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Chair: Mr. John Brassard



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• (1535)

[English]

The Chair (Mr. John Brassard (Barrie—Innisfil, CPC)): I call the meeting to order.

[Translation]

Welcome to meeting number 64 of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

[English]

Today's meeting is taking place in a hybrid format, pursuant to the House order of June 23, 2022. Members can, therefore, attend in person in the room and remotely using the Zoom application. Should any technical challenges arise, please advise me. My understanding is that we have nobody on Zoom, so this should be fairly easy. Please note that we may need to suspend for a few minutes—I'm reading what I have to read—as we need to ensure all members are able to fully participate.

Pursuant to Standing Order 108(3)(h) and the motion adopted by the committee on Monday, May 16, 2022, the committee is resuming its study of the access to information and privacy system.

In accordance with the committee's routine motion, the connection tests have been dealt with, so I'm informing you of that now.

I'd like to now welcome our witnesses for the first hour today. From the Treasury Board Secretariat, we have the honourable Minister Mona Fortier, president of the Treasury Board.

Welcome, Minister.

Stephen Burt is also here, as chief data officer and assistant deputy minister, policy and performance sector, along with Catherine Luélo, deputy minister and chief information officer of Canada.

Minister, you have five minutes to address the committee. The floor is yours. Please go ahead.

[Translation]

Hon. Mona Fortier (President of the Treasury Board): Thank you, Mr. Chair.

I'd like to begin by acknowledging that we are gathered on the traditional unceded territory of the Anishinabe Algonquin nation.

I would like to thank the committee members for inviting me today to discuss their work on this issue, as part of the committee's study.

I also want to acknowledge the work being done by the Information Commissioner of Canada, whom I met with last month.

Public access to government information is central to democracy. As President of the Treasury Board, I am responsible for overseeing the application of the Access to Information Act and Privacy Act by more than 265 government institutions. Our government is proud to have brought in the first measures to reform the act in more than three decades. Under those reforms, we gave the Information Commissioner order-making power, waived all fees in excess of five dollars and introduced a proactive disclosure regime.

Today, the Open Government portal provides access to 37,000 records and two million proactive disclosure records. According to the Open Data Barometer, Canada ranks seventh in the world when it comes to open data. The legislation we passed also set out the obligation to review the act every five years, creating pressure to ensure ongoing improvement. In 2021-22, a total of 70.7% of requests were processed within the time frame prescribed in the act. I am not the first to say that this compliance rate is too low.

The first review focused on consulting Canadians, especially indigenous people, to help us learn more about the access barriers they were facing. The Information Commissioner's feedback was also taken into account.

I would like to clear up a misunderstanding. The purpose of the report was to identify challenges, not to develop a plan. The review provides the foundation for the work we are currently doing to improve the system.

The goal of the work is fourfold: improve service delivery, enhance staff capacity, meet the needs of indigenous populations more effectively, and continue to develop measures such as declassification. As soon as I'm able to provide more information about the plan, I would be glad to meet with the committee again.

[English]

Indigenous peoples have a unique relationship with the ATI regime, and indigenous peoples should have greater control over their information.

The review identified several needed changes, including broadening the narrow definition of “aboriginal government” in the act and ensuring ATIP practitioners have the tools to deliver consistent service for those exercising their right of access. Some have advocated changing the act. My current priority is to improve administration of the existing law. We strengthened the act less than four years ago. We have a lot of work to do to address the underlying systemic issues, and we will continue to take action to do just that.

We recently launched an enhanced ATIP online platform to make it more efficient to submit a request and receive records, while reducing administrative burden. We have onboarded 251 institutions onto the platform, with more to come. Within a year, over 90% of requests will go through the platform. TBS has selected two modern systems that will provide faster processing of requests. The first 13 institutions are being onboarded to the new processing software this year. The more we automate where we can, the more our teams can focus on their core jobs and the better the public will be served.

To help address staffing challenges, we launched a new community development office to support the ATI communities through recruitment, retention, training and professional development. I would also mention that we are continually improving how the privacy program is administered by providing new tools and guidance to government institutions.

I look forward to continuing to work together on Canada’s access to information system. My officials and I would now be pleased to answer any questions you may have.

Thank you very much.

The Chair: Thank you, Minister. You're under time, which we all appreciate.

Just to remind all committee members, there's a lot of interest in this both publicly and within this room. Convention around here dictates that the amount of time for the question to be posed will be equal to the amount of time for the answer to be given. I'm going to do that. I'm also going to be strict on the timelines as well as for the questions, because we do have votes this afternoon. I want to be mindful of that, so we're able to get in both panels.

Mr. Kurek, you have six minutes to begin.

Mr. Damien Kurek (Battle River—Crowfoot, CPC): Thank you very much, Chair.

Thanks, Minister, for coming before this committee.

I'm going to ask you the same questions I've asked every witness who has appeared before this committee. They are foundational questions.

First, do you believe that access to information and, specifically, an ATIP system are essential in a well-functioning democracy?

• (1540)

Hon. Mona Fortier: Yes.

Mr. Damien Kurek: Do you believe that Canada meets the standard that would ensure this is, in fact, the case?

Hon. Mona Fortier: I believe we updated the legislation four years ago, and we are improving the system. It is necessary to continue to improve it.

Mr. Damien Kurek: Rarely do witnesses agree on something, but Madam Minister, it's interesting, because virtually every witness who has appeared before this committee answered no to the second question.

It's concerning that we have a massive disparity of understanding and, specifically, your report.... I appreciate the fact that you said you are identifying challenges without providing any solutions. Madam Minister, it's been eight years, counting your predecessors in this portfolio, and Canada's access to information system is struggling. It's failing, and it's causing a loss of confidence in our democratic institutions.

Specifically, when it comes to the retention of staff, that's a huge issue. You mentioned some metrics you're doing to help recruit staff to fill those roles. Can you tell me how many staff work in the ATIP system today?

Hon. Mona Fortier: First, thank you for laying out many of the things we have been looking into. After our review, we made many conclusions, and those conclusions demonstrated that we needed to make sure we had a digital system that will support how we treat ATI requests.

We've been also working very hard, focusing on getting staff trained. We're trying to find more staff, so we have a pool of 150 potential candidates who could come and work with us to make sure we're ready to confront the load we have currently.

Mr. Damien Kurek: You didn't specifically answer my question. Are there more ATIP officers today versus when you took over the portfolio—yes or no?

Hon. Mona Fortier: Yes.

Mr. Damien Kurek: Okay.

Regarding the use of consultants specifically, are there more or fewer consultants being used across the ATIP system in government today than when you took office?

Hon. Mona Fortier: There are fewer.

Mr. Damien Kurek: There are fewer.

Can you identify what the cost of those consultants is today versus when you took over?

Hon. Mona Fortier: I can tell you that we have a very important number of staff members across the departments who are working very hard, and we're complementing their work with a few consultants to make sure we get the job done.

Mr. Damien Kurek: A former ATIP officer referenced to me the fact that when the Liberals took office, they removed many of the performance metrics that were associated with what they felt was very important to be able to effectively accomplish their tasks. When those performance metrics and some of the ways that they were able to track the ATIPs were removed, it caused some chaos and confusion within the ATIP systems of a number of departments.

I'm wondering if you could comment on that.

Hon. Mona Fortier: I can comment on the fact that we have, in the last year, answered about 70.7% of the requests. That's taking out IRCC, because that represents about 80% of the requests, so we don't put it in that metric.

We know that we have a lot of work to do to make sure that we increase the numbers that we process. Everyone knows that we have received an increased number of requests and are trying to deal with a backlog, explaining why we're putting in administrative support, such as digital. Catherine with my team could explain exactly what we're doing. We're also making sure that staff have the necessary tools to be able to process them.

Mr. Damien Kurek: It seems to me that there is, again, a disparity of understanding from what you're saying today versus what's happening on the ground.

To go back to the consultants issue, I'm curious. Could you provide us with a number? I've tried to get this information from other sources. I'm wondering if you could provide a number of how much, maybe over the last three or so years, has been spent on ATIP contracts to outside consultants.

Hon. Mona Fortier: I can tell you that I don't have that number with me today, but it's something that we could provide. The most important thing right now is to know that we have fewer consultants than we did 10 years ago, and we are working on making sure that they complement the work that is being done by departments.

I don't know if my team wants to answer—

• (1545)

Mr. Damien Kurek: Because time is short, you're confirming that you will provide that information.

Could you also provide who received those contracts?

Hon. Mona Fortier: I guess so. It should be part of something that we could provide.

Mr. Damien Kurek: Thank you very much, Madam Minister.

Cabinet confidences are a massive frustration across the board, it seems. Can you, in the 30 seconds you have left, talk about how to ensure that cabinet confidences are managed well within the ATIP system?

Right now, we're hearing a whole host of witnesses saying that it seems to be a roadblock to getting information.

Hon. Mona Fortier: The most important thing is that we need to make sure.... I think the Supreme Court ruled on the fact that it's important that cabinet has a way of being able to express freely during the meetings. That's why cabinet confidence is important to keep.

