canada? At this stage, I don't think we do, certainly not compared to what we have seen in the other three jurisdictions we've studied.

Hon. Carolyn Bennett: So as the commissioner you're saying to us that no matter what the CIO designs as an excellent portal, unless the individual departments are told by the leadership, by the Prime Minister, by Treasury Board, to populate that portal with their data, it doesn't happen.

Ms. Suzanne Legault: I think you might want to ask this question to the chief information officer in terms of what kinds of directives they will give to the other departments. That's outside of my sphere of influence, if you wish. But I do believe that, as the Australian task force recommended, there has to be an open government declaration from the leadership of the country in order to effect a long-term and profound cultural shift in the way we govern.

Hon. Carolyn Bennett: Does that attitude change and that cultural change include incentives as well as consequences for not doing it?

Ms. Suzanne Legault: Well, what we're seeing, particularly in the States in the way the Obama administration has implemented its open government strategy, is that they have strict timelines that people have to abide by. They have to produce results. They've just conducted an audit in terms of how the various departments are doing. There are implementation stages with specific timeframes and there are people who are accountable for what they're doing.

In the U.K., there is now a new transparency board. That was implemented this summer. I'm not quite sure how it's going to work, but that is the body that's going to be responsible for this.

In Australia, it's the Minister for Finance and Deregulation who is really responsible for the implementation of the open government strategy there, along with the information commissioner. The information commissioner in Australia is very much part of the open government strategy and has an expanded mandate in order to participate in that.

So yes, strict timelines, strict accountabilities, and measurement of results are definitely part of what we're seeing in the other jurisdictions.

• (1545)

Hon. Carolyn Bennett: In our proposal for open government that you alluded to in your remarks, we were suggesting opendata.gc.ca, a searchable website for all of the government data.

We were suggesting that the access to information requests be up and online, which would eliminate duplication. You could see that there's one already up there, that the one that's already up there has already been answered, and you could find that data.

Then we were suggesting a separate one, accountablespending.gc.ca, where you could find all the grants, contributions, or contracts available, also in a searchable online database.

How far away are we from having at least those three tools?

Ms. Suzanne Legault: In terms of the disclosure logs for access to information requests, I've been having discussions with the Treasury Board Secretariat. As I said, they've now taken the leadership. It was part of the CAIRS investigation that we did have these discussions with the secretariat, and they've now taken the leadership role in posting their own, and I know they're working with the departments to see if they can spread that practice across the federal government. I know they have concerns about private information, confidential information, and also official languages requirements, which is also a cost burden. In order to do this in Canada, we have to consider that as well.

In that respect, how far are we? I think we're getting there, because now institutions are moving in that direction voluntarily. We now have four institutions that are doing it, and I think that's going to spread. I think the secretariat is looking to continue in that initiative.

Hon. Carolyn Bennett: That's four out of how many?

Ms. Suzanne Legault: Two hundred and fifty that are subject to the Access to Information Act.

Hon. Carolyn Bennett: Two hundred and fifty? Four out of 250.

The Chair: We're going to Madame Thi Lac.

[*Translation*]

You have seven minutes.

Mrs. Ève-Mary Thāi Thi Lac (Saint-Hyacinthe—Bagot, BQ): Good afternoon, Mrs. Legault. Thank you for coming here today. We had the pleasure of meeting with you last April, but several things have changed since then. It is always nice to welcome you here.

Access to information is essential for citizens. As we know, a growing number of Canadian and Quebec citizens are deciding not to vote during elections and they are disengaging from politics. Do you in fact believe that transparency measures will increase citizens' interest in topical issues and government matters?

Ms. Suzanne Legault: That is a good question. I have not done any demographic analyses to determine exactly why a particular group decides whether or not to participate in an election. This may be a question you should ask the Chief Electoral Officer of Canada.

I once read an article that I found to be of particular interest. It was about the digital generation, namely, young people under the age of 25. The article concluded that the problem facing government institutions was probably that they were unable to reach these people through the right medium. The people in this demographic group do not read newspapers, they interact online. The open government initiatives focus a great deal on the digital release of government information. This will enable them to capture a segment of the population that is probably different. When you talk to people from Google or OpenText, they will tell you the same thing. We truly are in the digital era. We are no longer talking about generation X, Y or W, but rather the digital generation. I think that we need to use digital means in order to reach out to these people.

I found an interesting report, namely the one submitted to the Clerk of the Privy Council by Messrs. Tellier and Emerson. The report states that the federal public service must start using social media not only for working within government institutions but also for interacting with the citizens. It needs to learn how to work with the citizenry by using its suggestions in developing policies and programs. In Australia, this is an integral part of open government policy. Renewal of the public service and the way it interacts with its citizens is one aspect of this.

Will this result in greater voter turnout? Perhaps.

• (1550)

Mrs. Ève-Mary Thāi Thi Lac: As you said, in the United States, the Obama administration has talked about transparency. We also know that the current Conservative government, when it was elected for the first time in 2006, talked about transparency. At present, does progress in achieving open government not depend on the political will that Canada wants to attain?

Ms. Suzanne Legault: In my opinion, the issue of open government and government transparency is not partisan. I am not here to make partisan statements either. I am here because I sincerely believe that the governance of Canada must adapt to new technologies and to the new way of interacting with citizens who are trying, using new technologies, to obtain information in a way that is much more specific and immediate than in the past. Indeed, I think that we must head in this direction.

Mrs. Ève-Mary Thāi Thi Lac: I understand, Ms. Legault, but you did mention that the Obama administration had made tremendous strides in this area. This has happened because the administration gave itself transparency instruments. That was what I was trying to get at with my question.

By setting up stringent parameters for protecting types of information, are we not creating a process that enables the

government to not disclose certain data that is germane to this desire for transparency?

Ms. Suzanne Legault: The whole issue of transparency must always take into account the need to protect certain types of information. It is in the public interest to protect certain types of information, such as information on national security and personal information. Even though we may wish to pursue governance and government transparency, we must nevertheless continue setting certain parameters in order to protect sensitive information because it is in the public interest to do so.

Mrs. Ève-Mary Thāi Thi Lac: Could you describe a mechanism that would enable us to strike a balance in order to protect this information without necessarily interfering with this desire for transparency?

Ms. Suzanne Legault: Among other things, the information and privacy commissioners recommended, in the resolution, that at the outset, when developing government information for programs, policies or certain databases, we conduct an exercise that will allow an exact evaluation of the way in which we will build data banks and allow their disclosure.

At the federal level, with regard to requests for access to information, it is very difficult to promote the disclosure of information in a reusable form of technology, because it often comes from data banks that already exist in institutions that have not been designed in this manner, or also because this data is in static form. In the government, we work a great deal with PDF or HTML formats. These are static documents, they cannot be reused.

This is different from the government transparency that is being developed elsewhere. This is why in the United States, one of the prominent figures is the person in charge of developing technology throughout the entire American public service. This is the person who evaluates which technology will be used for recording data.

This is why we need to think about this beforehand. When we hear that this will involve a cultural change, it is because we have to think of a new way of producing our information in the federal public service.

Mrs. Ève-Mary Thāi Thi Lac: You spoke about the United States, Great Britain and Australia, and these countries have adopted such an infrastructure. Despite the changes that came about since April, when you last appeared before the committee, in your opinion, which country's example should Canada follow?

Ms. Suzanne Legault: This is a very good question. We have looked at what is being done in these three countries. I said, in my presentation, that they offer interesting possibilities, because all three developed their approach in a different manner. I think that we have things to learn from these three countries.

In the United States, those in charge were much more aggressive, if I can say so. They decided to conduct trials and if they made any mistakes, to correct them afterward.

Australia has a much more measured and structured approach. Research was done by a team, a group of experts studied all the issues—this is, of course, a complicated procedure—and they made recommendations. The government is currently implementing these measures.

