

Mounties drop probe into federal Tory aide cited for censoring documents

Dean Beeby
The Canadian Press
August 15, 2011

OTTAWA - The Mounties have dropped their preliminary probe of a former Tory aide who was cited for political interference in an access-to-information request.

An RCMP spokeswoman said Monday there will be no further investigation into Sebastien Togneri, who ordered an internal Public Works document withheld after it was ready to be sent to The Canadian Press.

"It was determined that a criminal investigation into this matter was unwarranted," said Const. Suzanne Lefort. She declined to comment further on the decision by the force's "A" Division, which launched the initial inquiry in March.

Canada's information commissioner ruled earlier this year that Togneri clearly interfered with the Access to Information Act request when he had no legal authority to do so.

Internal email showed that Togneri, a political aide to then Public Works minister Christian Paradis, ordered senior public servants to "unrelease" a document that was already in the mailroom for delivery. The document was an annual report on how well the department manages its massive real-estate portfolio.

Information Commissioner Suzanne Legault referred the case to Public Works Minister Rona Ambrose, who called in the RCMP.

Togneri publicly admitted his "mistake" at a House of Commons committee last year. He later quit his post as senior aide to Paradis after published reports of his alleged



Minister of Industry Christian Paradis during question period in the House of Commons on Parliament Hill in Ottawa on June 23, 2011. The Mounties have dropped their five-month probe of a former Tory aide who was cited for political interference in an access-to-information request. Sebastien Togneri admitted his "mistake" at a House of Commons committee last year and soon quit his post as senior aide to cabinet minister Christian Paradis.

THE CANADIAN PRESS/ Sean Kilpatrick

interference in other access-to-information requests.

Togneri joined the campaign of the Tory candidate in Edmonton-Strathcona for the May 2 federal election, but was quickly removed when his new role became public.

The affair marks the second time the Mounties have declined to lay charges in a high-profile case in which aides or public servants were alleged to have interfered in the release of documents requested under the federal information law.

Last fall, the RCMP decided no charges were warranted after a two-year investigation into the deliberate

destruction of emails at the National Gallery of Canada.

That case, arising from a bitter personnel dispute, was first referred to the Mounties in 2008 by National Gallery officials. Legault also weighed in last year when her separate investigation determined that public servants had been counselled to destroy sensitive records.

Both the Togneri and National Gallery cases appeared to fall under Section 67.1 of the Access to Information Act, which provides penalties of up to two years in jail and a \$10,000 fine for destroying government records — or even for counselling someone to conceal them from a requester.

No charges have ever been laid under the section, which was added in 1999 after military records about Somalia and documents from the Red Cross were shredded to prevent embarrassing disclosures.

In a statement Monday, Togneri was highly critical of the information commissioner, accusing her of "grandstanding."

"I am troubled in the way the investigation was conducted by the office of the information commissioner," he said, saying investigators did not give him the "fair consideration" the Mounties provided.

"It is also my belief that there was an attempt to grandstand due to the publicity surrounding my situation..."

It is my hope that in the future, Ms. Legault and her office will demonstrate caution and understand the consequences of grandstanding against a political staffer.

"Although they may have garnered

media attention, this behavior has failed to address any underlying problems within the access to information processes of government departments."

Although the information commissioner found evidence of an offence being committed, her office can only refer matters to the attorney general or to ministers for possible criminal investigation. Togneri said Ambrose should never have called in the RCMP.

Legault's office is also conducting wider probes into alleged political interference in access-to-information requests at several departments, including Foreign Affairs, National Defence and Public Works. The findings are expected over the next year.

A spokesman for the B.C. Freedom of Information and Privacy Association, which promotes transparency and openness in government, said Monday's RCMP decision raises major concerns about the effectiveness of the federal law.

Vincent Gogolek said if the Mounties decided Section 67.1 cannot be used to prosecute ministerial aides, then the law "essentially creates a class of people who are able to interfere" with information requests.

Legault appeared to raise the same issue in a spring report to Parliament.