However, there is a balance. In the last legislation, there was a proactive disclosure of cabinet documents, and we are providing briefing notes and those types of documents.

The Chair: Thank you, Minister.

Go ahead, Mr. Barrett.

Mr. Michael Barrett (Leeds—Grenville—Thousand Islands and Rideau Lakes, CPC): I have a point of order, Chair.

Would you be able to verify with the minister that her simultaneous interpretation device is working correctly? It looked like there was a challenge with it.

Hon. Mona Fortier: I'm sorry. I'm deaf, and I'm having a hard time hearing what you guys are saying. It's not necessarily the simultaneous interpretation.

Mr. Michael Barrett: It looked like there was a technology issue, and I wanted to give the minister the opportunity to have that remedied before the next question.

The Chair: Thank you. I think that clarifies it.

Thank you, Minister.

Thank you, Mr. Kurek.

Ms. Hepfner, you have six minutes. Please go ahead.

Ms. Lisa Hepfner (Hamilton Mountain, Lib.): Thank you, Chair.

I want to also thank the minister and her team for being here to answer our questions today.

I've spoken in this committee before about my previous experience with access to information as a journalist. That was 25 years ago, and the system wasn't perfect. It took a long time and it took a lot of money. Often you didn't get any relevant information back, so it's not like it's been a steady improvement. It's not like another government has done better in terms of ATIP. In fact, this is the first government in 30 years to improve the system in any way.

I'm wondering if you, or perhaps your staff, could talk about how you've managed to address some of the systemic barriers that are in this system and improve some of the administrative tasks with regard to access to information. Does that make sense?

Hon. Mona Fortier: Yes. Thank you for your question.

Let's remind Canadians who are watching today that Bill C-58 was adopted by our government four years ago, and we are in a process of reviewing the act. Many of those decisions at the time gave more power to the Information Commissioner, and we were also able to eliminate all fees beyond a five-dollar application fee.

I would like to now turn to the fact that, since then, we've been putting a lot of effort into working on more administrative tools that we need to bring forward to reduce the burden and the load that we have seen increase over the years. For example, we now have the Open Government portal, which is really helpful in getting those requests done more quickly. As I said to a question earlier, we have also tried to give staff more tools by training them and by giving them more opportunities to manage.

Maybe I'll turn to Catherine to talk about the digital aspect, if we have time to do so.

Ms. Catherine Luelo (Deputy Minister and Chief Information Officer of Canada, Treasury Board Secretariat): Thank you.

This is my first appearance in front of this committee. Thank you for having me this afternoon. I'm still a relative newbie to government. I've been less than two years as the chief information officer of Canada. I'm joining from a 30-year career in the private sector, so this is a space that's incredibly interesting for me.

We are dealing with an analog problem in a digital world. To build on what the minister said, we're dealing with a lot of paper-type records to which we're trying to provide access to Canadians, and we're doing so by trying to migrate into a digital world.

The minister has highlighted the fact that we've set up this portal. We are intending to fully onboard all departments within government so that Canadians have a common front door into the process—that's an aspiration we have for digital right across government—and to provide processing software, as she noted, that's going to be helpful in automating.

Really, at the core of the talent crunch we're in right across some of these more expertise-related areas is trying to move as much as we possibly can to an automated form, including some of the service requests we're seeing as part of the access to information requests such as immigration status. Trying to really stand those up as services is a big part of how we want to tackle that.

The report sets out conclusions, but it has not stopped us from advancing things while we're looking at and building out an action plan.

Thank you.

• (1550)

Ms. Lisa Hepfner: Thank you.

Minister, you spoke, in your opening statement, about the proactive disclosures that your department has been able to do. Would you also talk to us about declassification of information?

We've heard a lot from witnesses about the importance of declassifying some information. What work has your department done in that field?

Hon. Mona Fortier: As you have probably also heard from several witnesses, and as we've been hearing for a while, declassification is really an important part of the work to improve the ATIP system. As you saw in the review, "A systematized approach to declassification supports government transparency and accountability, [and] enhances access to Canada's history".

We know that we put in a declassification pilot with Public Safety to examine how that could work, and we're still looking at how the pilot might guide us in how we could continue with declassification. I know that the commissioner, while she was at committee, commented on the work we've been doing and said it was a step in the right direction. When I met with her, we had a conversation about it.

It's really important that we continue to put effort into how we're going to treat declassification. I actually would like to invite the committee, during your study, to maybe guide us as we look into the next steps of declassification.

Ms. Lisa Hepfner: I only have about 30 seconds, if you could just comment on this. Bill C-58 was a start, and really the government is working on improving a system that has been increasingly backlogged for more than 30 years.

Hon. Mona Fortier: It has been changed during the 30 years that you just mentioned. We have made some changes, and we're looking into.... The review has helped us to make some conclusions and to find out from stakeholders, Canadians and especially the indigenous peoples how we need to move. Hopefully, very soon we'll be able to share an action plan with what next steps we will undertake for the administrative purposes and also looking at possible legislation changes.

The Chair: Thank you, Minister.

Thank you, Ms. Hepfner.

[*Translation*]

Go ahead, Mr. Villemure. You have six minutes.

Mr. René Villemure (Trois-Rivières, BQ): Thank you, Mr. Chair.

Minister, Ms. Luelo and Mr. Burt, thank you for being here today.

Tell me something. Are you going to undertake an overhaul of the Access to Information Act?

Hon. Mona Fortier: When we announced Bill C-58, we said that we would carry out a review of the act in five years. Part of that work is already under way, to see how we can make legislative changes. The most important thing to note at this point is the necessity of putting tools in place. The digital system plays a vital role in meeting the demand. As Ms. Luelo mentioned, in the past, records tended to be paper-based, but today, many records are available through Teams meetings, for instance, or are stored in databases. That means the data are not limited to paper records, so we are in the process of introducing administrative tools to enhance the system.

I hope that partly answers your question.

Mr. René Villemure: Yes, partly, but will you be introducing reform legislation before the end of the session?

Hon. Mona Fortier: I will be providing an update sometime between now and next year. Right now, we are looking at how to continue the work of enhancing the system, taking into account the review we've just done, the work the committee is doing and the priorities that will be identified in our upcoming plan.

Mr. René Villemure: You've mentioned the plan twice now. How soon do you mean by "upcoming"?

Hon. Mona Fortier: I don't have an exact date, but I can tell you that it will be by the end of the year. Improving the access to information regime is a top priority of mine.

• (1555)

Mr. René Villemure: Very well.

This is a question I asked a number of the witnesses who appeared before the committee, including the Information Commissioner. Does the government have a culture of secrecy or a culture of transparency? You could also talk about openness versus obscurity. Most people, the commissioner included, said the culture was more secretive.

The commissioner said that it was changing, but witnesses told us that it was still a culture of secrecy and that documents were redacted pre-emptively. I can understand an employee not wanting to get in trouble for disclosing too much, as opposed to not enough. That said, are you going to state explicitly in the preamble to the bill to reform the Access to Information Act that the ATI regime is based on a culture of openness and transparency?

Hon. Mona Fortier: That's always the first thing I say. Thank you for that question. We have a culture of openness and transparency, but we also have a culture of responsibility. It is indeed very important to keep personal information confidential, so we have to find a balance. We need to make sure that documents are redacted in accordance with the principles in our directive, and that's what we encourage people to do.

Perhaps my colleagues have examples they can share to explain the importance of doing this in a responsible way.

Mr. René Villemure: An American study came out a year ago in Foreign Affairs magazine, and it put a cost on the over-redaction of records. The cost is one thing, but overall, the study found that government workers tended to redact too much, pre-emptively.

I heard what you said about balance, but how do you strike that balance?

Hon. Mona Fortier: I'd like to ask the members of my team to give you examples of how we provide guidance and support to public servants. That includes training to ensure that they are doing things properly and following the Treasury Board directive.

Mr. Stephen Burt (Chief Data Officer and Assistant Deputy Minister, Policy and Performance Sector, Treasury Board Secretariat): I would simply point out that a culture of openness is directly tied to the need to protect what needs to be protected—personal information. Not everything can be disclosed. We always work with the intention of disclosing as much information as possible and making data available, but we have to protect personal information. As for secret information, like cabinet confidence documents, there needs to be some flexibility to have the discussions required for the running of the government.

Mr. René Villemure: Philosophically speaking, a secret is defined as something that needs to be kept confidential because it is private, sensitive, dangerous and so on. The current culture is described as open and transparent. It says so in the report, but that's not what we're hearing from witnesses.

That makes me wonder how much "openness and transparency" is merely a slogan.

Hon. Mona Fortier: They are very important values, as far as I'm concerned. They are guiding principles. The same is true of responsibility. I would say that it comes down to openness, transparency and responsibility.

Clearly, as my colleague mentioned, we support that with a directive, one that sets out the framework for how public servants are supposed to do this work. We will continue to make sure they follow the directive.

Mr. René Villemure: I agree with you. Openness, transparency and responsibility can be a dangerous combination, so I'm curious as to how you manage it.

The committee wants to recommend solutions, to help restore people's trust in the system, because it is based on trust. How do you manage that triad of values?