In Great Britain, the initiative began in 2007. There as well studies were conducted and the emphasis was put on the government's efficiency in delivering its services.

The underlying philosophies are different as is the method of implementing the systems. As far as we are concerned, I suggested that you follow a "made-in-Canada" strategy, because we have specific issues in Canada, such as intellectual property and official languages. We have our own framework for protecting personal information and national security. We must evaluate these things within the Canadian framework while learning lessons from other countries.

• (1555)

The Chair: Thank you, Ms. Thi Lac.

[English]

Mr. Siksay, seven minutes.

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

Thank you for being here again, Commissioner.

Commissioner, when you were here last time on this issue, you helped us to understand the differences in how the terminology is used, the basic terminology between proactive disclosure and open government. I think there was some confusion, and maybe there still is some confusion about how this committee uses the terms. Could you go through that again for us?

I know the government uses proactive disclosure, but in a very specific way. In fact, when we talk about open government, we're talking about something much broader than the way proactive disclosure is being used by the government here in Canada. Could you talk again about that?

Ms. Suzanne Legault: My understanding of it is that you have access to information, which is essentially a reactive mode. People make an access to information request to an institution, and then a response is made. Usually it's in a static format. It's in a document that already exists. Or now we see CDs of information. But it's essentially static information that exists in the information holdings of institutions.

Proactive disclosure is what we understand in the federal government, in terms of what's being asked by policy of institutions to disclose proactively. The Federal Accountability Act I believe also has some specific provisions for what should be disclosed proactively. Travel and hospitality, salaries of certain public servants, certain contracts, and so on are proactive disclosure, and that's published on all government websites now.

Then you have open government, which is a different concept of interaction between the institutions and its citizens. It's a collaborative and participatory type of democracy that is based on the idea that institutions disclose as a matter of fact high-value data sets for their citizens in a format they can manipulate with the new technology. For instance, if you have information about grants and contributions, it has to be in a format in which they can use the technology. I'm not a technology expert, but they can then reformat it and make their own analysis.

On the list of witnesses we've suggested, there are some people who can explain what the technology can do. Some of the websites that exist now have a search function. The Americans have a lot of examples of different types of websites where you can manipulate the data. That's my understanding of open government.

As I said, if you look at the U.K., the Australians, and the Americans, they also have different aspects to open government. The Obama administration was very much about using citizens and their knowledge, so they could use government data, public sector data, to innovate in areas where the government doesn't necessarily have the resources to do research, doesn't necessarily have the wherewithal or the knowledge to develop these innovations. In the U.K. it was very much geared toward making the government more efficient in the way it delivered its services to its citizens. When it started, it was very active at the council level, so very much at the municipal level. What we're seeing in Canada in Vancouver, Toronto, Edmonton, and now Ottawa as well are different types of data sets.

At the federal level now, Natural Resources Canada and Environment Canada produce information in open formats that is being used by researchers. If you have academics who come and speak to you, to understand what they can do with the types of data, they can have statistical data that is produced by the government. But if it's produced in open data, they can really use it and take their research to a different level. They would normally not have access to the data, because they don't have the resources to collect the data in the first place, whereas the government is collecting a lot of information and data.

• (1600)

Mr. Bill Siksay: Thank you. That overview is helpful.

Is there other language that's specific to other jurisdictions? The British talk about it in a different way. Do they use the term "open government"? Is that a universal...? But then they might define it, or stress different things, such as efficiency. Is there other language we need to be looking for when we are looking at other jurisdictions, either here in Canada or in other countries?

Ms. Suzanne Legault: I think open government now is pretty much a term that's accepted, in terms of the vocabulary that's being used. Open government has now come to be known to mean this different type of governance. But as I said, if you go into the details—and I'm certainly not an expert in all the details, because it's moving very fast—they're taking it in different directions. They are putting emphasis on certain areas more than others.

Canada is doing quite a lot, but it's just not coordinated in any way right now. If the chief information officer comes to testify and is able to indicate what's happening at the federal level in more detail, we might then be in a better position to compare where we're at in Canada, compare it to where the other jurisdictions are at. They might be catching up to a certain extent in terms of proactive disclosure. I think Canada is probably quite active in terms of what we already produce proactively.

The point is now that because of that, Canada has a great opportunity to establish itself as a leader. But I think we have to catch up.

Mr. Bill Siksay: Often when you talk about the kinds of information that would be available if we went to a system of open government, the language comes up “high-value data sets” or “data sets”. Can you talk about how we describe the information that would be available, the kind of language, and exactly what it means?

I haven't done that kind of research. I don't know what a “high-value data set” actually looks like, what kind of information it might contain, or which departments would have that kind of information to be made available.

Ms. Suzanne Legault: I'm looking at my notes for one of the things the CIO is producing, because they have a list of what they would consider a first step in the types of information. That would be a good way to start.

If I remember correctly, they talk about statistical data. Statistical data, free of charge, would be a good first step in Canada. Statistics Canada collects a very widespread set of data that would be useful. They also talk about geospatial data, weather data, economic data, and immigration data. These are the types of data that are very valuable for academics and researchers in reuse.

Mr. Bill Siksay: You talked about the replacement of the CAIR system with a listing of the kind of information that's already been requested. Is that another piece of what you see should be disclosed, or another kind of data?

Ms. Suzanne Legault: I do think that should be disclosed. If you look at new pieces of legislation, Mexico discloses their access to information requests online. The U.K. has disclosure logs containing that. Quebec, as part of their regulations that came into effect in December 2009, has regulations mandating the disclosure of access to information requests. This is very much what is happening in other jurisdictions, and I think we have the ability to do that in Canada and we should.

The Chair: Thank you very much, Mr. Siksay.

Ms. Davidson is up next.

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

Thanks, Commissioner, for being with us once again. It's always a pleasure. Certainly this is a topic we're all extremely interested in. I think there's a huge commitment, certainly on the government side, to have open and accessible government. We're interested in seeing how we can do that.

I was interested in your response to Mr. Siksay. The first question I was going to ask you was to explain the difference for us, once again, between open government and proactive disclosure. As you know, we've gone back and forth on this committee renaming our study. Right now we're talking about open government, when we started out talking about proactive disclosures. So I was interested to hear your response to him.

In your opening remarks you said that the chief information officer presented a five-point plan on open data that includes a prototype for a government portal from which raw data can be searched and extracted for re-use. Then when you were talking to Mr. Siksay you elaborated on that a little more and talked about data that could be reformatted and manipulated.

What protects the integrity of that data if it can be reformatted and manipulated? I don't understand how its integrity is protected and why we would want to put data out there that people can manipulate to show different things that perhaps would not be anywhere near what the data are portraying.

● (1605)

Ms. Suzanne Legault: This is an area where you would really benefit from hearing from experts in the field of open government. Policy experts can explain it to you much better than I can.

Essentially, when you publish data it comes with conditions. In Canada we have crown copyright. It's very different from the U.S., where the information does not belong to the crown. When they decided to publish their data sets it was a very different environment. The U.K. and Australia are very interesting jurisdictions to look at for that purpose.

When information is being disclosed in other jurisdictions, they provide provisos on it. You can use it for this purpose, but it's no longer the property of the government. You have a certain licence to use it, and various conditions apply to it.

These have to be developed. This is part of the complexity of moving in that direction. That's why I'm saying it's not just a question of publishing information. It requires looking at these types of issues—copyright, official languages, privacy concerns, national security concerns—and how we protect the integrity of the data.

I urge the committee to speak to public policy experts like David Eaves, who can explain all of that much better than I ever could, because I'm not an expert in the actual manipulation of the data itself. You really need a technology expert and an expert in open government who uses these types of formats.

