



House of Commons
CANADA

Standing Committee on Access to Information, Privacy and Ethics

ETHI • NUMBER 003 • 3rd SESSION • 40th PARLIAMENT

EVIDENCE

Thursday, March 25, 2010

Chair

Mr. Paul Szabo

Standing Committee on Access to Information, Privacy and Ethics

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• (1110)

[English]

The Chair (Mr. Paul Szabo (Mississauga South, Lib.)): Welcome, colleagues. This is the third meeting of the Standing Committee on Access to Information, Privacy and Ethics.

The order of the day under committee business is the report to the committee on the subcommittee commonly known as the steering committee. I can advise members that we had an opportunity to consider every item that was proposed by the members for consideration. We came to the point where we can recommend our approach. I think all the parties are substantively agreed on what we are going to recommend to the full committee now, so I want to get into it right away.

First of all, the two reports—one on access, one on privacy—that were tabled in the last Parliament have been re-tabled. Discussions have been held with the minister about the timing to get a comprehensive response to each recommendation in both reports, as well as an indication of his availability to appear before the committee. That was from a verbal conversation with the minister, but I'm sensing that if we don't put it in writing we may find ourselves wondering. So I'm going to ask the committee for their approval that the chair write to the minister, and I would like some guidance on the timelines.

The last time we were here we asked for January 25. He came back and asked for February 15. The prorogation really stopped all of that. But they have had a full month since we asked for the comprehensive response, and he concurred with the February 15 date, so they must have been working on this.

Do we have any suggestions for the chair? I suggest it should be no later than April 30.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Chair, I'll make a motion to that effect, if it's helpful, that you write as indicated and propose that deadline.

Ms. Judy Foote (Random—Burin—St. George's, Lib.): I concur, Mr. Chair. The Easter break is in there as well.

The Chair: The department still works, in any event. We'll find out. That will give them over a month to respond, which is about the same time we gave them from the time we got his commitment anyway.

If I also request that he appear, does the committee want to hear him at one meeting for both reports, or at one meeting per report?

Mr. Easter.

• (1115)

Hon. Wayne Easter (Malpeque, Lib.): My view is there should be one meeting per report.

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): You can ask for whatever you think you need, and the minister will slot in what he can. He's been here on both reports before.

Hon. Wayne Easter: I have found in other committees that ministers like to whittle us down to an hour at committee. If it were a full two-hour meeting you might be able to spend an hour on each, but we need enough time to address both reports.

The Chair: Madame Freeman.

[Translation]

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): I think that it would be a good idea for us to have two hours to consider the two reports.

[English]

The Chair: I'll take that under advisement, because I think Mr. Easter's quite right. The minister actually has only appeared before us once, and he came with officials and he left us after half an hour or an hour, despite more than one request for him to appear. His availability to us has been very difficult.

If he is only prepared to be with us for one hour, I will ask for two meetings, one for each report. If he's going to be with us for the full two hours, we'll do one meeting with an hour on each report. Will that be okay?

Some hon. members: Agreed.

The Chair: Okay, it's done.

The supplementary estimates (C) were tabled and we've dealt with that. The committee discussed two particular possibilities for doing more substantive work or study. The two items were proactive disclosure initiatives with regard to access to information, and the second was with regard to camera surveillance. There are many emerging issues here. The researchers have been given documents and they are in the process of preparing information kits on both the proactive disclosure work and on the broad range of issues under camera surveillance. There are quite a number of issues.

Your office will have already received—or you will receive today—the proactive disclosure backgrounder document, but the committee is of the view that our first preference and recommendation to the committee was to deal with the proactive disclosure study on access to information.

Okay, let me stop there.

Madam Foote.

Ms. Judy Foote: Mr. Chair, I have a couple of motions I'd like to put forward.

Camera surveillance....

The Chair: It's on Google Street View. That's for Mr. Poilievre. He will be happy about that.

Is there any discussion about focusing on proactive disclosure as it relates to access-to-information matters? Is the steering committee recommending it to the full committee?

Okay. Seeing no discussion, you will have the document, and we have scheduled a meeting to discuss that document and a work plan, etc., that we will be working on.

The next point I want to raise is that the steering committee did seriously consider.... Mr. Easter will be interested to know that the whole matter is being studied right now by the access to information commissioner. It's been referred to as the involvement of ministerial staff related to the timing of getting responses out. The committee takes this seriously. It's certainly within our mandate, and it certainly is a subject matter that we would like to see resolved, to the extent that it was in fact delaying the timely response of ATI requests.