The Chair: You have just 10 seconds.

Mr. Stephen Burt: All right. I'll be quick.

It's about knowing the safety and protection measures to take when problems arise. It's like driving a car. If you want to go fast, you have to have good brakes.

Those basic considerations always have to inform programs when they're being designed.

The Chair: Thank you, Minister, Mr. Burt and Mr. Villemure.

[English]

Mr. Green, you have six minutes. Go ahead.

Mr. Matthew Green (Hamilton Centre, NDP): Thank you.

An article titled “Treasury Board's overdue review of Access Act is big on propaganda, light on recommendations” stated that the review was a “delay tactic to prevent meaningful changes to access legislation”. Your review in fact has no legislative amendments.

Do you believe that no legislative amendments are necessary to achieve the outcomes that you've stated within the report?

• (1600)

Hon. Mona Fortier: First of all, thank you for the question.

I'd like to say that when I had the privilege of being President of the Treasury Board, we were looking at that review. We did it in two steps. Importantly, we needed to do the review, and then we realized we really needed to have an opportunity to engage with indigenous peoples. That is why, partly, we took the time to engage with indigenous peoples and ensure that they were part of this review.

The conclusions are going to be very helpful in determining—and I had mentioned this earlier—how the action plan will look into what next steps the Treasury Board will be undertaking.

On the administrative approach—

Mr. Matthew Green: The question is quite clear. Do you not believe that there need to be legislative amendments in order to strengthen the access to information?

Hon. Mona Fortier: I believe that in C-58 we said that we'd review the legislation—

Mr. Matthew Green: That was four years ago. We're talking about now.

Hon. Mona Fortier: It's five years that we've had it. We will be taking the necessary time to propose the next steps.

For me, right now, administrative changes are important—

Mr. Matthew Green: Mr. Chair, I'm going to take my time back, thank you.

Hon. Mona Fortier: If I might be able to finish—

Mr. Matthew Green: No, you have the time that I have allotted in the question to the answer, and you've exceeded that.

You've talked about engagement as being part of the reason you've delayed providing legislative amendments, yet many submissions provided included recommendations for legislative amendments.

Do you believe the report is representative of the public engagement that occurred, considering that you've ignored the recommendations?

Hon. Mona Fortier: First of all, to answer the question, we will look into how and if we can bring forward legislation changes.

At this time, I was saying that my priority is to make sure that we continue to reinforce the work that we're doing to have an ATI system.

Mr. Matthew Green: The Public Service Alliance of Canada has announced that over 155,000 federal public servants will go on strike on Wednesday if a fair deal is not reached by the government.

What impacts would a potential strike have on the access to information?

Hon. Mona Fortier: I know they are working very hard as we speak—both the Treasury Board and PSAC—to reach a deal.

As you know, before the mediation starts, we always look at what will be the essential services that will be offered during a strike. This is not deemed as an essential service in the understanding that PSAC and—

Mr. Matthew Green: Just for the record, Mr. Chair, the PSAC has gone three years without a contract. Is that correct?

Hon. Mona Fortier: Are we talking about the review right now, or are we talking...?

Mr. Matthew Green: I'm asking you a supplementary question to my follow-up.

Hon. Mona Fortier: Since 2021, the four groups that we're dealing with.... I'm dealing with 28 agreements right now. The ones that we're dealing with today are four groups that have not.... We're looking at 2021 to the next three or maybe four years for a deal.

Mr. Matthew Green: In her appearance before the committee, the Information Commissioner stated that “a model that gives the Minister of Finance and the Prime Minister the power to limit the required funding of agents of Parliament is contrary to our oversight role.”

Do you agree with the commissioner that the manner in which the ATI regime is funded should reflect their independence from cabinet or any particular minister?

Hon. Mona Fortier: I think it should be known that our government believes in funding the ATIP and the Information Commissioner. We increased her office's funding by 54%. Therefore, as you know, we will continue to—

Mr. Matthew Green: The question was about the independence of the funding, not about the amount of the funding. I'd like you to answer the question on whether or not you agree with the Information Commissioner on whether the model that would separate and provide independence in funding from the Prime Minister and the minister to this agency would perhaps better serve the independence of the office.

Hon. Mona Fortier: I thought I was clear by saying our government does support—

Mr. Matthew Green: You were clear that you funded it, but you weren't clear on whether or not you supported that the Information—

Hon. Mona Fortier: Yes, the government supports the independence of the Information Commissioner and appreciates her important work—

Mr. Matthew Green: With specificity, because words matter, Madam Minister—we've done this a long time—I'm going to ask you this very clearly and very slowly: Do you agree with the Information Commissioner that they should have an independent funding body, absent of the Prime Minister and the minister, in order to keep their independence—yes or no?

Hon. Mona Fortier: We, of course, discuss budget requests through cabinet confidence. I am not in a position to say if we will give her independence in funding, but we do recognize the independence of the Information Commissioner.

• (1605)

Mr. Matthew Green: You can agree with the notion without hiding behind cabinet confidence, quite frankly. You can agree with the general philosophy that an arm's length—

Hon. Mona Fortier: Again, budget requests are not in my purview. Therefore, I would—

Mr. Matthew Green: As the President of the Treasury Board, you don't deal with budget requests. Is that your submission to this committee?

Hon. Mona Fortier: I believe the finance minister is the one who allocates the budget.

Mr. Matthew Green: You don't deal with any of them. You don't sign off on the budget.

Hon. Mona Fortier: I do not sign off on the budget decisions. I'm sorry. I work with the operations of what the Minister of Finance and the Prime Minister decide for budget. I work with that.

Mr. Matthew Green: I served on public accounts and recall the relationship quite clearly.

Thank you.

The Chair: Thank you, Mr. Green and Minister.

[*Translation*]

We will now begin the second round.

Hon. Mona Fortier: Mr. Chair, I'd like to say something, if I may.

One of my team members told me that I may have misled the committee. Since it's important to be forthright, may I make a clarification?

The Chair: Yes.

[*English*]

Hon. Mona Fortier: Just to make sure that I clarify the remarks that I made at the end of the first round, Mr. Chair, Bill C-58 introduced legal requirements for proactive publications that apply to ministers and not to cabinet. I used the word "cabinet", so I just wanted to make sure.

The Chair: Thank you for the clarification, Minister.

[*Translation*]

Over to you, Mr. Gourde, for five minutes.

Mr. Jacques Gourde (Lévis—Lotbinière, CPC): Thank you, Mr. Chair.

Thank you, Minister, for being with us today.

In your opening remarks, you said that Canada ranked seventh when it came to open data. Is that seventh in the world or seventh in a ranking of comparable countries? How many countries is the ranking based on?

Hon. Mona Fortier: I'm drawing a blank, so I'm going to ask my team for help.

Mr. Stephen Burt: It's a global ranking, but I'm not sure exactly how many countries it's based on.

Mr. Jacques Gourde: It would be useful to know how many are comparable to Canada. Some countries, we can't compare ourselves with. Coming in seventh out of 150 countries is pretty good, but coming in seventh out of 22, not so much.

You said a lot of requests come in, but I'm also interested in the ones that are closed. We often hear complaints about processing times from people who submit ATI requests. On average, do people wait weeks, months or years? Can you talk about that?

Hon. Mona Fortier: Yes. Thank you for your question.

The number of closed requests is growing, but not at the same rate as the incoming requests. That is why the number of requests carried over to the following year has consistently grown over the past decade.

The Treasury Board continues to remind departments of their obligations under the Access to Information Act. Treasury Board staff continue to work with institutions to support, as I mentioned, recruitment, professional—

Mr. Jacques Gourde: Thank you, Minister, but my question was about whether requests are processed within four months, six months or a year, or whether half the requests are responded to in the first year and the other half take longer. That would be more helpful and perhaps more accurate.

Hon. Mona Fortier: A total of 70.7% of requests are processed within the 30-day time frame set out in the act. Keep in mind that that doesn't include Immigration, Refugees and Citizenship Canada, because as I said earlier, the department receives 80% of all requests. For all other departments, then, the rate is 70.7%.

I can tell you that, at Treasury Board, 90.2% of requests are processed within the 30-day time frame. As you know, the act allows for extensions beyond the 30 days, so institutions can continue processing the request.

Mr. Jacques Gourde: You brought up the immigration department, and that's something that concerns me. Your department is the watchdog for access to information, and apparently, requests sometimes end up in inactive email boxes of people who are retired or who have even passed away. These are requests containing very sensitive information on prospective immigrants or other immigration-related cases.

Have you done anything to prevent that from happening? We're talking about the immigration department, but it could happen in other departments as well.

Hon. Mona Fortier: I understand completely. Thank you for your question. Since you're asking about specific requests, I'm going to have Mr. Burt answer.

Mr. Stephen Burt: I would reiterate what Ms. Luelo said. When it comes to the requests received by the immigration department, what's most important is making sure that people's requests are dealt with as service requests, not as ATI requests. If a system were put in place to preserve the status of those requests, it would be much easier to see where the request was in the system.