Mrs. Patricia Davidson: You spoke a bit about Statistics Canada data that would be of benefit if it were available at no cost, when right now there is a cost, of course, for that information. Do you know whether there is anything in place to protect the integrity of that data once it's purchased? Or if it is free, can they can do with it what they want?

Ms. Suzanne Legault: I don't know what conditions are applied. I think use is restricted. However, open government advocates would tell you that they want the data to be out there and then they can show you what they can do with it once they have the ability to manipulate the data and reuse it and re-mash it and make different applications with it. But I don't know the conditions Statistics Canada applies to it.

Mrs. Patricia Davidson: When you were here in April we talked about open government, proactive disclosure, and things that were already happening here, and you've done a couple of reports since then and there has been some follow-up. Have any additional government departments entered into more open disclosure since you were here last?

Ms. Suzanne Legault: One initiative I'm aware of is that Immigration Canada started proactively publishing information online. I had actually sent a letter of congratulations to the minister at the time because I thought that was a very good initiative. We get a lot of access requests. Citizenship and Immigration Canada gets a lot of access to information requests. I think by doing that there is actually a saving to the government, because the disclosure of information is proactive, as opposed to being a reaction to an access to information request.

As I said, the Treasury Board Secretariat is now posting its access to information requests online, which I think is great. Since we were last here we have also been doing that, and I think that is great too.

Aside from that, Natural Resources Canada is really at the forefront. They and Environment Canada, as I mentioned, are the ones that are often put forward and mentioned as departments that have high-value data sets that are being reused, and they are produced in open format. They are on the list of potential witnesses. They would be good people to have here before the committee to explain how they protect the integrity of their data or whether they have concerns about that or how it's being reused or what conditions apply to the reuse. I think they would be the best people to describe those things.

• (1610)

Mrs. Patricia Davidson: We've also talked about international initiatives and what's happening in other countries, such as the United States, Great Britain, or Australia. Have there been changes since you were last here in April to things that are happening in the United States or Great Britain?

Ms. Suzanne Legault: We read about the United States every day in our newspaper clippings. There are all sorts of initiatives. During our "Right to Know" week, we had people from the government, the national archivist, and he talked about the new data sets, Register 2.0, which basically allow people to view online all the legislation and regulations that are being discussed and presented before Congress. People can actually submit comments on the legislation directly online using Register 2.0, and that's open to the public. That is new. It has come online since I was here last time.

The main change in Australia is that the government has responded to Taskforce 2.0. They agreed with most of the recommendations, some with modifications, and they made a declaration in favour of open government, which was the first and foremost recommendation of the task force.

In the U.K. as well, Prime Minister Cameron made an open government declaration in support of the initiatives, and I read about the new transparency board, which is now going to be mandated to look at open government and how it is implemented in the U.K. government. That is new since I was here last spring.

Mrs. Patricia Davidson: Thank you.

The Chair: That concludes the first round.

There is one area I want you to address, Madame Legault. Back in April, when you were here before the committee talking about open government, your department also filed a report on how various departments handled the ATIP applications, and for five or six of these departments it was extremely negative. Of course, for Foreign

Affairs and Environment it was beyond negative. This is reactive disclosure, and they're having great difficulty in following the law. That basically comes from your report.

Do you see a correlation here between the commitment to the ATIP process, which in some departments is there but in a lot of departments is not there, and moving from a reactive disclosure to a proactive disclosure? Is there a correlation there, or can you tie the bow here?

Ms. Suzanne Legault: It's part of a spectrum. When I was here last, one thing I did say was that the way our legislation is structured, if you look at the purpose clause of the Access to Information Act, it basically says that the default mode is to make an access to information request, in essence. Otherwise, it says it doesn't mean that it detracts from the obligation of the government to disclose information proactively and from what should normally be disclosed to the citizens.

The question we have to ask ourselves in 2010 is what is the information that governments should normally disclose as a matter of course? And that's what is changing. The requests from citizens in terms of what access they have to information readily available has increased because of the use of the web and social media and so on, and the expectations in terms of how long people expect....

Access to information perhaps in a utopian world, in my view, would be the exception to the rule, where you would have access to information requests where you're really trying to access information that is more subject to being protected, either because of national security reasons or because of personal confidential information, and then it would be more restricted. The bulk of the information would be disclosed proactively and then access to information would be the exception to the rule, as it was really meant to be. And then my office would be spending most of its time on these complex cases of access to information, where we have to strike the right balance between public trust and disclosure and the protection of very sensitive information. And we wouldn't be spending our time, as we still are quite a bit, on dealing with administrative matters of delays, extensions, and so on.

• (1615)

The Chair: Thank you very much.

We're now going to go to the second round, for five minutes.

Mr. Easter.

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

Welcome, Ms. Legault.

Ms. Davidson was on this subject, as well as Ms. Bennett, and that was the areas where there is transparency, more open government. You named four in here, and I think at the end of her remarks Carolyn mentioned that four out of 250 agencies had moved in that direction. What is the right number?

Ms. Suzanne Legault: In terms of disclosing access to information requests, ideally they should all be posted and there should be a central, searchable database.

Hon. Wayne Easter: The question is, where are they now? Is it really only four?

Ms. Suzanne Legault: The last information I have is four. There may be a few that I'm not aware of at this point, but—

Hon. Wayne Easter: Here we are talking about open government, and I don't think we've ever had a government that is so closed, in Canadian history. They talk about accountability and transparency and it's anything but.

We have had some bad experiences at this particular committee in terms of trying to get information from the centre of power, where we had witnesses that we called to this committee to find out what was going on and the government changed the rules in the House and now that whole issue has gone to another committee. But the fact of the matter is that this committee was denied access to Mr. Togneri, to Jillian Andrews, and to Dimitri Soudas, who we see on television nearly every night. They weren't allowed to come before this committee to answer to this committee and the Canadian public. So our experience with this government is very poor.

But there is another area that is really troubling, related to access to information. That relates to a rumour that's around the Hill, and maybe you can fill us in on the information. Also, this issue was mentioned in Donald Savoie's book, *Power: Where Is It?*

So I would ask you the question this way. Do you have any comments on the apparent practice? I don't know whether it's true or not at this stage. Donald Savoie says it is. There is a rumour around here. Do you have any comments on the apparent practices in ministers' offices of senior political staff who have two BlackBerrys, one of which is for a ministerial account and the second is on a personal staffer's account and is therefore not accessible under access to information requests? This system would basically allow staffers to communicate on government activity without the concern of those communications ever being accessible by ATIP. Do you know anything about it?

Ms. Suzanne Legault: No, I don't.

Hon. Wayne Easter: Is there any way you can carry out an investigation? I personally don't know whether it's true. It's been a rumour around here for a long time. I do see people with two BlackBerrys, but is it a way that ministerial offices are trying to circumvent the system by getting around access to information? That wouldn't surprise me if it's true, because as I said, this is a government that's a closed shop. Is there any way you can investigate it?

Ms. Suzanne Legault: Well, Mr. Chairman....

The Chair: Do you have any comment, Ms. Legault? You don't have to if you don't want to.

Ms. Suzanne Legault: The only thing I would say, Mr. Chair, is that in terms of how the act works, I respond to specific complaints about the disclosure of information in documents. I also have the power to initiate investigations, but the act states that I have to have reasonable grounds. Rumours would not be satisfactory, and I would not start an investigation based on rumours. I would base it on reasonable grounds, which would be based on a certain level of evidence.

Hon. Wayne Easter: We could probably send you a copy of Mr. Savoie's book. Would that constitute evidence?

• (1620)

Ms. Suzanne Legault: I haven't read Mr. Savoie's book yet.

Hon. Wayne Easter: In any event, on the level of complaints under access to information, the last report that I have, and this is an area where I do hear a lot of complaints from people.... They apply under access to information and it takes longer than ever to get it, in many cases. The last report I've seen from your office had 4,166 total complaints to investigate. Is that about where it's at?