We will be seeing the commissioner next Tuesday and we will have an opportunity, as we review the estimates with her, to ask, to the extent that she can discuss it with us, about the possibility of the timeline she would be looking at. The committee would then have to determine whether they're satisfied with waiting until her work is complete or whether the committee would like to consider doing something in parallel. I think that's really subject to what we hear from the information commissioner. We don't want this matter to be off the table, but we do want to wait for that further piece of information that is coming next week.

Google Street View and Canpages.... Mr. Poilievre had asked that we consider doing a report based on what we heard and what we're aware of in terms of the safeguards, etc. He also asked us to do a report to the House. The steering committee felt that this was useful. It's a subject matter we did do work on, and it may be coming back in the future. We don't know. It's an emerging area of concern in terms of the privacy issues.

The researchers are in fact working on a draft report for the consideration of the committee. To do this, we have to bring forward the testimony from the last session.

So I'd ask Ms. Foote. She has a couple of motions the committee should consider.

• (1120)

Ms. Judy Foote: I would move that the committee resume its study commenced in the second session of the 40th Parliament on the privacy implications of camera surveillance with respect to Google, Canpages, etc.; and also that the evidence and documentation received by the Standing Committee on Access to Information, Privacy and Ethics during the second session of the 40th Parliament in relation to its study on the privacy implications of camera surveillance be taken into consideration by the committee in the current session.

The Chair: That was fast.

Ms. Judy Foote: That's a problem I have, coming from Newfoundland and Labrador.

The Chair: Okay. Is there any discussion on the required motions?

(Motions agreed to)

The Chair: Thank you, Ms. Foote.

By the way, how would you prefer to be addressed? Mrs. or Ms.?

Ms. Judy Foote: Ms. is fine. Judy is even better. But Ms. is fine.

The Chair: Okay, terrific.

Camera surveillance: as I indicated, we have information in the hands of the researchers. They are working on a backgrounder document for that. We thought it was important. Mr. Siksay took the opportunity to provide us with some very good information, and it's passed on to the researchers. They will be doing a synopsis and a briefing document for us for our consideration.

Order-in-council appointments: you have received in your offices from the clerk an e-mail that gives links to all of the matters dealing with the process of order-in-council appointees. I think it useful to inform ourselves about the process. There has been a recent appointment on Rights and Democracy, a new president, and how that happened, etc., has really prompted this.

The issue for us is to consider whether or not the committee would find any recommendations they'd like to make to improve the process. What the steering committee is recommending is that all the members who are interested in this matter would take the opportunity to review the links and the full documents—it's fairly extensive—with a view to coming back to this committee with any items that they believe should be discussed, and possible recommendations for improvement. We will deal with that if, as, and when it comes forward.

Lobbying: there is a mandated five-year review in the legislation. It's probably not going to come forward until after summer. In fact, we can't do anything with it until it's referred to us by the House. So we will wait for that referral from the House.

•(1125)

Hon. Wayne Easter: When are the five years up?

The Chair: They're up in 2010, so it will be referred to us sometime this calendar year. We just don't know when the House will do it.

There were a number of privacy issues: full-body scans, iris scans, U.S. no-fly-zone extensions, fingerprinting, biometric technology in passports, CSIS timelines on the release of old files—the Tommy Douglas case was one that came up—and hacking into computer systems with regard to climate change. Then of course there are all of the areas related to social media, its emerging use, and the security and privacy implications of that. It's very broad.

We raise this with the committee simply to.... When the privacy commissioner appears before us for the estimates, we should take the opportunity to inquire about the concerns she has and the work she's doing. It may very well spawn an opportunity for us to do some work in those areas. But until we hear from the commissioner, and unfortunately that is not until April 27.... I think I will write to her and advise her that these matters have been raised with the committee and she should be prepared to either discuss them with us when she does the estimates or give us a written response.

For the information commissioner, there are two items. In one of the responses that we got from Minister Nicholson, there was a reference to the 2006 discussion paper that was tabled in the House. That was actually tabled by the minister at that time, Mr. Toews. It was not, however, formally referred to this committee because it was simply tabled as a document the first week the House came in April 2006. It's about 40 pages long and it's been circulated to all honourable members.

The briefing document that you have on the access includes the researchers' disclosures with regard to that discussion paper. When we get into the matters with regard to access-to-information items, the members may want to take an opportunity to look at that document and review it. That's tab 6 in the briefing book that you were given. We would like to make sure all members are satisfied that anything that was raised in that briefing document has in fact been dealt with, either in our report that we tabled in the House on the quick fixes or in the discussions thereof. There may be an opportunity for us to consider further items if there are matters the committee would like us to amplify in the whole area of access to information.