We are working on that as we speak. It's important that requests end up in the right place, and it's also important to have a new separate system to process ATI requests.

• (1610)

Mr. Jacques Gourde: I think that's really important.

Minister, you have a constituency office, so you know the huge number of immigration cases that come across our desks. Unfortunately, sometimes we come to find out that long-outstanding requests have simply been sitting in an inactive email box.

Are there any statistics on the percentage of cases that fall in that category? Could it be more than 10%?

Hon. Mona Fortier: I can't answer that question, but I can get a bit more information.

Like you, I think that's something all members experience in their constituency offices. We are in the process of putting tools in place to deal with those cases.

As I said earlier, in the past, we processed files in paper format. Now, we receive files in various formats. That is why we are putting digital systems in place.

I also want to reiterate the importance of encouraging people not to necessarily submit ATI requests, but to consider submitting service requests when they want to access records, without having to go through the ATI system.

That said, we have to respect the fact that Canadians have the option of submitting ATI requests.

The Chair: Thank you, Minister and Mr. Gourde.

[*English*]

Mr. Bains, you have five minutes. Go ahead, please.

Mr. Parm Bains (Steveston—Richmond East, Lib.): Thank you, Mr. Chair.

Thank you, Minister, for joining us again today with your colleagues.

Information management is essential to ensuring requests are completed as efficiently and effectively as possible. What work is the government doing to improve information management?

Hon. Mona Fortier: Thank you for that question.

Again, during the review, it was highlighted that information management requires improvements to create a more efficient ATI system. We've identified several key actions to address some of these issues by, for example, the inclusion of building operational capacity through, as I said, recruitment, training, investing in modern IT software and enhancing practices and directives.

However, I do—and we must—recognize that much more needs to be done to improve the access to information regime. A more consistent, strategic life-cycle management of the Government of Canada's information could yield broad improvements across government, service delivery and program efficiencies. Therefore, we're really looking at how we can make sure that we reinforce the system and strengthen it.

Mr. Parm Bains: Thank you.

We've heard from several witnesses, including the Information Commissioner, about the importance of our declassification system. What work has been done to move forward with declassification?

Hon. Mona Fortier: Again, as we've said, declassification is an important part of the work to improve the ATI system. We have done a declassification pilot with Public Safety. I might ask Stephen to share a bit of what we learned or found out and we know will help to guide us on the next steps for declassification.

Mr. Stephen Burt: I have had the privilege of working on both sides of the declassification file, from a national security standpoint and now as chief data officer for the government.

What I would say is that the pilot project has shown us some of the challenges of looking at historical files and declassifying them, and the kinds of resources it requires to do that work.

I would invite the committee, in the course of its review of the Access to Information Act and the report, to consider what recommendations it might want to make to us as we move into the action plan the minister referred to here. There is a need for some policy direction. When you look at what is happening in the international domain on declassification, there are some very rigorous policy setups out there. The U.S., in particular, has automated, systematic and mandatory declassification regimes.

I think we need to look at what options would suit Canada and figure out where it is we need to go in this space in order to set the right course for that action plan.

• (1615)

Mr. Parm Bains: Thank you.

We have seen and heard that changes through Bill C-58, while improving transparency and openness in government, have changed the nature of requests.

Can you elaborate on the changes of these requests and how they impact the ATI system overall?

Hon. Mona Fortier: I think we just mentioned the example of IRCC. Many are trying to find out what's happening with their cases, so they are going through ATI requests instead of being able to look on the service side. That is one thing. We're trying to find ways to reduce that burden.

There might be others my colleagues could give as examples, because I think that's where we're at right now.

Go ahead, Stephen.

Mr. Stephen Burt: I would say that access to information is like many legacy services for Canadians: We need to go from an analog system, as Ms. Luelo said, into a digital service line.

Access to information is an important right and an important principle in the functioning of a democratic system, but there are many things that are now coming through access to information that could more properly and easily be dealt with as a service to Canadians.

The IRCC situation is similar to having to do an access to information request every time you want to see your taxes with CRA. It simply isn't a sustainable model or how you deliver a modern service. We need to think about how to move more things into that channel.

Mr. Parm Bains: Do you want to add?

Ms. Catherine Luelo: I will just give comfort that the program, in terms of how we're modernizing the technology at immigration, is well in flight. Again, we're not waiting for action plans to take place. We're working very closely with our IRCC colleagues to better digitize that experience.

The Chair: Thank you, Ms. Luelo.

Thank you, Mr. Bains.

[*Translation*]

Go ahead, Mr. Villemure. You have two and a half minutes.

Mr. René Villemure: Thank you, Mr. Chair.

Again, I want to thank the witnesses for being here.

I've been listening to the comments, and I'm wondering something. Do the changes under way represent a genuine effort or just the bare minimum?

Hon. Mona Fortier: I take this work seriously. It's genuine

Mr. René Villemure: All right.

When the Information Commissioner was here on March 7, she said she doubted that ATI issues would be addressed, because the work didn't appear in any ministerial mandate letters.

Where do things stand?

Hon. Mona Fortier: It's a government priority, and I have the privilege of undertaking this work.

It's important for me not only to meet with the committee, but also to support the team working hard to find ways to strengthen the system. This is a priority we are working on, and I take it seriously.

I've even discussed it with a number of cabinet members, and some feel we need to keep enhancing the system.

Mr. René Villemure: Thank you.

Appearing before the committee on March 7, 2023, the Information Commissioner also stated that, although Bill C-58 conferred

the power to issue orders, those orders are not always respected because they are not the same as court orders.

Do you think it would be helpful to amend the Access to Information Act to make the Federal Court approve those orders in order to streamline the process?

Hon. Mona Fortier: The Information Commissioner can appeal to the Federal Court to require an institution to comply with those orders. That power has not been exercised so far though.

Mr. René Villemure: So it is up to her to do so.

Hon. Mona Fortier: She can do so, but to my knowledge she has not done so as of yet.

Mr. René Villemure: Okay.

The report you published included comments and observations indicating that exemptions and exclusions had not been uniformly applied or had been misunderstood.

What have you done to address this?

Hon. Mona Fortier: Can you be more specific?

Mr. René Villemure: Before the committee, the Information Commissioner stated that the Treasury Board report included comments and observations regarding exemptions and exclusions that are not uniformly applied or that are misunderstood. She also stated that no recommendations had been made to remedy this.

What will you do to address this?

The Chair: Ms. Fortier, please be brief.

• (1620)

Hon. Mona Fortier: I will let Ms. Luelo take the question.

[*English*]

Ms. Catherine Luelo: Thank you very much for your question.

I think one of the challenges in this space is that you have departments individually interpreting exceptions and exclusions. Part of what we have done is given guidance to the town on how we would like to have things applied. As well, the minister has already referenced the training that was available.

Stephen, is there anything you'd like to add?

[*Translation*]

The Chair: Thank you, Ms. Luelo.

Thank you, Mr. Villemure.

[*English*]

Mr. Green, you have two and a half minutes, please.

Mr. Matthew Green: Thank you very much.

Minister, you cited the need for indigenous consultations on the work you're doing right now. I want to reference the “what we heard” report. In that, there were many conclusions in relation to advancing indigenous reconciliation, which could be interpreted as vague or making broad claims about being committed to facilitating, supporting and furthering indigenous-led information and data strategies.

Why were more specific recommendations that are reflective of the eight indigenous-specific submissions not included?

Hon. Mona Fortier: Again, we did a very thorough approach, I believe, to indigenous peoples to have their participation in this review, as the engagement and the outreach were very important. The conclusions brought forward, that we take measures necessary to ensure that federal laws are consistent with the declaration.... Actually, this is linked to UNDRIP because we also have to—

Mr. Matthew Green: With respect, I asked a specific question and I'm going to need a specific answer. It's regarding the eight indigenous-specific submissions. Why were they not included in your recommendations, if indigenous engagement and consultation are important to you?

Hon. Mona Fortier: We had two reports. The first one was the first review, and then we wanted to make sure we had engagement with the indigenous peoples, which was a second review. We brought all that together to do—

Mr. Matthew Green: Was the second review the “what we heard” report?

Hon. Mona Fortier: Yes.

Mr. Matthew Green: Okay. In that, there was feedback that you were also receiving information from non-indigenous entities as well. What was the purpose of consulting non-indigenous entities on issues specific to indigenous people?

Ms. Catherine Luelo: There were two consultations. One was done with the general population, and we published a “what we heard” report. At that point, we reoriented and said we needed to speak with indigenous communities. We did that engagement over a period of about nine months and published a “what we heard” report from that, which was included with the final report that you're referencing.

Mr. Matthew Green: Were there non-indigenous organizations consulted on the indigenous-specific “what we heard” report and, if so, how many and why?

Ms. Catherine Luelo: I don't know the answer to that question. We can certainly come back to the committee with an answer on that. I don't believe so, but—

A voice: [*Inaudible—Editor*]

Mr. Matthew Green: Okay.

Mr. Chair, let the record show that the Rotary Club has a precedent for phone interruptions, and I would like this member levied at least \$25 for the good and welfare of the committee.