"The law was drafted such that it is very difficult for the information commissioner to ensure that political staff members are held accountable

for interference with the Act," she wrote.

A spokeswoman for Legault declined comment Monday on the RCMP decision.

"The RCMP is an independent entity and follows its own procedures," Therese Boisclair said in an email. She noted the commissioner has already called on Parliament to consider legislative changes to the Act.

Togneri called the investigation "difficult and arduous," saying "I am closing this chapter in my life and looking ahead to the future."

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Inside Politics Blog

CommitteeWatch: Hey, remember formerly alleged Access to Information interferent Sebastien Togneri?

By [Kady O'Malley](#)
CBC News
August 30, 2011

Turns out that someone -- or, in this case, three organizations representing any number of interested someones -- certainly do, and they're hoping to jog the collective memory of the members of the Standing Committee on Access to Information, Privacy and Ethics.

The Canadian Taxpayers Federation, Newspapers Canada and the BC Freedom of Information and Privacy Association have joined forces to call on the committee to reopen the investigation into the alleged interference in the access to information process by Sebastien Togneri, at the time

an aide to then-Public Works Minister Christian Paradis.

Earlier this month, the RCMP [announced](#) that it had wrapped up a "preliminary probe" of the case after determining that a criminal investigation was "unwarranted" -- no pun intended, presumably -- which, according to the aforementioned ad hoc triumvirate, leaves unsettlingly open the question of whether the law itself has been rendered moot, at least as far as the actions of ministerial staffers.

From the letter:

[...] Section 67.1 of the Access to Information Act provides penalties of up to two years in jail and a \$10,000 fine for those who undertake certain defined acts with the intention of interfering with someone's

access rights. There have never been charges laid under this section of the Act.

[...] If it is "unwarranted" to conduct an investigation into a case where a ministerial aide with no legal authority sends an e mail to officials ordering them to not release requested records, then what circumstances would warrant an investigation?

If there is a problem with the law, then it is vital that the Committee recommend amendments to avoid the creation of a loophole for this white collar crime. We hope you will ask the RCMP, the Commissioner and Mr. Togneri to appear as soon as possible to clarify what happened in this case and what can be done to avoid creating impunity for the

class of people most likely to interfere with the access rights of Canadians.

In closing, the letter requests that the committee "act urgently to investigate what happened in this case," a suggestion that would seem unlikely to find favor with a majority of committee members.

After all, under the new post-minority parliamentary world order, even gaining the sympathetic ear of the chair -- in this case, BC NDP MP Nathan Cullen -- won't be enough to ensure a full airing out of concerns arising from the

RCMP's decision to decline to proceed further. As House Law Clerk Rob Walsh famously put it last spring during the debate over parliamentary privilege, when you come down to it, it's all about the math, and unless the government decides to back the play, any motion to revive the issue will fail at the first vote.

Then again, this is the party that was initially elected on a platform of accountability and transparency, so perhaps the Conservative members will rally around the proposal after all -- plus, with various Federal Accountability Act-related five

year reviews fast approaching, the larger issue of ATI reform may well come up in the months ahead.

Read the full text of the letter [here](#)

UPDATE: Hot off the virtual presses, a complementary [release](#) from the Canadian Taxpayers Federation.

<http://www.cbc.ca/news/politics/inside-politics-blog/2011/08/committeewatch-hey-remember-formerly-alleged-access-to-information-interferent-sebastien-togneri.html>

Groups demand Commons probe of RCMP decision to drop access-to-info case

By: Dean Beeby
The Canadian Press
Posted: 08/30/2011

OTTAWA - Three watchdog groups are asking Parliament to find out why the RCMP dropped its probe of alleged political interference in the release of government information. Newspapers Canada, the Canadian Taxpayers Federation and the B.C. Freedom of Information and Privacy Association issued a joint letter Tuesday asking a House of Commons committee to investigate the case of Sebastien Togneri.