There have been some discussions about whether or not our problem with access to information is the intent and provisions of the act, or is it more the administrative efficiency and the operational efficiency of the act. That's one of the reasons we're looking at proactive disclosure.

We just want to remind the committee that one of the quick fixes that actually rolled forward from Robert Marleau when he was information commissioner was that consideration should be given to granting the commissioner the authority to reject requests for extensions. I simply want to put that on the record that this is another element that we don't want to lose. It is something that in a worst-case scenario, if it doesn't work the way it should naturally, you may

have to implement certain circumstances under which.... So it may be another item we want to consider.

•(1130)

Next there was a suggestion that we look into the whole question of access to Afghan documents, the detainee documents. We note it, but there are other committees that are doing this. Unless the members have good reason to believe that we could add something to this process, I think it has been noted and the members can raise it if they believe it's necessary.

As well, we are expecting in May or June the report of Justice Oliphant on the Mulroney-Schreiber inquiry. I would think that the members might want to read that and consider whether there are any matters pursuant to that report that we would want to consider when we come back after the summer.

Finally, with regard to scheduled work, if the members would like to get their calendars out, this is the recommended scheduling of meetings to the end of April.

On Tuesday, March 30, we will have the information commissioner for the full meeting on the main estimates. As you know, that usually involves us getting involved in areas beyond the estimates, but we have her for the full two hours.

The committee is recommending that on Thursday, April 1, we open up our consideration of the proactive disclosure project to discuss the backgrounders, which have been sent to your office already. So you have a full week to look at those backgrounders and come prepared for discussion, and I think, resulting from that meeting, we would want to give the researchers some instruction with regard to crafting a study plan, a work plan, including any travel that members might feel we want.

The privacy commissioner, incidentally, is formerly a privacy commissioner in Quebec. I spoke to her recently and she told me that Quebec's work on proactive disclosure actually is exceptional and we should have the Quebec access commissioner come to see us. In terms of reaching out, Australia, the U.S., and the U.K. are also very active on this subject matter, so I think we are going to have a lot of sources, and I think it will be a help for us to be informed about developments in other jurisdictions. So that's in regard April 1.

On April 13, we will start to put in at that meeting, and subsequently, depending on what falls in, discussion, if any, on the order-in-council appointee process. As I indicated, the materials have been sent to your office about the process that is followed. If there are any matters that the members would like to raise or if there's a recommendation that any specific order-in-council appointees for which we are responsible should be reviewed, that would be the meeting at which to do it.

I also think and hope that we might have the draft report for Google Street View and Canpages for the members' consideration. It should be circulated to you on a timely basis before that meeting so you can have a chance to review it, and hopefully we will review the draft and take whatever necessary steps to move it forward to being reported to the House.

On Thursday, April 15, we have the ethics commissioner coming before us on the main estimates. We had attempted to get both the ethics commissioner and the commissioner of lobbying together at the same time, but their calendars don't mesh in the near future. So we will have the ethics commissioner by herself on the 15th for the estimates. There are, however, other ethics issues that have been on our plate in the past, a number of investigations, whether it be advertising cheques, and so on. I think the last time the ethics commissioner was before us she actually had undertaken that she was going to do an investigation or a report on the large cheques, I think it was. So those matters may come up. There is a report on the advertising, and that has been circulated to the members. You have that. So there are some items for the consideration of the ethics commissioner, if the members care to raise them at that time.

• (1135)

Of course any time we raise matters with any commissioner, the committee may subsequently decide it's going to take some action pursuant to those discussions. We should take the opportunity with at least the first visit of any of these commissioners to cover as many of the items of relevance to the commissioner so we have an idea of where we're working to.

Tuesday, April 20, we are having the commissioner of lobbying before us by herself. I suspect by that point we may have another item carrying forward, it could be Google Street View coming back for its final approval or something like that. Any item we put on the agenda that isn't completed we will continue to carry forward meeting after meeting, so should there be an opening in any meeting we can tidy up any work that's there.

Thursday, April 22, the information commissioner. We expect she is going to be issuing her annual report cards on eight or ten different departments. We expect that sometime after March 31. We're tentatively scheduling; she's available on April 22. If the report cards have just come out and we haven't had an opportunity to review her report cards, we will slide that for a week to the 29th. We also have the information commissioner booked on April 29 for a proactive disclosure discussion with her as well as inviting the privacy and ethics commissioners to accompany her if they believe this study may involve some privacy or ethical issues they want us to be aware of.