Mr. Majid Jowhari (Richmond Hill, Lib.): You have my sincere apologies.

The Chair: Mr. Green, thank you for your intervention.

I was thinking \$50, but if you want to be benevolent and have \$25, then that's fine.

A voice: There's inflation.

The Chair: Okay, we're done with the time for Mr. Green's round.

I said four minutes, but we're probably closer to three at this point. Just to let you know, we're going to Mr. Kurek, and we may have Mr. Barrett intervene at some point. Then I'm sorry, Mr. Ferguson, but you'll have three minutes this round.

Go ahead.

Mr. Damien Kurek: Thanks, Chair.

Madam Minister, have you ever filed an access to information request?

Hon. Mona Fortier: No.

Mr. Damien Kurek: I've filed a number of them, and 60% closed in 30 days is a pipe dream compared to my experience—to give you some context.

I'm glad you brought up Bill C-58. However, when hearing from witnesses, they had a very different experience and in fact outlined quite a few times how a few disclosures and reduced fees seem to be a way for the government to hide behind increased secrecy in their actions.

In light of all of that—and we've heard a lot of criticisms of Bill C-58—why are the criticisms about Bill C-58, which your government passed a number of years ago, not included in your report?

Hon. Mona Fortier: The important thing is that we did actually bring legislation after 30 years of this law not having been looked at, and I believe that we also gave the Information Commissioner order-making power. As I said, we also eliminated the fees beyond a \$5 application and also put into law a system of proactive disclosure of information from the ministers' offices, port authorities and other government institutions. We will continue that work to make sure we provide an open and transparent system.

• (1625)

Mr. Damien Kurek: Thanks, Minister, but the point stands that the experience of many people who have used the system is certainly not what you're describing here today.

I'd like to hand my time over to Mr. Barrett.

Mr. Michael Barrett: Thanks, Chair.

Madam Minister, the Information Commissioner told this committee that your report was a summary of problems that are well known and have been identified for years.

On what date will you present a list of solutions to those problems, and on what date will you have effected the completion of those recommendations?

Hon. Mona Fortier: I am comfortable saying that we will, later this year, be able to present the latest work that we have been doing and also present an action plan to show how we can make progress on this.

Mr. Michael Barrett: Could you tell us in which quarter of this year you will provide that?

Hon. Mona Fortier: I will tell you that I won't make any promises, but I will deliver that this year.

The Chair: Thank you, Mr. Barrett.

We have Mr. Fergus for three minutes.

[*Translation*]

Hon. Greg Fergus (Hull—Aylmer, Lib.): Thank you very much, Mr. Chair.

Thank you to the President of the Treasury Board. I have a question for her.

When the Information Commissioner appeared before the committee, she referred to an evaluation by the Centre for Law and Democracy which ranked Canada 51st among various countries for its access to information system.

Is this ranking useful in evaluating our access to information system?

Hon. Mona Fortier: Thank you for your question.

While that ranking is interesting, it is not a useful scale. The scale is based on legal frameworks rather than operational realities. I do not think anyone believes that Russia or Afghanistan are more transparent than Canada because they ranked higher.

It is also noteworthy that this ranking does not consider proactive publication either which, as you said, is essential to a strong access to information system. It was noted earlier that the global data barometer ranked Canada seventh for open data.

I think Canada should continue to examine this.

Hon. Greg Fergus: Madam President of the Treasury Board, I would like to move on to another matter. My esteemed colleague Mr. Kurek mentioned this, but I also made an access to information request and, to my great surprise, received an answer in 36 hours. It was clear and quick, and I got a lot more information.

We know the system has its challenges, which definitely have to be addressed, but it would be an exaggeration to say that all cases are problematic and that the system is completely useless. That is not the case, in fact. Moreover, as you said, the challenges relating to access to information requests involving the Department of Immigration are not representative of the average access to information request.

Can you elaborate on that?

Hon. Mona Fortier: It is basically what I said earlier. To strengthen the system now, we have a lot of opportunities to make administrative changes. Among other things, Treasury Board is working to determine how we can more effectively digitize documents and make them available. We are looking at the Open Government portal, a tool that will be essential in tracking the requests

that are made. There are also other administrative changes that can be made.

The Access to Information Act clearly states that, after five years, there must be a review of changes to the act that would be advisable. We have this opportunity to look at what we can do together, and I thank the committee for that.

• (1630)

The Chair: Thank you, Madam Minister.

[*English*]

I'd like to follow up on Mr. Barrett's question. When you say we could expect that "this year", are you talking about calendar year or fiscal year?

Hon. Mona Fortier: I love that question.

As you may understand, we're working very hard right now to bring forward an action plan and also bring back more information to your committee, Mr. Chair. I will work as hard as I can with the team members to do it this year.

The Chair: Minister, you'll also know that this is an issue that the committee has been dealing with since the original motion was passed in June of last year. There was a lot of interest in this. We've been hearing consistently about a broken ATIP system. We've asked the analysts and we've received, for your information, 26 recommendations in an interim report. We expect, not just given your testimony but also from the Information Commissioner and others who are coming behind you, that we will have far more recommendations than that for you to consider. We are certainly looking for this system to be fixed.

Hon. Mona Fortier: I welcome those recommendations, Mr. Chair. I thank the committee, of course, for the work you've been doing for such a long time. We will be looking forward to looking at those recommendations and seeing how we can reinforce our system. We both believe in that.

The Chair: Okay. Thank you, Minister.

Thank you, Mr. Burt, Ms. Luelo, members of the committee.

We're going to suspend for a couple of minutes as we prepare for the second panel. I'll just remind everyone that we do have votes around 5:45. I want to get as much information in from this panel as possible.

Thank you.

• (1630)

(Pause)

• (1635)

The Chair: I'm going to call the second hour of this meeting back and welcome our witnesses.

We have Ken Rubin, who's an investigative researcher. He's here as an individual. From the BC Freedom of Information and Privacy Association, Mike Larsen, president, is on Zoom today. From B'nai Brith Canada, we have David Matas, senior legal counsel, as well as Michael Wenig, a lawyer with Matas Law Society.

Just before we begin, we do have bells at 5:15 and votes at 5:45. I'd like to get to 5:30. Do we have unanimous consent at this point to go to 5:30?

Some hon. members: Agreed.

The Chair: Okay. That's perfect. Thank you. That should give us enough time.

Mr. Rubin, I want to welcome you. You have five minutes. Please go ahead.

Mr. Ken Rubin (Investigative Researcher, As an Individual): Mr. Chair, for a minute I thought I was in a study session instead of a serious legislative committee, but I'm going to show you why you have to take things seriously.

Since I came to testify nearly six months ago, several detrimental changes to the right to information have occurred.

One is the refusal to call a public inquiry, given the lack of substantive public information on foreign influence on Canadian affairs in elections. Another roadblock is the government's accelerated use of artificial intelligence as part of its largest switch to data-driven decision-making operations, which the minister was hinting at. There is also mounting evidence of secrecy in government contract outsourcing. That comes with the comptroller general cautioning officials not to say or reveal much. New entities like the Canada growth fund are being set up largely outside the access to information regime. Public inquiries have made releases showing that dysfunctional and secretive cultures of the RCMP and National Defence are being allowed to flourish.

In addition, the new federal employee hybrid workplace scheme makes processing access requests more difficult and less of an essential service.

Finally, before the committee, it's very late and she didn't really get into the Treasury Board review, with no recommendations and no hope for any recommendations except some vague action plan. She only confirms that the government wants to impede and delay meaningful access reform. The truth is that Treasury Board has done incredible harm over four decades, making full disclosures impossible.

This committee must sanction Treasury Board for its inept, self-serving review and recommend that Parliament remove it from having a central role in access to government records. In its place, the committee should recommend that an arm's-length freedom of information agency be set up under a revised law to handle and promote public information disclosures. What is first required is that the right to information squarely and clearly should be seen as a guaranteed constitutional right falling under the freedom of information section of the charter.

A transformative right to know has to be immediate with full disclosure of health, safety, environmental and consumer data, with

the same disclosures for decision-making records and financial transactions and accounts. That requires quick access without fees. Should officials not honour their obligations for documenting, servicing and disclosure but try all kinds of creative avoidance, they must be subject to stiff penalties.

The inclusion of broad coverage of agencies receiving or using public funds can no longer be ignored. What also has to come to an end is the broad array of exemptions and exclusions to access. Authorities have created myths about cabinet and bureaucratic operations and records being sacrosanct. This must change as places like New Zealand have shown it can.

The last time around in Bill C-58, what was created and what needs to be undone was a retreat from full disclosure through a two-tier system. It's a system in which sanitized summary data on permanent exclusions of ministers and the Prime Minister's Office was falsely sold as a so-called advance. Ottawa needs to drastically change from being a place of spin communications, closed-door meetings and gagging employees.

Canadians need a dramatic new way to access data and be able to participate in and know about Canadian government affairs.

This committee and its 28 or so recommendations can help lead the way. Let's hope so. The minister isn't going to do it for you.

Thank you.

• (1640)

The Chair: Thank you so much, Mr. Rubin. You were under time, and we always appreciate that.