Ms. Suzanne Legault: I have 2,100 complaints, give or take a few, at this point. So far this year, I've received about 1,100. It's high. I am concerned this year because it's still high. We're going back to levels of two years ago. Last year we had about 1,600, which means that it's difficult for us to manage our entire inventory. We reduced the inventory by 400 and some last year, but we're still at about 2,100.

Hon. Wayne Easter: But this is the government.

The Chair: Mr. Easter, we're going to move to Mr. Poilievre, for five minutes.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): To your knowledge, are ministers' offices covered under access to information?

Ms. Suzanne Legault: The minister, or the head of any agency, is the person responsible under the legislation, and that authority is delegated within institutions.

Mr. Pierre Poilievre: That's not the question. Sorry, if I could just repeat the question, are ministers' offices subject to access to information?

Ms. Suzanne Legault: That's a good question, Mr. Chair. It is in part the subject of a case that's before the Supreme Court of Canada. We will have a decision hopefully some time in the next few months. The hearing was in September.

Mr. Pierre Poilievre: For example, ministerial-exempt staff members, are their e-mails accessible under ATIP?

Ms. Suzanne Legault: In my view, they are.

Mr. Pierre Poilievre: What about in the view of the law?

Ms. Suzanne Legault: As I said, in my view, whatever is in the control of a federal institution is subject to the Access to Information Act. It would be a question as to whether or not what's in the minister's office or what's in a political staffer's notes would be covered by the Access to Information Act.

The Supreme Court of Canada case that we're now awaiting a decision on is about, you will recall, the agenda of the Prime Minister and some of the notes of political staffers in the Department of National Defence. We are awaiting a decision from the Supreme Court of Canada to clarify the law in this respect.

Mr. Pierre Poilievre: Thank you.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Do I still have some time, Mr. Chair?

The Chair: Two minutes.

Mr. Harold Albrecht: Thank you, Mr. Chair.

Thank you for being here.

I wasn't part of the committee in April when you were here, so I may have some questions or comments that have already been covered, but I was glad to hear you say that this is not a partisan issue. You've also pointed out that this government has done a lot in terms of increasing the level of transparency and openness. You mentioned specifically NRCan and Environment Canada.

In fact, this government, in spite of what Mr. Easter indicates, has fought for Canadians' right to know how the government operates. We've opened up, for example, the Wheat Board, the CBC, and dozens of other institutions to the Access to Information Act. As I understand it, there are now 70 new institutions that are accountable to Canadians through the Access to Information Act. So for the first time, Canadians now have—

An hon. member: You're out of time.

The Chair: One speaker at a time. Mr. Albrecht has the floor.

Mr. Harold Albrecht: Canadians now can see how these institutions spend their tax dollars. This is something that was sorely lacking, and I'm glad to see that our government did take action on it.

I want to return for a moment to the opening comments you made. In the first paragraph, you comment about "the social and economic benefits of sharing information with the public in accessible and open formats".

You go on to say "governments, at various levels, understand that collaborating with citizens helps their citizens to make informed decisions, promotes their engagement, instils trust in government...". Certainly I have no argument with that.

Then you go on to talk about the stimulation and innovation and economic activities. You mention that again later in your brief, and also you mentioned it a few times today.

Can you expand a bit as to how open government would promote innovation and economic activity? I'd like to have a couple of examples so I can understand that.

Ms. Suzanne Legault: What we've seen in Canada, at the municipal level, are various developments of programs that have been of service to citizens and that would not have been developed by the municipal governments. So at the municipal level, they have schedules for bus routes. With having the information disclosed, they were able to develop programs where you have access to when and where your bus is going show up. It's the same thing with garbage collection and the same thing with openings of various municipal institutions.

We haven't seen much of that being developed at the federal level, although if you talk to somebody like Tracey Lauriault, who is a researcher at Carleton University, she has made tremendous use of geospatial data. She is able to do research in terms of various developments of communities, using the data she collects from the government.

The U.S. is a big proponent of the disclosure of public sector information in order to promote innovation. People who have the technology savvy are able to use the data and develop new applications.

Again, I would urge you to talk to people who have actually done it. They can bring you various examples. Some of these people are on the list of witnesses.

• (1625)

Mr. Harold Albrecht: Do I have any more time?

The Chair: No, that's it.

[*Translation*]

Ms. Bourgeois, you have five minutes.

Ms. Diane Bourgeois (Terrebonne—Blainville, BQ): Thank you, Mr. Chair.

Ms. Legault, I very much appreciate today's discussion. I do not want to discuss the details of proactive disclosure. As far as I am concerned, I prefer transparency, or the concept of open government.

This openness could lead to public consultation. Thus citizens could be proactive, participate in government decisions and contribute their ideas through a vast and permanent process of public consultation.

However, broad, public and permanent consultation would involve power-sharing. This means that we must not be afraid. We must have the firm intention to hide nothing, would you not say?

I think, as you yourselves wrote in your document, that this requires a change of culture. Let me tell you right away that I am impressed with your extreme courage in discussing openness, transparency and cultural change. In fact, as the journalists say, we are currently dealing with a government that withholds information, that grabs it and keeps it for itself, that controls information and finds it difficult to open up. The most striking example is what it is doing with the war in Afghanistan. It does not even want it to be discussed in Parliament.

That being said, with regard to the departments that could profit from showing some transparency, we could look at the Treasury Board itself. When we mention the Treasury Board's transparency, we could also think of accrual accounting. If we had accrual accounting, it would allow the citizens to see, at very precise points in time, what the government expenditures are, instead of doing expenditures spread over two or three years, or within various programs.

I greatly appreciate this discussion. I will leave it up to the committee, to my colleagues, to decide, during upcoming meetings what kind of transparency they want and how its implementation will work. I hope that there will be a follow-up.

You said that you have noticed some openness from the Canadian government. I would like to know what follow-up the Canadian government has done with regard to your suggestions about openness.

Ms. Suzanne Legault: Mr. Chair, as I said earlier, it seems that, as far as the Treasury Board of Canada Secretariat is concerned, over the past few months there was an initiative for a government portal, access to government data, in the context of disclosing requests for access to information. Likewise, we also feel that they are really opening up. These people will be pushing this initiative even further along. We are currently holding regular meetings with people from the Treasury Board Secretariat to try to work together and influence them as we conduct this exercise.

I am sharing my knowledge with you, but my knowledge is nonetheless very limited with regard to government transparency, given the fact that my office does not have the mandate to do research and implementation in this case. It is really the government's responsibility. My work consists in working together with these people while trying to influence them in that sense.

• (1630)

Ms. Diane Bourgeois: Ms. Legault, I just told you that the people from the Treasury Board have had problems with implementing the accrual accounting formula that the Auditor General of Canada requested 10 years ago.

What do you intend to do? Will you go back to see them again and ask them what they intend to do with regard to accrual accounting? Do you really have enough power to influence the Treasury Board so that it keeps its accounting books so transparent that any simple citizen could see how tax money is being spent? I am not talking about the very general concepts that are found on the Treasury Board's Internet Site as well as the site of Public Works and Government Services Canada. Are you going to do it?

The Chair: Ms. Bourgeois, after—

Ms. Suzanne Legault: Mr. Chair, as you know, I have no power of order. There is no investigation regarding this matter or the Treasury Board Secretariat. One of the witnesses suggested to you was the person in charge of information technology for the federal government. This is a person to whom you could put that question.

Ms. Diane Bourgeois: Thank you.

The Chair: Thank you, Ms. Bourgeois.

[English]

Mrs. Block, for five minutes.

Mrs. Kelly Block (Saskatoon—Rosetown—Biggar, CPC): Thank you very much, Mr. Chair.