Let's leave it right now that on April 22 we will have the information commissioner on her report cards. On April 27 we have the privacy commissioner on the main estimates; it's our last commissioner for estimates. On April 29 we have the information commissioner on our proposed project being the proactive disclosure and, if desirable, joined by the privacy and ethics commissioners for any input they may want to give on that project. Should there be a delay in the report cards we have the opportunity to flip the two dates, April 22 and April 29, if need be.

Annual reports are not coming out until probably near the end of May, middle to late May. We have not scheduled any of the commissioners for a review of their annual reports. Those will happen starting as early as the end of May. We'll schedule them at that time.

I believe that's all the committee is prepared to recommend to the full committee.

Now we're open for any discussion or questions on the recommendation of the steering committee.

Mr. Rickford.

Mr. Greg Rickford (Kenora, CPC): Thank you, Mr. Chair.

I appreciate the hard work that the subcommittee has done on the schedule. Generally speaking, I feel satisfied with it. I do have a couple of concerns that I'll just raise for consideration.

We are starting the discussion on the backgrounder reports on proactive disclosure quickly. It's next week, in fact. That's great. I've had the chance to go through both reports, and there's a lot of information in there. I think if we were really going to be taking a look at a study and the possibility of a trip, it might be worthwhile considering—and you mentioned it—there might be an opportunity to flip if the report card is a little bit later, to have witnesses on proactive disclosure moved up at least a week or two.

When you go through these reports, we have three overarching things to contend with, and there may be more. Just from my own notes, you mentioned the possibility of somebody from Quebec coming. I think it would be worthwhile talking with some authorities—if there is an authority out there—on where other countries in the world are at with proactive disclosure. The timeline for the witnesses, between sitting down and talking with witnesses, and planning for and scheduling a report work and the potential for the trip, might be pressured for May or June.

Just very briefly—because we're going to discuss this next week—the range of where the different countries are goes from directives to recommendations to commitments to in fact positive duties at law, which is a fairly broad spectrum of where each country is at. If you look at where they are—we have it from 2002 to 2009 as far as I can tell—some countries have broken it down into specific departments, and that may be useful for us. The Canada report probably suggests that we need to think about which country or which ones we're most closely aligned with, both in terms of stage and how we might be thinking about planning our study for the purposes of comparison.

Without talking too much more about the substance of proactive disclosure, I raise the fact that there are a lot of different things to think about in terms of witnesses for here and what the study will contain. I think that will guide us. And certainly any trip that we might consider will in fact be guided by that as well. That's my comment on the calendar with respect to the work on proactive disclosure that we're considering. I might add, finally, that it's an exciting study, in my view, just having gone through the reports at some length.

I just think we need to be aware of what our timelines would be around that.

Thank you.

• (1140)

The Chair: Okay. Further on that, you've raised some excellent points. This could be tight, and it could be a monster. We know that. The starting point is that there is the education document, and we want to at least identify that this is broad.

When we have our meeting on the 29th, which is a month later, that's the meeting at which we're going to have an interesting discussion. We're meeting on the first to discuss the backgrounder. I think that's where we're going to start to whittle it down or get some focus.

Then we will instruct our researchers, based on the input, to come up with a proposed work plan and a timeline. That will come back to us by the end of April. We'll have a pretty good idea of the people who will be good prospective witnesses, what a trip might entail, and what period of time we would have available maybe to do that. We'll have representations from other jurisdictions and pretty well anything else the committee wants.

We will be passing this over to the researchers, with their experience. They know that when you're doing a study, these are the steps that you have to make sure you have locked in. Arranging for witnesses is going to take some time, so I'm pretty sure that a lot of our work, in terms of those witnesses and travel, will probably not be until late May.

As always, the committee doesn't move forward until everybody's comfortable. I hope members will have the opportunity to appreciate the breadth of the subject matter and the implications, and will come to have a good discussion a week from now.

Okay, is there anything further?

Is the general thrust of the recommendations of the steering committee acceptable to the committee? Do we have a consensus? Okay.

I don't have any other business, but I would indicate that there is food at the back. We are going to have food at our meetings. I was asked to consider it, and we will do that. We'll try to modify it based on the amount that is actually needed at these meetings. I suspect that members may have other options more than maybe staff do, but we've included the staff. So we'll carry on with that until we see that we have it right.

Go ahead, Mr. Easter.

● (1145)

Hon. Wayne Easter: We tried this at the agriculture committee and didn't get anywhere, Mr. Chair, so would somebody please tell me why in Ottawa they cut the best part of the sandwich off and leave you with next to nothing?

The Chair: Shall we report that question to the House and have it referred to the procedure committee as a privilege issue on behalf of the farmers and wheat growers?

I think we're getting punchy.

Colleagues, thank you kindly.

The meeting is adjourned.

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