Next I have Mr. Matas.

You have five minutes to address the committee. Please go ahead.

Mr. David Matas (Senior Legal Counsel, B'nai Brith Canada): Thank you very much.

I'm senior legal counsel to B'nai Brith Canada. I have with me Michael Wenig, who's here to help answer questions. Mr. Wenig has been working with another lawyer at B'nai Brith, David Rosenfeld, on the requested records that we discuss in our brief. He has also helped to draft our proposed amendment to the Access to Information Act.

Today is Yom HaShoah, Holocaust Remembrance Day, and I welcome the opportunity to address the committee on the subject of remembering the Holocaust.

Canada, as a member of the International Holocaust Remembrance Alliance, is committed to Holocaust remembrance. To remember the Holocaust, we must remember the victims, but we must also not forget their murderers. While the murderers are alive, that means bringing them to justice. Once they are gone, it means providing public access to the record of their atrocities.

During the Holocaust, the murderers were in Europe. After the Holocaust, the murderers scattered around the world to escape justice. Thousands came to Canada. Howard Margolian, a historian with the war crimes unit with the Department of Justice, in his book *Unauthorized Entry*, estimated that 2,000 Nazi war criminals and collaborators entered Canada after World War II. Canada's program on crimes against humanity and war crimes stated in one of its reports that, since beginning its work, the Department of Justice had opened and examined over 1,800 files.

The effort of understanding and learning the lessons from the Holocaust must never stop. For that history to be written, the files of those who have been identified to the war crimes commission or the Government of Canada, or investigated by them, must be made public. We have a duty to the victims not just to remember that they died but why they died and how they died. The picture of the memory we paint must be real and complete. That picture must include the murderers.

Right now, we are woefully short of meeting that goal. The efforts of B'nai Brith Canada to obtain access to relevant files and documents have been constantly frustrated and have gone nowhere.

One element is part II of the Commission of Inquiry on War Criminals. That part II recommended urgent attention to 20 files and further investigation of 218 others. We don't have that part II. We don't have the names of those who were recommended, and we've asked for this without success.

There is the follow-up to part II. What happened to those 20 cases of urgent attention and the 218 for further investigation? We've asked for that. We don't know.

There was a report commissioned by the Commission of Inquiry on War Criminals on the history of Nazi war criminals in Canada from the 1940s to the present. Mr. Justice Jules Deschênes recommended that the historical report be made public in its entirety, but it was not. There were substantial deletions through our access to information request. We've had some of them removed, but there are still significant deletions that remain.

Then, of course, there are the 1,800 files that the Department of Justice and the RCMP were dealing with. What happened to them? Who are they? Again, we don't have that information.

We're recommending two proposals.

First is to amend the Access to Information Act so it would mandate disclosure of records relating specifically to alleged Nazi war criminals in Canada and to any other Canadian residents who have been complicit in carrying out the Holocaust.

Second, we're recommending the establishment of a publicly accessible digital archive of Holocaust materials by requiring all government agencies to compile and submit to Library and Archives Canada all of the agencies' Holocaust-related records, and then re-

quire Library and Archives Canada to organize and place the records in a digital archive that is readily accessible to the public.

Now there is something very specific about the Holocaust archives in the European Union general data protection regulation, which provides for specific public access to those sorts of archives. There are also some statements, policies and recommendations in the International Holocaust Remembrance Alliance about access to archives about the Holocaust: that they be made available to independent researchers. Canada, of course, is a member of that alliance.

Philosopher George Santayana wrote, "Those who cannot remember the past are condemned to repeat it." We cannot remember a past that remains hidden from us. Only through public access to Holocaust archives can we learn lessons from those archives.

• (1645)

Learning lessons from the Holocaust is a legacy we can create for the victims, creating meaning from the senseless death of so many millions of innocents. To learn those lessons, we need access to the archives that can convey them.

Thank you very much.

The Chair: Thank you, Mr. Matas. You're right on time. I appreciate that.

Mr. Larsen, you're next for five minutes, sir.

Mr. Mike Larsen (President, BC Freedom of Information and Privacy Association): Thank you very much.

My name's Mike Larsen. I'm the president of BC FIPA and a faculty member in the criminology department at Kwantlen Polytechnic University. I'm joining you from my office here on the unceded territories of the Coast Salish peoples.

I'm grateful to the members of the committee for inviting us to speak with you again after our first presentation in the fall. I'm grateful for participating in the study of Canada's access to information and privacy systems. This is really important work, and we commend the committee for giving it sustained attention.

When I appeared before the committee in the fall of 2022, I provided an overview of the features of a strong and effective access to information system for Canada. I also provided a written brief, focusing on eight key areas to reform the ATIA.

Since that time, the Treasury Board presented its “Access to Information Review Report to Parliament”, covering many areas for possible reform and further study. I'll focus my remarks today on just a couple of themes that warrant emphasis.

The report addresses the importance of a professional framework for ATIP staff. We call for investment in a culture of access and note this requires adequate training and resourcing and a real commitment to transparency at the leadership level. That includes a consideration of how government responds to the work of this committee and to the Treasury Board report.

Senior officials, elected representatives and cabinet set the tone. When the release of information is selective and strategic, shaped by political considerations, or when witness after witness, commissioner after commissioner and committee after committee describe the ATI system as broken, fallen behind or dysfunctional, and the response is to leave the official status quo substantively unchanged, this comes across as an endorsement of opacity, not a commitment to transparency.

The TBS report emphasizes the deep connections between trust in public institutions and the transparency of these institutions. From our perspective, this is absolutely foundational. A line in the report that stands out to us is:

Across multiple channels of engagement input into this review, the greatest complaint about the ATI regime is poor compliance with the law.

This is discouraging to read but not unexpected. Focusing on improving compliance, while essential, often leaves us looking backwards, rather than at substantive reforms to the law that are necessary to build a modern access regime that serves the public interest.

What kinds of reforms? The TBS report mentions a number of possibilities. In our review, there are some serious priorities.

First is creating a legislated duty to document to ensure that core decisions are recorded. Second is embedding a strong public interest override in the act. Third is imposing caps on extensions to requests, rather than relying on the open-ended and nebulous reference to extensions for a reasonable time, and requiring commissioner authorization for further extensions. Fourth is shifting the exemption framework to reflect a harms-based approach, rather than categorical or discretionary exemptions based on classes of record types. Fifth, following UNDRIP, is removing barriers to access to information for indigenous communities and moving towards indigenous data sovereignty, particularly as it pertains to records pertinent to specific claims and reconciliation. Sixth, though it was not emphasized by the TBS, is including all entities that deliver public programs or services under the scope of the act, including the PMO and ministers' offices, and ensuring that federal political parties fall under the scope of federal privacy laws, recognizing voters' rights to know about how their personal information is being used. Finally, we have radically revising and limiting the section 69 exclusion of cabinet confidences, shifting it to a limited exemption, subject to review.

How governments approach the matter of cabinet confidences is a bellwether for their general position on transparency. I note that, as we meet today, the Supreme Court of Canada is hearing an important case about whether the mandate letters issued by the On-

tario premier to his ministers are subject to disclosure under FOI, or whether they will be withheld as privileged cabinet deliberations. Several provincial attorneys general are intervening in support of an expansive reading of cabinet confidence. BC FIPA is intervening in support of the public's right to transparency.

The case reveals much about how Canadian governments at all levels think about transparency. It's absurd that, in a democracy, documents such as mandate letters, which are essentially the marching orders for elected governments, can be withheld from public scrutiny, yet this may be precisely what cabinet confidence exclusions permit.

These are all core areas for law reform. I really want to emphasize that. The TBS report also discusses administrative supports, the modernization of technology and process, and expanding commitments to open government beyond the auspices of the ATIA. These are all worthy initiatives, but they can't take the place of a modernization of the law that underpins the right of access to information.

We're at a crossroads for transparency in Canada. Trust in public institutions is eroding. FOI regimes are failing to provide the public with timely and complete access to information. Some governments, notably B.C., are actually backsliding by introducing application fees for FOI requests. Information that pertains to the public interest is parked behind broad exemption clauses or the brick wall of cabinet confidence. Our access system often functions as an impediment to reconciliation.

● (1650)

On a hopeful note, and I will conclude here, there's a great deal of consistency in the recommendations for reform that have emerged over the years. Indeed, I would argue there's a clear road map. The question, therefore, is not, “What's to be done?”, but rather, “Will we act?” On behalf of BC FIPA, I hope the answer is yes.

Thank you.

The Chair: Thank you, Mr. Larsen. We appreciate that. It's right on time as well.

We're going to move to our first round of questioning.

Mr. Barrett, you have six minutes. Go ahead, please.

Mr. Michael Barrett: Thanks, Mr. Chair.

Thank you to the witnesses for being here today.

Mr. Matas, I want to thank you for drawing our attention to the Holocaust Remembrance Day. I think that's incredibly important.