In 2009, Togneri, a political aide to then-public works minister Christian Paradis, ordered a document withheld from a Canadian Press reporter who had requested it under the Access to Information Act.

The document, an annual report on the government's giant real-estate portfolio, was then retrieved from the Public Works mailroom shortly before it was to be sent out.

Togneri was later required to appear before the Commons committee on access to

information, privacy and ethics, where he acknowledged his order to "unrelease" the document was a "mistake."

And a year-long investigation by Canada's information commissioner concluded Togneri had inappropriately interfered when he had no legal authority to do so.

Suzanne Legault recommended the government send the case to the RCMP to examine whether Togneri's actions broke Section 67.1 of the Access to Information Act, which provides for jail terms and penalties for interfering with the release of government information.

The RCMP was called in, but this month dropped their probe, saying any criminal investigation was "unwarranted."

"The RCMP decision to abandon this investigation is extremely troubling," John Hinds, president of Newspapers Canada, said in a release.

"It appears to leave people most likely to interfere with ATI (Access to Information) requests above the law, and that just cannot stand."

A spokesman for the taxpayers group called it a "critical situation."

"If they can't charge someone in a minister's office who has been found by the Information Commissioner to have sent an email telling officials to 'unrelease' documents for no reason, when would anyone ever be charged?" said Scott Hennig, communications director.

The RCMP's abandoned investigation is the second time the Mounties have declined to lay charges in a high-profile case involving Section 67.1. Last fall, officers decided no charges were warranted after a two-year investigation into the deliberate destruction of emails at the National Gallery of Canada.

Legault also found clear evidence in that case that public servants were counselled to destroy records.

No one has ever been charged under Section 67.1, which was added to the Act in 1999 after scandals in which defence and health records had been destroyed to avoid embarrassing revelations.

The Commons access committee is chaired by an opposition member, the NDP's Nathan Cullen. The 12-member committee, which has met only once in June, is dominated by seven Tory MPs.

"I can't imagine a more clear-cut case of contravening the Act," Cullen said in an interview from Smithers, B.C., adding the Togneri issue "stands a very good chance" of being added to the committee's fall agenda.

Cullen said the Act may need to be rewritten if Section 67.1 is proving to be unenforceable, and that the committee needs to hear from the information commissioner, who has herself raised concerns about the wording of the law.

Togneri welcomed the RCMP decision this month for "clearing me of any wrongdoing," and called Legault's investigation of him "grandstanding." He declined comment Tuesday on the letter to the committee.

Togneri left government in 2010, and was removed from the federal election campaign of a Tory candidate in Edmonton in April when his role there became public.

Legault has launched other investigations of alleged political interference in access-to-information at Public Works, Foreign Affairs and National Defence, based on specific allegations brought to her attention.

The reports are expected over the next year.

Her office is also conducting a self-initiated investigation into systematic interference in the access-to-information process at eight major departments: National Defence, Public Safety, CIDA, the Privy Council Office, Health Canada, Heritage Canada, Natural Resources Canada and the Canada Revenue Agency. That report is expected sometime next year.

<http://www.winnipegfreepress.com/canada/breakingnews/groups-demand-commons-probe-of-rcmp-decision-to-drop-access-to-info-case-128674198.html>

Sebastien Togneri, Former Tory Aide, Fights Back Over Criticism Of Interference In Access To Info

THE CANADIAN PRESS 🇨🇦
September 21, 2011

OTTAWA - A former Tory aide accused of interfering in an access-to-information request is firing back at his critics.

A lawyer for Sebastien Togneri has sent a letter to three lobby groups, warning them to back off from making "false and defamatory" statements.

The Sept. 1 missive takes issue with a letter sent to the chair of a House of Commons committee by the Canadian Taxpayers Federation, Newspapers Canada and the B.C. Freedom of Information and Privacy Association.

The three groups asked the committee to review the Access to Information Act after the RCMP announced in August that it was dropping its investigation into Togneri because a criminal investigation was "unwarranted."