Thank you, Ms. Legault, for being here today. It's good to have you back to continue the discussion we started a number of months ago in terms of proactive disclosure, and now open government.

Based on the definition of “open government” that I heard you give Mr. Siksay, it sounds truly to me like there is a fundamental shift from the need to disclose information for the purpose of being accountable and transparent to almost being a broker of information so that individuals will have access to it and be able to use it for their own purposes. I want to make sure that's exactly what I'm hearing, so I'll ask you to comment on that after I make just one other observation.

Our government has been looking at open government for some time, and as you've referenced in your opening remarks, other jurisdictions are rolling out some really exciting and interesting initiatives. We do need to be looking at how some of those ideas can best be implemented here in Canada.

Again, going back to the definitions as I've described them, I'm a little concerned. But also I would like to know which model you favour out of the three you've talked to us about today.

Ms. Suzanne Legault: This is the second time I've been asked this question, Mr. Chair. I guess I will have to make a choice.

I haven't travelled to Australia or the U.K. I've had more contact with the Americans, because they came to see us, and they came to explain what they're doing.

I really like the Australian approach. I guess, perhaps, it's a Canadian approach, in some respects. I thought it was well reflected. I think they had a task force. They had a set of experts.

It is complex. It is not easy. I think it's a measured way of looking at how to implement it.

I like it, as well, because as part of this exercise, they looked at the access to information act in Australia and updated it, which I thought was a key component.

That's my preference. I wasn't going to say it. I think it's important to look at the three models, but my preference is the Australian one simply because of the way they actually took some time to think about it, to consult, and to develop a more comprehensive document, which the government is acting upon. I think that is an important way of looking at it, because it is complicated.

The questions this committee is asking me are a lot of questions I don't have answers to. You need to bring together a community of experts in different fields: privacy, copyright, official languages, security. These people have to be consulted and have to be part of the equation.

By the way, David Eaves was one of the public policy experts from Canada who participated on the Australian task force. So we have the knowledge here in Canada. We're actually exporting it to Australia to benefit their initiatives. I think we should really look at what these people here in Canada know.

• (1635)

Mrs. Kelly Block: Do I have any more time?

The Chair: You have one and a half minutes.

Mrs. Kelly Block: A fair bit of importance is being placed on the leadership of a country making a declaration with regard to open government, and thereby, I guess, signalling intent.

You referenced the U.K. Prime Minister's affirmation of a commitment to opening up data. Getting back to the Australians' response to the government 2.0 task force report, they responded by tabling amendments to their freedom of information act. Do you know what those amendments were?

Ms. Suzanne Legault: I have some knowledge. I will admit that I did not look at the legislation in detail. I just did not have the time to look at that, and I didn't before this committee. I apologize. I have it in my book, but I didn't have a chance to study it.

One thing that I think we should really look at, because it's a federal system, is that the information commissioner there has order-making power. I think we should definitely look at what it looks like in a federal context, because it's a similar system of governance. It's a federation.

Right now what we have in Canada is order-making power for information commissioners at the provincial level, but they oversee different information holdings than I do at the federal level. It's a different set of information holdings. I think the Australian model is important there.

They have disclosure logs, publication schemes, access to information that is free of charge, and online access to information requests. So they've updated it to make it more in line with the digital environment. And the information commissioner in Australia has a very strong policy mandate.

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

Now Mr. Siksay will have five minutes.

Mr. Bill Siksay: Thank you, Chair.

Ms. Legault, the last time I had the floor, you'd just mentioned that Mexico does something a little different with their access to information requests. It sounded as if they actually post the information that is requested, not just the fact that it has been requested. Is that where you were going? Do I understand that correctly?

Ms. Suzanne Legault: I invite you to speak to the Treasury Board Secretariat about the Mexican system. The legislation is their own legislation. It functions in their own environment. Obviously, most people in Mexico don't have access to the Internet and so on, so there are all sorts of issues around the Mexican system.

The beauty of the Mexican system is that it was implemented very recently, so it's all web-based. They have an amazing web-based system. Essentially, the way it works is that people can make an

access to information request online, free of charge. The institution responds online, and you can automatically make a complaint. It's all online. It's because they are recent in this field, as a jurisdiction, that they basically use the technology to make their system work.

I'm not commenting on any other parts of the system, which is difficult to compare with Canada, but they do have the transparency portal, and they're now integrating all the various federal states that are going to be part of this portal. It's a searchable database, as well. It's centralized. It's something that I wish for Canada.

Mr. Bill Siksay: So here in Canada, when you say that given the demise of CAIRS, of that system, four agencies have now gone back to a system where they're disclosing their access to information requests, is that just a listing of what has been requested? It's not the actual information that was provided to the requester. Is that right?

Ms. Suzanne Legault: As far as I know, it's not the information that was provided. There are privacy concerns there in terms of posting the whole thing and there are official languages issues, so I think that needs to be looked at in more detail.

Essentially what we have in the legislation now is that you can have a reading room, right? Each institution has to have a reading room as part of the legislation, but it's a paper reading room. I think what we would want to do is move to a virtual reading room, but it would have to be treated such that it's not disclosing information to other people that is personal to a specific complainant. So it does require quite a bit of extra work—and translation perhaps.

• (1640)

Mr. Bill Siksay: So in the case of your office, when you say that you're now one of those agencies doing that, again, you're just posting a listing of requests that you responded to?

Ms. Suzanne Legault: Yes.

Mr. Bill Siksay: Okay.

I wanted to go back to the five principles. You've touched on this a number of times, and you just touched on it again with point four about the other considerations that need to be part of an open government system. I just wondered if you could say a bit more about each of those, maybe starting with official languages, as that is something here in Canada that's different from the other countries you've been talking about today. Could you say a bit about how you see that affecting our considerations here?

Ms. Suzanne Legault: It's certainly a consideration that we would need to have in terms of the information we disclose proactively. Right now, the way I understand it, anything that's posted on an institution's website has to be translated into both official languages.

However, I'll explain what we're doing in our office, because we're moving towards this proactive disclosure or open government type of initiative within our own office. What we're going to do is... There's a lot of information within federal institutions that is already being produced in both official languages because we have to do so within the context of our organization. For instance, corporate governance documents are usually produced in both official languages. They're already translated. So what type of this information can be disclosed proactively, having due regard to privacy concerns and so on and so forth?

I think there are already matters that are translated within institutions that could be proactively disclosed. That's certainly what we're moving towards doing. For instance, for our records of decisions of our executive committee, we're looking to post that proactively because we think our stakeholders are interested in understanding where the governance of our office is going.

On the other hand, we are now publishing our statistics on a monthly basis in an Excel format so that it's reusable, so people can basically take it and make different analyses than we do in our annual report. That doesn't require translation. So it depends on what type of information it is. But there's already quite a lot that's already translated, so official languages, yes, but what are we already translating that we could disclose with no additional cost?

The other matter is the privacy concerns—confidentiality, security, crown copyright—and that's what I mean when I say I like the Australian model, because these experts in these different fields need input into this discussion so these considerations are properly addressed. I'm not necessarily the right person because I'm not an expert in crown copyright or common licences of the various permutations that can be put in place in order to protect crown copyright while at the same time permitting use of government data.

So these issues are there because when we looked at the three jurisdictions and the three models, these are some of the issues that were raised in different contexts, and official languages is germane to Canada. That's why we need a made in Canada strategy.

Mr. Bill Siksay: In terms of doing the work of access to information currently, is there a privacy impact assessment that's done as part of that process automatically?

Ms. Suzanne Legault: In terms of...?

The Chair: Your time is up, Mr. Siksay.

Mr. Bill Siksay: Okay.

In terms of release of information or responding to an access request or making data sets available.