I'm going to use the beginning of my time to give the committee notice of a motion. I'll read it into the record:

That the committee request that the government table the following documentation in unredacted form, and that the documents be published on the committee website:

1. Part II of the Deschênes Commission Report;
2. Alti Rodal, Nazi War Criminals in Canada: The Historical and Policy Setting from the 1940s to the Present (the Rodal Report)(submitted to the Commission of Inquiry on War Criminals chaired by Justice Jules Deschênes in 1986); and
3. All Department of Justice and RCMP Nazi war crimes files including all investigation files relating to those individuals recommended for investigation by the Deschênes Commission.

That's the end of the notice. I will send that to the clerk, as well.

I'm going to continue with my time.

• (1655)

The Chair: Okay. Thank you, Mr. Barrett.

Mr. Michael Barrett: My first question is for you, Mr. Matas.

Can you tell me, in your opinion, what you believe the government's definition of "Holocaust-related records" would ideally look like?

Mr. David Matas: That's an issue that has been addressed by the International Holocaust Remembrance Alliance. I'm part of the Canadian delegation to that alliance, representing B'nai Brith. I'm on the access to archives project. We've done a lot of work in that area. There are some very elaborate and specific definitions. Because Canada is a member of the alliance, they normally comply with what that alliance has recommended.

The answer to your question is there. It's posted. It's on the Internet. It's detailed. The government, I would say, should just adopt it.

Mr. Michael Barrett: What, in your opinion, is the reason for their not having adopted it to this point?

Mr. David Matas: We don't have a Holocaust-related archive at Library and Archives Canada or anywhere. There are some private archives but nothing public. I haven't heard them say they are opposed to doing it. They just haven't gotten around to doing it.

Mr. Michael Barrett: By their not having gotten around to doing it, how has that affected your work? What are the repercussions of your not being able to fully execute on the work you've described doing?

Mr. David Matas: That's related to your motion.

I have been trying with my colleagues, as well—Michael Wenig, David Rosenfeld and so on—to get access to these archives. They are there at Library and Archives Canada, but they are not accessible. We can't see them. I mean, it's a related problem. Obviously, the archives should be grouped together. They should also be accessible. If they are grouped together but not accessible, it doesn't help us very much. We need both.

I must say, I welcome your motion. I agree with it entirely, even though I can't vote on it.

Voices: Oh, oh!

Mr. Michael Barrett: I appreciate that, sir.

What would having those documents mean to Jewish Canadians—the ones outlined in the motion? It won't be debated or voted on today, but what would that mean to Jewish Canadians? What would those documents being publicly available do with respect to education on and awareness of the Holocaust?

Mr. David Matas: We're now entering an era where the survivors are almost entirely gone. There are some left, but not that many. While they were alive, the survivors were a tremendous educational force. In the absence of the survivors, what we have are the archives. The archives loom in importance with the passing of the survivors—and, of course, the perpetrators, too—for telling us what happened and educating people. It's not just telling people what we know happened. It's finding out more about what happened. The history isn't complete until we have the records, so people can digest and analyze them.

We have a lot of information about the Holocaust in Canada, because we had so many survivors. We had so many perpetrators. That's a story that remains to be told until we get access to the archives.

Mr. Michael Barrett: Thank you, Chair.

The Chair: Thank you, Mr. Barrett.

Next we're going to go to Ms. Hepfner. You have six minutes.

Ms. Lisa Hepfner: Thank you, Chair.

I would also like to thank our witnesses for being here and sharing with us today.

Mr. Matas, I'll come back to you. I want to thank you. I think it's very appropriate for you to be here advocating on this issue on Holocaust Remembrance Day, so I want to thank you for that.

I met with some of your colleagues from B'nai Brith in my office just recently and talked about this issue of declassifying Holocaust documents. I think I understood—and correct me if I'm wrong—that the U.S. has a more open system. I'm wondering if you can talk about what they do differently south of the border and, maybe, lessons we can learn up here.

• (1700)

Mr. David Matas: The U.S. has specific legislation about this. We don't. I think it would be useful to have an amendment to the Access to Information Act to deal specifically with that. I mentioned, of course, that the European Union data regulation has something specific about that as well. We have precedents to pull from in other jurisdictions.

There's probably the scope to do something in the present legislation. I don't feel that... There's room for interpretation and application of the legislation, so I don't think we need to wait for an amendment to make these records accessible, but it's going to be a lot easier when there's a specific direction. That's what I would learn from that.

I wonder if Michael Wenig has something to say about this.

Mr. Michael Wenig (Lawyer, Matas Law Society, B'nai Brith Canada): The U.S. legislation basically created an inter-agency working group that was charged with a duty to collect and organize Holocaust records from across the federal government and have the records be delivered to the National Archives. It then mandated the National Archives to set up a public archive of all these records.

That was the gist of this federal legislation. It's quite progressive relative to what we have in Canada.

Ms. Lisa Hefner: That's helpful. Thank you very much.

I would like to turn to Mr. Larsen next. You were talking about legislative changes. What we heard from the Information Commissioner at this committee is that, in fact, legislative changes could exacerbate some of the problems that we're seeing in access to information now.

Do you agree that we should begin with administrative reform and working out some of the problems in rolling out what we have before we tackle legislation?

Mr. Mike Larsen: Thank you.

No, I don't think it has to be one before the other. You can do both at the same time. There are a lot of really good arguments to be made about improving the accessibility of the access system and the way that the information is managed in government. I really take that quite seriously. We recommended the same.

Some of the core issues around cabinet confidences, exemptions and delays have been recommendations before committees like this for decades, so I think kicking it down the road any further is not really a good decision.

Ms. Lisa Hefner: Okay.

Mr. Ken Rubin: Can I answer that, please?

Ms. Lisa Hefner: I'm sorry. I only have a limited amount of time, Mr. Rubin—

Mr. Ken Rubin: I do too.

Ms. Lisa Hefner: —and I'm going to move on.

Mr. Larsen, continuing with you, we heard from the President of the Treasury Board that digital technology and transitioning paper records into digital tools we can access more easily are a big challenge for the department right now.

Do you think that these new digital tools are critical to addressing the challenges in the access to information system?

Mr. Mike Larsen: I think that they're very important. We have to be able to access the records and to locate the records that are pertinent to access requests.

However, ultimately, we have to make sure that the records that are released are released in a timely fashion, are comprehensive and are not full of holes, and that can't be addressed exclusively with digitization. That has to be a matter of law reform.

Ms. Lisa Hefner: Okay.

You also spoke in your statement today about the fees for access to information. In B.C., I think it's gone up to \$10, and I read in

The Globe and Mail that since that \$10 fee was introduced in British Columbia, there's been a drop in access to information requests by 80%. It's a drop due to media and opposition politicians. They're all reducing their requests for access to information.

Can you comment on what you think about that? Are you encouraged by the government reducing the fee to \$5 or free, if there's a financial challenge?

Mr. Mike Larsen: Thank you. I jump at the opportunity to speak to this.

It's a deterrent fee. This is not really a cost recovery fee. It's a fee that's designed to make people think twice before using the FOI process. In B.C. we went from having no fee to really a mix now of \$10 for some organizations and public bodies, and others that haven't implemented the fee just yet. As you say, there's been a really disastrous drop in the use of the act, especially by journalists who are looking to use it for accountability purposes.

My organization is filing more FOI requests now to monitor the effectiveness of the new regime under this situation.

Reducing the barriers to access information is fundamentally important in a democracy, and a fee is a barrier. We strongly support the removal of fees, and we certainly would oppose any increase in fees, including in the federal ATI system.

I'm heartened by the removal of processing fees as part of the federal reforms, but we really want to make sure that people are able to get accurate and timely access.

• (1705)

The Chair: Thank you, Mr. Larsen and Ms. Hefner.

[*Translation*]

Mr. Villemure, you have the floor for six minutes.

If you wish to use part of your time to answer Mr. Rubin's question, you may do so.

Mr. René Villemure: Thank you very much, Mr. Chair.

Mr. Rubin, thank you for being here for a second time.

I asked the minister earlier whether this was a sincere effort or whether it was just for optics.

Do you think the government is stalling to avoid reforming the act?

[*English*]

Mr. Ken Rubin: I believe the government doesn't want to do anything except millions of dollars on digital stuff, which will make access to information harder and will make personal information and the consent of individual Canadians to give it harder.

I have nothing against digitization, but when it's being done at the cost of millions of IT contracts and the enterprise architecture at Treasury Board that the public knows nothing about, and now it's going to be called an action plan and there are no legislative amendments that get—as Mike Larsen is saying and Canadians are saying—any more material, why should we have to, as MP Barrett said, pass motions in committee or have public inquiries mandated like the Public Order Emergency Commission, the Rouleau commission? Why can't we, just as average Canadians, get information?

We can't do that because this government doesn't want to even start the process. They've had every opportunity. The last time they retreated the bill, they didn't advance the bill.

[Translation]

Mr. René Villemure: When you hear about openness and transparency, I suspect you are skeptical. I also suspect that you have the same opinion as the Information Commissioner as to the culture of secrecy.

[English]

Mr. Ken Rubin: There's more than a culture of secrecy. There's a culture of corruption and conflict of interest, because once you start hiding contracts, as I was alluding to.... There has been a lot of press about that, not just sole sourcing but awarding them to your friends and so on. If you can't get the material about that on a timely basis, then you have more than a culture of secrecy.