The Togneri case set off a political firestorm when it was revealed by The Canadian Press that he had ordered the "unrelease" of a sensitive document that the Public Works Department was set to provide to the news agency after a request under the Access to Information Act.

Togneri at the time was a senior aide to then-Public Works minister Christian Paradis.

Canada's information commissioner launched a year-long investigation that concluded early this year that Togneri had interfered with the release of a record, even though he had no legal authority to do so.

Suzanne Legault recommended the RCMP investigate the matter, with reference to Section 67.1 of the Access to Information Act, which imposes fines and jail time to anyone who even counsels the withholding of documents.

Public Works Minister Rona Ambrose then called in the Mounties, who later dropped their preliminary probe.

The three watchdog groups asked Parliament to find out why the RCMP ended its investigation into Togneri, who once appeared before a Commons committee to acknowledge he had made a "mistake."

"The RCMP decision to abandon this investigation is extremely troubling," John Hinds, president of Newspapers Canada, said in a news release at the time.

"It appears to leave people most likely to interfere with ATI (Access to

Information) requests above the law, and that just cannot stand."

But Togneri's lawyer played down the "mistake," saying in his Sept. 1 letter that his client never interfered with the release of the document.

"Mr. Togneri simply hastily questioned why a lengthy document was being released when the information actually sought was contained in only one short section of it," wrote Paul K. Lepsoe of the Ottawa firm Lavery, de Billy.

"He never intended or instructed that information actually sought should not be released."

Scott Hennig of the taxpayers' group rejected Lepsoe's letter, which is a first step under Ontario's Libel and Slander Act.

"Their claim is total B.S. and they likely know it," he wrote on the organization's website.

"Mr. Togneri should have done his homework first. It wouldn't have taken much digging to realize the CTF isn't easily intimidated. We will not back off just because you pay a lawyer to send us a strongly-worded letter.

"In fact, sending us such a letter with such weak arguments, makes it clear to us you have no intention of actually filing suit and that you are just trying to intimidate us into silence. Either that

or you are trying to bog us down and make us incur lawyer costs that you are guessing we cannot afford.

"Either way, you guessed wrong."

Under Ontario law, Togneri now has three months to file a defamation suit.

The RCMP's abandoned investigation is the second time the Mounties have declined to lay charges in a high-profile case involving Section 67.1. Last fall, officers decided no charges were warranted after a two-year investigation into the deliberate destruction of emails at the National Gallery of Canada.

Legault also found clear evidence in that case that public servants were counselled to destroy records.

No one has ever been charged under Section 67.1, which was added

to the act in 1999 after scandals in which defence and health records had been destroyed to avoid embarrassing revelations.

The Commons access committee, which meets Thursday, is chaired by an opposition member, the NDP's Nathan Cullen, who has said he wants to examine the case.

Last month, Togneri welcomed the RCMP decision for "clearing me of any wrongdoing." He called Legault's investigation of him "grandstanding."

Togneri left government in 2010, and was removed from the federal election campaign of a Tory candidate in Edmonton in April when his role there became public.

Legault has launched other investigations of alleged political

interference in access-to-information at Public Works, Foreign Affairs and National Defence, based on specific allegations brought to her attention. The reports are expected over the next year.

Her office is also conducting a self-initiated investigation into systematic interference in the access-to-information process at eight major departments: National Defence, Public Safety, CIDA, the Privy Council Office, Health Canada, Heritage Canada, Natural Resources Canada and the Canada Revenue Agency. That report is expected sometime next year.

http://www.huffingtonpost.ca/2011/09/21/sebastien-tognari-access-to-information_n_974968.html

NDP accuses former Tory staffer of trying to create access-to-info chill

Jennifer Ditchburn
The Canadian Press
Sept. 22, 2011

OTTAWA— The NDP is accusing a former Conservative aide of trying to scare MPs and others out of scrutinizing interference by political aides in access-to-information files.

Sebastien Togneri, a former assistant to the public works minister, wrote to three organizations earlier this month warning them to stop making false and defamatory claims about him. In August, he warned the information commissioner about "consequences" for "grandstanding" during her investigation into his actions.