Ms. Suzanne Legault: Okay. In access to information, there is a provision in the act itself for the protection of personal information, so that's always considered. In fact, it's one of the exemptions that's used the most in terms of disclosing only part of the information.

In terms of releasing data sets, yes, I think there would need to be privacy impact assessments, but then again, I would urge you to speak to the Privacy Commissioner in that respect. But I would think so.

The thing is, though, that one of the components of the joint resolution of the information commissioners and privacy commis-

sioners last summer is that this should be done at the onset. So when you start a database, you should be mindful of disclosure requirements, and you should be mindful of privacy concerns at the time you develop your database, so that it's not something that you have to do after the fact. It should be embedded in the design of those data sets.

• (1645)

The Chair: Thank you very much, Mr. Siksay.

Go ahead, Ms. Bennett. You have five minutes.

Hon. Carolyn Bennett: Thanks very much.

With reference to the data sets, I understand that when the U.K. government put their data sets up online, it created about \$8 billion in the digital economy. Just to speak to Ms. Davidson, it means that the data set remains intact; it's just that you have kids, literally, who can pull out the data that farmers or somebody else would want and make it much more easily accessible to somebody. The data can be monetized and can then be sold to somebody. As Madam Laurialt from the University of Ottawa said, whether it's your bus schedule or garbage collection, there are ways you can use the data to make money.

You tell us that only four out of 250 departments are doing this, and one of them is yours. This is a huge holdback in terms of hindering the digital economy in Canada.

Ms. Suzanne Legault: Mr. Chairman, I think I have to correct something. Perhaps I wasn't clear. There are four out of 250 that I know of that are disclosing their completed information requests. In terms of the other data sets that are available, NRCan is producing quite a lot of very valuable data. Environment Canada is another department disclosing information, and recently so is Citizenship and Immigration, so there is information being disclosed at the federal government level in various institutions. There's no doubt about that.

Hon. Carolyn Bennett: One of the concerns has been crown copyright. I imagine one of the reasons that you like the Australian model is that they moved to this Creative Commons attribution licence. They got around what was traditionally crown copyright, allowing people to use it in a Creative Commons attribution. It's encouraging this digital economy, as opposed to punishing people for using it. I understand that places like the U.K. appointed somebody like Timothy Berners-Lee or some wizard who designed the World Wide Web to come and help you do that and make it happen. Are you aware that Canada has appointed anybody to help us with this?

Ms. Suzanne Legault: I think you would have to speak to the office of the chief information officer, because they're the people who now, in my view, are most active.

On the list of witnesses, we've also suggested that you might want to hear from people at NRCan who are doing it and are producing very good data sets, as well as Environment Canada. These people will be able to tell you who the experts are, whom they've consulted, whom they're working with, and so on.

Hon. Carolyn Bennett: At your FPT meeting in September you've obviously given some resolutions in terms of your five initiatives. One is that you're calling on the provincial and territorial governments to declare the importance of open government. You said that on September 1. Have any of the governments come forward with declarations in favour of open government?

Ms. Suzanne Legault: I don't know if any have at the provincial level. At the municipal level, I don't know if they've made a declaration per se, but in terms of declaration, I think I should mention that one has to be mindful that a declaration on its own is not sufficient. The Clinton administration in the 1990s also made a declaration in terms of fostering disclosure of information, and it hasn't led to the significant changes that we're seeing following the Obama initiative. That's why the five principles, it seems to me, have to be together. It's fine to declare that we're going to do something, but there have to be timeframes, it has to be organized, there has to be accountability, and so on.

Hon. Carolyn Bennett: I believe Vice-President Gore was doing a lot of the background work at the time in order to get this done.

In terms of the timeframe it takes for you to deal with complaints and to do a proper investigation, I know you sent a letter to the Speaker asking for additional resources. Is there any hope that Treasury Board or any other source can get you the resources you need in order to do what Canadians expect from you in a timely fashion?

• (1650)

Ms. Suzanne Legault: It's a complex question, Mr. Chairman, in terms of the funding because we've received quite significant additional funding in the last three years and I fully recognize that we are now fully staffed, essentially, give or take a few. We have some work to do in terms of efficiencies of our own investigation and a lot of training to do with our investigators in order to get our processes as efficient as they should be. So that's one component. I have work to do to make these more efficient—quite a lot.

That being said, the request for funding that I'm putting forward before the panel tomorrow is to deal with litigation and complex investigations that are now putting a lot of pressure on my office for a variety of reasons, which I will explain to the panel tomorrow. I don't know, Mr. Chair, if you want me to go into this area today to answer to the member's question.

The Chair: It's irrelevant to this discussion, Madam.

Okay, thank you.

Mr. Calandra, five minutes.

Mr. Paul Calandra (Oak Ridges—Markham, CPC): Thank you, Mr. Chair.

I note that for 13 very long, miserable, dark years access to information around this place was quite limited. The doors to the Wheat Board were closed. The CBC was closed. I believe some 70 institutions weren't accountable to Canadians through access to

information. Sometimes in the military it has been called the “decade of darkness”. I guess it can be realistically called the “decade of darkness” for access to information as well.

But in February 2006, which is typically the coldest and darkest month of the year across Canada, it became sunnier and brighter and the doors of this place were opened up. CBC was put on the list. The Wheat Board was put on the list. Some 70 institutions were put on the list and Canadians were given access to all these organizations. I note that the budget has gone up from \$7 million to \$12 million. The Treasury Board Secretariat responded to 72% of the requests within 30 days. The majority of the other requests were responded to within 30 days. We've finally seen the opening up of Parliament.

We have a government, of course, led by Prime Minister Harper that was elected in 2006 that understood what Canadians wanted, following the decade of darkness and the scandals with respect to sponsorships, which the previous government tried unsuccessfully to hide. They knew they had a government that finally would understand them and would open the doors and give them the access to the information that they needed and that they really rightfully deserved because they are, after all, the ones paying the bills.

What you have been describing is a massive undertaking, obviously. It's something that we have to be extraordinarily careful in doing. I can tell you this. I appreciate the work that you've put into this with respect to the individuals we should be contacting and the jurisdictions we should be looking at, because we have to get this right. I'm wondering if you would agree. You've said that we're coming along. NRCan.... You've suggested the immigration department were coming along.

I'm wondering if a phased-in approach to doing this is something we should look at. We have the departments that have already done this, have gone down the road, are doing it properly. But would it not make sense to then slowly do this so that we are doing it in a way that protects privacy where it needs to be protected but gets the information out? If that approach is something we should look at, if that's how we can be successful in making sure that we actually get this right.... You said Australia, but perhaps one day we could be the jurisdiction that other countries come to look at.

Ms. Suzanne Legault: I'm not sure how to answer that question, Mr. Chairman.

I'm not the right person to ask whether we should go slowly in anything. It's not in my grain. That being said, there needs to be reflection, that's for sure, and experts need to be consulted. If you look at the Australians, they set up a task force in June, which reported in December, and the government responded in May. Their information commissioner was appointed formally, I think, on November 1. So in the course of about one year, they've basically done their analysis, their study, and recommendations, and the government has taken a position. That seems to be fair.

I think Canada probably has an advantage in some respects, because we do have departments that are doing it. They know how to do it. We also have one of the most connected countries in the world. One of the challenges in Australia is that they need to have an ICT broadband strategy at the same time. We are doing well in that respect. We've lost a bit of ground, but we're doing well. So we have some good advantages.

Really, if you look back to the 1990s, when we put forward government online initiatives, we were the leaders in the world. I think it's time to reclaim that, and I think we can. Certainly the possibilities are there. As I said earlier, we're exporting our experts to advise other jurisdictions.

Because some of the other jurisdictions have done some of the thinking in some of the models, I think we should bank on that and should use their experts now to help us move forward at a more rapid pace, while paying due consideration to all of these concerns.

