

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

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

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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.

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