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- [RCMP halts probe into Tory aide who blocked access-to-information request](#)
- [Can Access to Information be fixed?](#)
- [Canada ranks last in freedom of information: study](#)

The Togneri case created a political headache for the Tories when it was revealed he had directed public servants to stop the

release of documents under the Access to Information Act. Although he originally said he only did it once, other cases of meddling later emerged and he resigned his post as adviser to Christian Paradis.

The information commissioner concluded in a report to Parliament that Mr. Togneri had interfered in the release, but the RCMP subsequently said they would not be laying any charges. The RCMP have never laid charges under the act.

That spurred the Canadian Taxpayers Federation, Newspapers Canada and the B.C. Freedom of Information and Privacy Association in August to ask a Commons committee to review the act and make sure that there is no loophole for political staffers.

The access to information, privacy and ethics committee convened for the first time this fall on Thursday, and heard from Information Minister Suzanne Legault.

New Democrat MP Charlie Angus suggested Mr. Togneri could be interfering with the rights of MPs to do their jobs by threatening a "slap suit" to the groups that had written to the committee.

"I find this attempt to use legal slap suits to tell citizens that they can't

come to our committee, or to try and obstruct citizens from trying to (encourage) a parliamentary committee to investigate – something that's clearly a cornerstone of our democracy – to be outrageous and a possible serious breach of privilege as parliamentarians," Mr. Angus told MPs.

The chairman of the committee, New Democrat MP Nathan Cullen, said he hopes Mr. Togneri wasn't trying to create a chill, predicting the reverse effect.

"I don't think threatening commissioners, threatening members of Parliament, slap suits against groups who are trying to find basic information about government, is the way that anyone should conduct themselves," said Mr. Cullen in an interview.

"I don't know this fellow, but we can see by the work of the (information) commissioner that it's above board, it's entirely ethical, and to suggest otherwise is to impugn her reputation and the work of Parliament."

When the RCMP announced in August they would not be proceeding against Mr. Togneri, the former staffer applauded the decision and lashed out against Ms. Legault.

"It is my hope that in the future, Ms. Legault and her office will demonstrate

caution and understand the consequences of grandstanding against a political staffer," Mr. Togneri wrote, without describing those consequences.

Ms. Legault wouldn't comment on Mr. Togneri's statements directly, but defended her record. She still has three other related investigations into interference still underway.

"I really do stand by my work, I stand by my office's work in the investigation which resulted in the special report to Parliament and, frankly, I am in the hands of parliamentarians to judge the work that we did in this file," Ms. Legault said.

She added that she had concerns about the wording of the act. Although

she can investigate whether anybody has concealed, altered or destroyed government records, she can only share information with the attorney general about the actions of public servants. She cannot pass along her evidence on political staffers.

The Conservatives on the committee asked no questions about the Togneri case, but criticized Mr. Angus for "saying outrageous things about Sebastien."

"It never ceases to amaze me, this week we see in the press members of the NDP are out actively lobbying or indicating that they believe folks trafficking in narcotics just require a little more love, but Sebastien Togneri should be publicly flogged and

perhaps executed – if they could get their heads around execution," said Conservative MP Dean Del Mastro, parliamentary secretary to the prime minister.

Mr. Togneri left government in 2010, but resurfaced during the spring 2011 federal election as a campaign volunteer with a Conservative candidate in Edmonton. He quickly left the campaign after his involvement was revealed by The Canadian Press.

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ACCESS DENIED

Advocates cite erosion of transparency, honesty since BC's Freedom of Information and Privacy Act was passed in 1992

While the BC Freedom of Information and Privacy Association celebrates its 20th anniversary, members lament the B.C. Liberal government's systematic dismantling of the FOI Act

By Andrew Fleming
Special to Vancouver Courier
September 23, 2011

They say it's better to laugh about your problems than cry over them, which makes the B.C. Freedom of Information and Privacy Association's choice to book a popular comedian for its 20th anniversary understandable. (Charlie Demers hosts the Sept. 28 party at the Law Courts Inn.)