• (1655)

Mr. Paul Calandra: I'm glad you referenced that, because most of the information is obviously going to be Internet-based. I note that once we do make progress on our economic action plan and broadband strategy to connect much of the country and some of the rural areas and give them access to the high-speed Internet they have never had before, it will be a lot easier for Canadians all across the country, including rural jurisdictions, to access the information they want. That will be because of the hard work of this government in making sure that broadband is throughout the country. So I'm glad to hear that.

You talked about declarations that people make and you talked about President Clinton. That's something that's happened a lot with previous governments, which have made declarations about this, that, or the next thing, and have never quite lived up to the expectations citizens have put on them or demanded of them.

Understanding the complexity of what we have to do, or of our undertaking—and you've clearly indicated that you want to get on with it—give me a timeline for it.

The Chair: Madame Legault.

Ms. Suzanne Legault: As I said, if you look at the Americans, they had very, very tight timelines, and they've put data out. There were some mistakes and they had to fix them. That was their approach to it, and they're very candid about it. That was the way they wanted to go about doing it. The Australians are going to take a different approach and be more measured.

But I think there are probably some things that can be done fairly quickly. The disclosure of access to information requests is not something that should be so difficult that it takes a lot of time to put into place, depending on the resources of various institutions. But it's really not something that should be that time-consuming.

The idea is to have an implementation plan, to have something that you can do in the short term, medium term, and longer term, and then you get organized and you have people who have proper accountabilities and are responsible for delivering on the results. So it has to be structured.

I cannot give you a timeline, because essentially it would be up to the government to put something like that in place, and certainly not the Information Commissioner. I don't have the mandate.

The Chair: Okay, thank you very much, Mr. Calandra.

Mr. Easter, for five minutes.

Hon. Wayne Easter: Thank you, Mr. Chair. I do have to make a comment on Mr. Calandra's points in terms of his claim that the government is more accessible. In fact, where it really matters the government is much less accessible.

The fact that the Canadian Wheat Board and the CBC have opened up is all well and good, with one exception. Part of the reasoning in opening that up is the government wants to find ways of attacking the very institutions they're responsible for. We see that with the Minister of Agriculture and the Canadian Wheat Board all the time. But where access to information really matters to all Canadians, at the centre of power, the PMO and less so ministers' offices—because all the power in this government rests with the PMO—that access to information is far less available than it ever was, in my view.

I'd offer members of the government a suggestion from the official opposition. We have produced a document called *Opening Government to Canadians*. Right off the bat we say: "The Liberal Party of Canada is committed to democratic renewal—and that means a commitment to open government."

I'd suggest we're committed to four points. One is to immediately restore the long-form census, and I do have a question for you on that particular issue in a moment.

Two, we would make as many government data sets as possible available to the public online free of charge at opendata.gc.ca in an open and searchable format. Those are some of the things that are happening in some other countries, and we'd start with Statistics Canada data, including data from the long-form census.

Three, we'd post all access to information requests, responses, and response times online.

And fourth, we'd make information on government grants, contributions, and contracts available through a searchable online database.

That's what we're suggesting the government do. That's what we as the official opposition are committed to doing should an election occur.

As you know, the government has substantially cancelled the mandatory long-form census. From your perspective, or maybe you don't care to answer, has that presented a limitation on the information or the accuracy of information that is available to the Canadian public, or will it in the future when this census is done?

• (1700)

Ms. Suzanne Legault: Mr. Chair, I must admit I have not looked at the comparison between the long-form census and the national household survey. I suggest that would be a question perhaps best asked of people who work at Statistics Canada rather than me. I certainly have not looked at that carefully.

Hon. Wayne Easter: The government proposal certainly has been very broadly condemned, not only from the point of view that we're getting less accurate information and it's costing Canadians \$30 million more for this government news. It's certainly been broadly condemned, and one of our worries is that the trend lines that have been set based on the mandatory long form and the way it's done are now going to be in jeopardy as a result of the government's decision on the mandatory long-form census.

Just one other question. The access website itself was up at one time. What's the situation now?

Ms. Suzanne Legault: Do you mean the CAIRS website? It's no longer available. The secretariat decided to no longer ask institutions to input into the CAIRS system, and that's what led to complaints to my office and led to the investigation. I've provided you with a detailed account of the investigation and with some of the background of the CAIRS system.

At the time, the representations we got from the secretariat said that the CAIRS system was really antiquated technology, and we agreed with that representation. It became very costly to modify the CAIRS system in order to adapt it and include the 17 new institutions that became covered as part of the Federal Accountability Act.

At the time we were consulted, before that decision was made, our position was that the CAIRS system should be kept in place until a new system was put in place to replace it. The secretariat decided not to follow our recommendation at the time. That led to the demise of CAIRS and led to the complaints, which led to our investigation, and it was a very lengthy investigation.

I could have closed this investigation last year, but what has happened since then is that we've had some really good discussions with the secretariat and we're sensing a real openness in terms of the disclosure logs and having disclosures of access requests posted online. Once there was that openness and the willingness to work with institutions and continue in that vein, it led us to then conclude the investigation. We're going to continue to collaborate with Treasury Board Secretariat to see how this evolves over time.

• (1705)

The Chair: Thank you, Mr. Easter.

Mr. Poilievre, you have five minutes.

Mr. Pierre Poilievre: Yes.

The reason I wanted to have a chance to go back at this is that I'd like to have a clear distinction between the various kinds of proactive disclosure that have been envisioned and to understand which is your preferred.

Is it your view that in an ideal world government would proactively disclose everything that is accessible under ATIP, or would the government simply proactively disclose all requests and responses under ATIP?

Ms. Suzanne Legault: These are two different things.

Should the government disclose everything all the time? I don't think it would be a good cost-benefit exercise, plus it would be an overload of information. Part of the way the other jurisdictions are

developing this is that they're consulting their stakeholders to understand what their stakeholders value among the information sets they have, so that they will put priority on a disclosure of that information, if there's no restriction on their access to information.

On their access to information, ideally yes, we would post the access requests that are received and completed; then, if you speak to people such as David Eaves, he will suggest that you should have a tracking system on the processing of your access requests, because now, he says, the technology exists for that. People would be able to follow where a request is in the system, a little bit as you would figure out where your post is. If you have something sent by priority mail, you can follow the progress and see where it is. The technology exists to do that. This is something that could be added as well.

But there's a distinction between what you disclose proactively and what's disclosed through the Access to Information Act. The way we're looking at it now within the Office of the Information Commissioner is that when we produce documents we're going to look at whether or not these documents can be proactively disclosed and whether our stakeholders are interested in this information. If so, we will start posting it proactively.

Mr. Pierre Poilievre: So when you secure information under the Access to Information Act, you would automatically disclose it to the broad public, unless it pertains to a person's individual file with the government. Is that what you're saying?

Ms. Suzanne Legault: No. I'm not sure I understand your question, actually. I'm sorry.

Mr. Pierre Poilievre: For example, if I file an access to information request and want to know, for example, the cost of the APEC summit that was held in the 1990s, including all security, etc., are you proposing that under access to information the response I receive would then be made automatically public in an information registry that anyone could access at any time?

Ms. Suzanne Legault: We'd have to consider the implications for official languages, in terms of whether or not that could be done.

Mr. Pierre Poilievre: I've heard you testify twice on this subject, and I'm having trouble envisioning exactly what it is you want the government to do in a very specific way. What kind of end product would you like to see?

Ms. Suzanne Legault: For instance, there's the disclosure of statistical data free of charge, the disclosure of geospatial data, the disclosure of weather data, the disclosure of immigration data. This can be disclosed proactively. There's the disclosure of access to information requests that are completed and received within institutions.

Whether or not institutions can disclose the documents that are the subject of the access to information request requires, I think, more work, because if there is a particular requester who makes an access to information request, sometimes there is information that is personal to this requester, and it would not be available to the general public. But presumably all the other redactions under the legislation would be the same for everyone.