Darrell Evans, the non-profit's founding executive director, says he has little to laugh about these days after witnessing the systematic dismantling of the B.C. Freedom of Information and Protection of Privacy Act (FIPPA) over the past several years.



Photograph by: Dan Toulgoet

What was once considered a triumph of transparency has turned into a bureaucratic boondoggle of botched promises, institutional foot-dragging and government secrecy, he says.

"We feel terrible about the current state of the Act," says Evans. "It's become a failure and it's been a tremendously wearying battle over the past 10 years of the Liberals. We've managed to beat back some attempts to weaken it, but I certainly can't say we've made many advances."

Passed by the NDP in 1992 under then-premier Mike Harcourt with resounding support from the Opposition Liberals, it was once considered the most advanced Freedom of Information (FOI) legislation in the country when it took effect in 1993. The act--which covers provincial ministries, crown corporations, agencies, commissions and boards--was designed to give the average citizen (not to mention media outlets, law firms, political parties, environmental groups and private businesses) the ability to access data rarely found in the prepared statements of politicians or corporate PR specialists in a timely and affordable manner. As the name suggests, it also safeguards individual privacy rights by prohibiting the unauthorized collection, use or disclosure of personal information by public bodies.

Evans says there are now ever-shrinking parameters of what kind of information can be released, routine delays meant to deny rather than enable access to government-held information, and punitive administrative fees intended to put people off from making requests in the first place. The initial legislation gave government 30 calendar days to respond to FOI requests, which quickly changed to 30 working days.

"People still do get stuff through the FOI but it is hard. We've FOI'd several things that have come back saying there are no records and we just don't believe it frankly. Either you really don't keep the records or you deny you have them, neither of



FIPA directors Vincent Gogolek (left) and Darrell Evans believe the B.C. Liberals have diluted freedom of information. Photo: DanToulgoet

which is good. This seems to be the pattern. What we are losing is transparency and accountability, and I guess you could say it is an unintended consequence of passing an FOI Act. It just shows the corruption of government that they will do almost anything to not be transparent."

Donna Liberson shares Evans' frustration. She's a realtor and animal rights activist who has filed about 60 FOI requests at the City of Vancouver over the past decade. She fired off her first one in 2003 after recommending a friend temporarily leave their dog at a local animal shelter. The pet ended up being euthanized. "I knew there was some question about whether the city had the right to kill. They wouldn't provide the documentation that I asked for but were eventually ordered to do it, so then they said, 'Oops, sorry, we lost the documents.' Those documents would've shown they didn't own the dog and didn't have a right to kill it."

Liberson, 65, has since become something of a self-appointed city hall watchdog and routinely files FOI

requests in order to monitor municipal spending habits. She says it's becoming increasingly difficult to both pay for requests and get her hands on documents. She has also spent thousands of dollars on the requests and is currently waiting for five, one of which she filed in 2009. "Initially it was good and effective but it is virtually non-existent now. I have cases going before a hearing and I've been waiting two years to receive the information I asked for. Unless you are writing a biography about someone who died a hundred years ago and you are, I don't know, trying to find out their financial information today, having to wait two years is not right. They've pretty much gutted the effectiveness by not having enough staff. It's just criminal."

FOI filing costs skyrocket while Information Office budget gets cut

Not all FOI requests at either the municipal or provincial levels are intentionally mishandled. Data storage systems can be archaic, staff inadequately trained and requests poorly worded or simply sent to the wrong desk. However, Evans suspects many of the delays are due to elected officials and other public servants simply not wanting to see their names in embarrassing news stories.

"My motto is that within a bureaucracy, information flows to the path of the least disclosure," says Evans. "As far as the inner workings go, they simply do not want the public to know what goes on."

He suspects the desire to not be held accountable is probably part and parcel of being in power. "As soon as they get in, two years on they start having second thoughts and cold feet. Who knows, maybe they actually think they mean it when they're in opposition. I remember the first politician I first spoke to about this was [former Social Credit Party MLA] Nick Loenen way back in the early '90s. We came and made our pitch and he said, 'Well, that is wonderful, but why would anyone in their right mind in a sitting government pass this?'"

At one time, the B.C. Liberals were among the law's biggest boosters and biggest users, responsible for filing roughly one third of all FOI requests when they were the official Opposition. Gordon Campbell even once sent FIPA a letter decrying attempts by the Glen Clark regime to undermine the legislation.

"Expenditure cuts, the threat of fee increases, and the excessive reliance of [Freedom of Information requests] as the only way of obtaining routine government documents are all evidence of a government which prefers the practice of concealment to the culture of openness," wrote Campbell. "This is unacceptable."

Campbell promised, as part of the Liberal election platform of creating "the most open, accountable and democratic government in Canada," to strengthen the law by making requests less expensive and also to widen the legislation's scope. Instead, filing costs have skyrocketed while the budget for the agency that polices requests, the Office of the Information and Privacy Commissioner, suffered cuts.

Ironically, the act ultimately proved to be Campbell's Waterloo. His claims that there were no plans to introduce the controversial Harmonized Sales Tax before the 2009 election were only shown to be false after FOI requests eventually unearthed 140 internal government documents proving otherwise.

"We only got that information because it basically got beaten out of them," says current FIPA executive director Vincent Gogolek.

"We put in a request for briefing requests related to the HST because we knew [Campbell] went to a premiers meeting, premiers and first ministers, and there's no way he was going there without a briefing note. Sure enough, there was a briefing note released through [the Ministry of] Finance. They initially denied they had anything."

There is an old joke about a small business owner who sends an FOI request to the Canada Revenue Agency to ask if there is a file on him. "There is now" is the response. But

while being able to call shenanigans on government corruption is obviously important, so too is being able to find out what kind of tabs Big Brother might be keeping on you personally. Evans cites the example of Robert Glen Harrison, a youth worker who was fired from a Burnaby group home in 2006 after a decade-old allegation of child sexual abuse made by his mentally ill former brother-in-law that was passed on to his new boss by a Ministry of Children and Family Development worker.

It was the first time Harrison had ever heard of the accusation, which wasn't deemed worthy of investigation at the time, and the ministry nonetheless allowed he and his wife to continue to run a licensed child care facility on the Sunshine Coast until 2004, when the couple split up and he moved to the Lower Mainland looking for work.

Harrison filed a complaint with the Office of the Information and Privacy Commissioner that his rights had been violated. When the commissioner dismissed the complaint, Harrison took the case all the way to the B.C. Supreme Court, which ruled that the allegations should be stricken from the ministry's record books. His attempt to sue the government for \$520 million in damages, however, was less successful and was tossed out last year by the B.C. Court of Appeal.

"The guy lost his livelihood and now he has this stain on his reputation of the possibility he abused this girl," says Evans. "That's the kind of problem a person can encounter with misuse or wrong information in a file. And believe me, there are loads of crappy information in files: mistaken identity, malicious action by civil servants, sloppiness. It's just rife."

Improvements appear to be on the horizon. Premier Christy Clark recently announced she has directed all government ministries to make all data that does not compromise privacy available on an ongoing basis, as well as to post all FOI

requests and responses online at openinfo.gov.bc.ca.

Ex-Premier notes 'costly and cumbersome' process

Mike Harcourt believes it's a step in the right direction.

"I welcome going back to the original intent, which is to allow people to access as much information as is prudent," the former premier told the Courier last week.

There have been too many restrictions and it has become too costly and cumbersome for citizens and the media to get information. Even though you may get embarrassed or you may get beat up a bit, so what? My experience is that governments should make this information available because the alternative is not that great. If you don't do it, peoples' imaginations take over a bit and they start thinking the worst."

Harcourt said it is a lesson he learned when he was mayor of Vancouver (1980-86) and city council was being criticized for making too many decisions behind closed doors.