That's what generates more work. That's why the recommendation we made to the secretariat, as a first step, is to disclose the access to information requests that are received and post the ones that are completed.

What this means is that if you then see this list and want to make an access to information request and see that it's the same one, the institution will already have produced that information. So it's actually easier for the institution; all they have to do is make sure they're not disclosing to another person information that's personal to the first person.

• (1710)

Mr. Pierre Poilievre: Are you saying that the request would be disclosed—all requests except those that are personal—or that the responses would be disclosed?

Ms. Suzanne Legault: The access requests that are received and the ones that are completed, one or the other, can be disclosed.

In terms of the actual bulk of the documents, we have to consider the implications for official languages. Would there be a requirement that all of this documentation need be translated before it's posted online, because it would be posted on a federal institution's website? I don't have the answer to that question yet, and that's why we didn't go there in terms of the recommendation to the secretariat. But this is a consideration.

The Chair: One issue, Madame, that has not been raised by any of my colleagues is that of resources or costs. Certainly it's a concern of every member of Parliament. You've described the concept that governments should disclose information on a proactive rather than a reactive basis. This concept has been embraced in the United States, Great Britain, and Australia, and it certainly has been embraced by all the information commissioners, both provincial and yourself, across Canada.

I know you wouldn't have any concept of a detailed breakdown, but can you comment in any way about what costs we're looking at, what additional resources it would cost government? You mentioned that in some cases it would be a cost saving, because you would reduce duplication. But do you have any thoughts or comments that you can leave the committee about costs or resources that would be required to conduct this endeavour?

Ms. Suzanne Legault: That's a very valid question. There has to be a cost-benefit analysis to this.

The only data I've seen is as part of the Australian task force work, which has looked at the cost and benefits of disclosing the information. The Americans will tell you that they think it leads to so much innovation within the economy that there is a large benefit. In terms of each institution, that is why a good way to start is to basically look at the data sets that are being produced currently by institutions and see the possibility of disclosing that information.

The way the Americans did it was to have consultation with their stakeholders so that they identified the priority sets of data that stakeholders are interested in. You don't disclose everything; you disclose what's of value to your stakeholders. That way you have a better cost-benefit ratio, if you will.

But have I done any cost analysis? No, I have not.

The Chair: Thank you.

[*Translation*]

Ms. Bourgeois, you have five minutes.

Ms. Diane Bourgeois: Thank you, Mr. Chair.

Ms. Legault, I told you earlier that I greatly appreciate this discussion, but I must tell you that I have great difficulty in following you with regard to the implementation of a true transparency policy. I am astonished. Either I have not understood correctly, or else I was expecting that we could say, at the end of our meeting, that the commissioner came, that she showed us ways in which the government could be more transparent, that she suggested a plan that would enable us to know how much time the implementation of a policy could take, and how much it could cost. All we have as an answer is that you do not know, that we should consult other countries, that we should look elsewhere. You come up with fine principles, but a principle loses its credibility if it is not supported.

On the one hand, have you conducted any studies or made any plans that would enable you, at least, to suggest to the members of this committee some ways that would help them find their way through this? On the other hand, if the planning has been done, our research service is telling us that "the Chief Information Officer of the government [...] wants to see the implementation of the government transparency plan within the coming six months or one year". Is it possible to set up, within six months to a year from now, the main features of what you just outlined for us? Otherwise, will it be some very meager information published online for each department? These are three important questions.

• (1715)

Ms. Suzanne Legault: Mr. Chair, I agree entirely with the honourable member. I do not have that mandate. I certainly would like to have it—

Ms. Diane Bourgeois: Who is it?

Ms. Suzanne Legault: I would be very happy to have it, but I do not have it. I have no mandate to do research, policy development or education. I have no personnel mandated to do such research. I have a mandate to investigate. I consider that as the ombudsman, I play my role by influencing government through the exercise that I conduct jointly with Treasury Board.

The things that you mentioned are not in my mandate. I am very sorry, I entirely agree with you, but I could not really produce for you all the details of the implementation plan.

Moreover, to answer your question about Ms. Charette, let me say that it is basically up to her to come here and present this. She is the one in charge of the development of information and technology within federal institutions. Besides, this is why she is one of the first witnesses that we suggest you should hear.

I am very sorry, Mr. Chair, because I cannot give you anything more concrete than what I gave you today. I am giving you some leads; this is all I can do and I am sorry.

Ms. Diane Bourgeois: No, it is all right.

In the same vein, you and your colleagues the provincial commissioners tabled some resolutions. There are five resolutions. You submitted them, I suppose, to the Canadian government. I want to know how it reacted. Did any of the resolutions startle anyone or raise any eyebrows?

Ms. Suzanne Legault: This is a good question. In fact, I did not send this to the Prime Minister's Office.

Ms. Diane Bourgeois: Oh!

Ms. Suzanne Legault: This is an excellent suggestion. It was published when the resolutions were made with the commissioners, but it was not directed toward any other authority. I will do that.

Ms. Diane Bourgeois: May I know why you did not send the resolutions? They are extremely important.

Ms. Suzanne Legault: They certainly are, you are perfectly right, I will do it.

Ms. Diane Bourgeois: Was there any reason for this?

Ms. Suzanne Legault: No.

Ms. Diane Bourgeois: You did not think of doing it.

Ms. Suzanne Legault: No.

Ms. Diane Bourgeois: Who gave you your mandate, Ms. Legault?

Ms. Suzanne Legault: Parliament gave me my mandate.

Ms. Diane Bourgeois: It was the Parliament. Thus, the MPs, in principle, are the ones who enable you to carry out your duties. You have the obligation to be accountable to the MPs.

Ms. Suzanne Legault: I certainly do.

Ms. Diane Bourgeois: I suppose that you will send us a written version of the five proposals by mail. Will it be possible to table before my colleagues in this committee the government's reply to the five resolutions?

Thank you, Mr. Chair.

Ms. Suzanne Legault: I will transmit the information to the committee at that time, Mr. Chair. Personally, I have no problem with this.

[*English*]

The Chair: I have one point I want to get on the record, and you may want to reflect on this, Madame Legault, and get back to us. When you were before the committee back in April, one of the five

principles you proposed was to involve the public in consultations leading to this open government discussion. Do you have any recommendations to advance to the committee as to how the committee can incorporate this principle into its study as we move forward?

Secondly, can you recommend ways the committee can reach out to young Canadians through electronic means and social media? You may want to give an answer now, but you may want to reflect and get back to us in writing.

Ms. Suzanne Legault: One thing I think would be a good example, Mr. Chairman, is the way the Americans did it. They had a consultation online with their citizens when they were putting in place the open government strategy. We'll look to our colleagues to give us some insight in terms of how they did that, and we'll report back to the committee.

• (1720)

The Chair: Okay.

We're getting close to 5:30, so on behalf of every member of the committee I want to thank you very much for all the hard work you've done in your appearance here today.

Also, I know you have staff here and your office is watching this very carefully. If you have any other thoughts or reflections or advice for the committee on this particular issue, don't hesitate to send us your correspondence, and that will be circulated to all members of the committee.

Finally, I'm going to ask you, Madame Legault, if you have any closing or final comments you want to make to the committee before we adjourn.

Ms. Suzanne Legault: The only thing I would add, Mr. Chairman, is what I've said before. All of the information we've gathered on this issue we've gathered from a lot of people in Canada who are experts in the field. I think they would have much valuable insight to add to the work of the committee. They're very knowledgeable and connected to this initiative, and I can assure you they would bring a perspective that would be quite enlightening and challenging in terms of what can be done with open government.

The Chair: Again, thank you very much.

We will now adjourn the meeting.

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