"I asked council, 'Which items do you think need to stay in camera and which do you think could just be sent out to open council?' It turns out that 100 of the 106 items we had on our agenda didn't need to be in camera so we took them back out to open council," he said.

"Within a couple of weeks, when I would come out to talk to media about what was decided in council, nobody was there. It became a non-issue. People saw that we weren't keeping anything hidden from the public or the media that didn't need to be kept hidden. That's the whole point."

Evans is encouraged by news from the current premier's office, but is taking it with a grain of salt. "Clark has made some interesting noises regarding a more open government, but then they all do," he says.

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Why won't the PM talk about his online spying bills?

Proposed legislation would allow online snooping without a warrant

By Vincent Gogolek and Reilly Yeo
The Times Colonist
Sept. 17, 2011

Despite being very outspoken on the question of crime, Prime Minister Stephen Harper seems far from eager to discuss the legislation he's promised to pass within 100 days of taking office - legislation that will allow online spying without a warrant.

In fact, the Conservatives have rolled this invasive, costly and poorly thought-out legislation into an omnibus crime package, allowing them to avoid discussion of the details.

Making online spying part of a larger package of justice reforms also allows government to paint anyone raising concerns as an opponent of crime-fighting and a friend of villains.

But we need to raise concerns. Though the titles of the bills in question refer euphemistically to "modernization of investigative techniques" or "preventing criminal electronic communication," they do a lot more than merely update police powers.

First, telecommunications service providers will be required to install back doors in their systems to allow police to have access to subscriber communications. They will have to do this either at their cost, or through a public subsidy.

The hit to Canadian wallets in uncertain global economic times is yet another unnecessary risk of this legislation.

Second, these service providers will be forced to give law enforcement agencies information about any subscriber including name, address, telephone number, email address, IP address, mobile phone

identification number, electronic serial number, SIM card information and more, all without a warrant. Creating this mandatory Internet registry of our private data presents a dream come true for hackers, making it easier for them to get and take advantage of our personal information.

As for oversight, only the federal privacy commissioner would be given authority to review the use of the powers under these provisions. Unfortunately, she only has jurisdiction over the RCMP, so provincial and municipal forces would be outside the scope of any review she was to conduct.

Current federal privacy commissioner Jennifer Stoddart, along with all provincial and territorial privacy guardians, has spoken out to oppose these changes, saying "it would be misleading to suggest that these bills will simply maintain capacity. Taken together, the proposed changes and new powers add significant new capabilities for investigators to track and search and seize digital information about individuals . at no time have Canadian authorities provided the public with any evidence or reasoning to suggest that CSIS or any other Canadian law enforcement agencies have been frustrated in the performance of their duties as a result of shortcomings attributable to current law."

Interestingly, some of the activities being permitted for law enforcement agencies are the same activities the government criminalized not so long ago. For example, the latest version of the bill would give access to unlisted numbers, email account data and IP addresses, all without a warrant. The Harper government actually made "trafficking" in such "identity information" an offence under the Criminal Code.

There has been no parliamentary debate about this legislation. Both the Conservatives and the Liberals have introduced versions of these bills, but they never got further than first reading. This means no witnesses were called and no one other than the responsible ministers has said anything about the proposal.

The lack of debate conceals potential disagreements among Conservatives themselves. Not all Conservatives are convinced that a mandatory Internet registry of our private data is a good idea.

In fact, Stockwell Day categorically denied the government was going to allow warrantless Internet spying when he was public safety minister in 2007, a position he has reiterated in recent interviews.

If Harper is confident he can convince Canadians these changes will be good for the country, he should have no problem separating the "lawful access" provisions from the omnibus crime bill so they can be properly examined and debated. His government has already done so for the mega-trial bill passed in June, setting a precedent that can easily be followed.

Citizens are coming together to insist that Canadian rights are upheld. To ensure the prime minister is listening, we need to join together. Send a message to Harper before it's too late at www.stopspying.ca.

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