[Translation]

Mr. René Villemure: You recommended that Parliament create an independent access to information agency.

In your opinion, what would that agency do differently?

[English]

Mr. Ken Rubin: I'm sorry. I didn't get the—

[Translation]

Mr. René Villemure: You asked Parliament to create an independent access to information agency. What would that independent agency do differently?

[English]

Mr. Ken Rubin: It's not coming through, unfortunately.

A voice: What is the difference between an independent agency and what we have now?

Mr. Ken Rubin: It's like night and day. Why would you want a cabinet committee called Treasury Board, whose main goal is to repress information, in charge of your access to information?

If you had access officers who weren't being trained and more money put into the CG office to brainwash them into gatekeeping so that there would be more exemptions applied.... If you had officers in the central agency who were trained—like, say, Mexico has a better system—who are there to promote and release information, who are not there to line by line try to delete information, when you have agencies that are in need of extra services, you'd have the pool of people there.

I think we've put the wrong horse and cart together here.

[Translation]

Mr. René Villemure: Thank you very much, Mr. Rubin.

Mr. Larsen, you mentioned earlier that faith in the current process is eroding.

What could be done to rebuild people's trust in the access to information system?

• (1710)

[English]

Mr. Mike Larsen: Thank you very much for the question.

I think rebuilding trust is a vital step for this committee to be thinking about. One thing that can be done, I think, is to impose some limitations on the delays that are systemic in the system. Right now, the Access to Information Act permits open-ended extensions and consultations that can further exacerbate extensions.

In practice, what this tends to mean is that people who are seeking to exercise their right to know and to retrieve records that will help them to make informed decisions as part of a participatory democracy are just met with nothing—a silence—in many cases. I think I said this in my testimony in the fall: In a silence, people feel free to fill in the blanks in terms of speculation, conspiracy and ulterior motives.

Imposing some clear timelines that are actually followed and enforceable, I think, is a vital step to be made here.

[Translation]

Mr. René Villemure: Could you make two more suggestions in the remaining time, in addition to the one you already made?

[English]

Mr. Mike Larsen: Absolutely. We have quite a few in our brief here.

I think the cabinet confidence issue is also an important one here. Many of the records that people are really interested in pertain to why government is doing what it's doing, how it's rationalizing those decisions, who is making those decisions and on what basis. Let's be honest: A lot of those records actually do pertain to the deliberations of cabinet.

Having what Mr. Rubin has characterized as a brick wall around cabinet confidences—I like that term—really does not serve the interests of the public's right to know. Definitely having some process so that this is no longer a sacrosanct provision but something that can be contested as a legitimate exception is important, I think.

The third thing, I would say, is imposing a harms test for the operation of exceptions rather than having categorical exceptions that deal with certain kinds of information. When information is withheld from the public—and it is our information; it's public information—it should be because releasing it would cause some kind of demonstrable harm, not simply because the government is exercising its power of secrecy.

The Chair: Thank you, Mr. Larsen.

[*Translation*]

Thank you, Mr. Villemure.

[*English*]

Mr. Green, you have six minutes.

Mr. Matthew Green: Thank you very much.

I'm going to put a series of questions to the witnesses. I'm going to ask them in a rather rapid-fire way. Don't be surprised if I interject to maybe take my time back and move somebody along. I'm going to ask you to try to be brief because I want you to have the opportunity to get on the record for as many different questions as we possibly can.

Mr. Rubin, in the preceding panel of witnesses, you heard me put a question to the President of the Treasury Board that responded to your statement that the legislative review appears to be “a delay tactic to prevent meaningful changes to access legislation”.

Can you expand on that briefly?

Mr. Ken Rubin: When you can't even bother to put in some simple amendments on times or even if it's cabinet records for 10 years instead of 20 years.... When you can't even bother to do that much, then you're not seriously considering doing things.

At the same time, in that delay, you're spending millions of dollars creating this digital system to leverage the way you want to do decision-making in the Canadian government in the future, which excludes more Canadians from knowing what you're doing. Then you have more than delay; you have deceit.

Mr. Matthew Green: To be clear, we're making pretty loaded statements and I want to give you a chance to substantiate them.

You mentioned AI, and we've certainly studied that at this committee. In your opinion, what role or what harms could potentially be caused by the use of AI in this “action plan” that they have with this modernization?

Mr. Ken Rubin: It would help if they would, first of all.... I mean they've listed in some places the millions of dollars that are going to AI companies, but they've never documented throughout the government, including Treasury Board, what uses are being made of AI or which banks are there.

Identifying the uses of them at least gives the public an idea of how much money and what the uses are, because some of them do involve personal information. That's something that has to be done for sure.

Mr. Matthew Green: In your writing, you also mentioned that the Treasury Board conducted a study, which was an internal evalu-

ation and audit, that was not presented to those participating in the review.

Was that part of the reviews that have been made public since then, or are you privy to another internal review that you might want to—

• (1715)

Mr. Ken Rubin: I don't know. I thought the minister.... Some of the documents I got earlier on were that they were going to make a big deal of doing early action. They were going to come and release some things, like maybe a public interest override or some sop for Canadians. They have not done any of that. Those documents do exist, but they're not willing anymore to even consider doing those small changes.

Mr. Matthew Green: Mr. Larsen, you talked a little bit about the role of cabinet confidence. I'll share with you, as a member of Parliament on the opposition side, that I believe—it's my opinion—that cabinet confidence is a mere convention of Parliament and not a legislative precedent or a legal precedent, and that the House of Commons ought to be the grand inquest of the nation and have complete access.

That's not the case. In fact, we are often as frustrated as regular citizens are in trying to get basic information.

In your opinion, can you comment about how the role of the government, being the client and simultaneously the solicitor, as was identified by the former attorney general, presents a bit of a problem in unpacking the role of cabinet confidence in access to information?

Mr. Mike Larsen: Yes, absolutely. I couldn't agree more that I would like to see our elected representatives able to cut through the barriers to transparency that are embedded in the convention—which is a good way of saying it—of cabinet confidence.

Previous governments and current governments seem to approach cabinet confidence as being something that's almost like a law of nature. It exists; it must exist. Even the Treasury Board's reports that we're referring to today have some of this language in there—that changing it would require change across many levels of government. Okay, let's change it then.

I think there is a lot of evidence to suggest that this doesn't allow for proper participation in the process. If our elected representatives can't get the information they need to participate and which you need to participate, then seriously that's not working.

Mr. Matthew Green: In any of your legal reviews, have you considered the increasing role, in fact, under this particular Prime Minister, of the use of secret orders in council?

Mr. Mike Larsen: Yes. I think we absolutely have to have transparency about where and when secrecy is used. What we start to get is a kind of layering of secrecy so that not only are decisions opaque but the basis of those decisions—the orders that inform those decisions—are opaque as well.

This goes back to what I mentioned earlier about the issue of trust and transparency. Secret orders may, in certain circumstances, be justifiable, but as a principle in a democracy, they seem to run roughshod against the principle of transparency and openness. I think they don't do anything to help us in terms of trust in government.

Mr. Matthew Green: Thank you.

Your organization submitted 16 recommendations as part of the public engagement process of the review, many of which were not reflected in the report. You may have heard me reference this to the minister.

In your opinion, why do the Treasury Board's conclusions differ significantly from the recommendations provided by those who participated in the public engagement?

Mr. Mike Larsen: This is not anomalous, in my experience. Our organization makes recommendations on reforms to transparency laws provincially and federally. One of the trends we tend to see when there is a public inquiry, an investigation, a commission or a review is that one of the first things that is presented is the administration of the act. Again, there are reasons to make those changes. What tends to happen is that government then champions those changes: “Look at what we're doing. Look at how we're increasing transparency. Look at the ways in which this is improved.” There is a lot of proactive disclosure. Meanwhile, the actual system, the legal basis, is left to atrophy.

Without impugning any particular motives, I would say that this is par for the course.

The Chair: Thank you, Mr. Larsen.

Thank you, Mr. Green.

We're going to go for probably another 10 minutes or so. I do have to leave time at the end for the budget on foreign interference, and that should go very quickly.

We're going to go for two and a half minutes each, if that's okay. I'm going to go to Mr. Barrett first.

Go ahead, please, Mr. Barrett.

Mr. Michael Barrett: Thanks, Mr. Chair.

With 10 minutes left, I'm going to move a motion that was put on notice on April 13:

That the Committee immediately undertake a study and review of the Liberal government's decision to appoint the sister-in-law of a sitting Cabinet minister, who himself breached the Conflict of Interest Act in relation to a decision concerning another member of his family, as the interim Conflict of Interest and Ethics Commissioner, provided that: (a) this study consist of a minimum of three hearings; (b) the Committee hear testimony from Martine Richard, the interim Commissioner, Dominic LeBlanc, Minister of Intergovernmental Affairs, Infrastructure and Communities, and other witnesses the Committee deems necessary; and (c) the Committee report its findings to the House.

That's been circulated in both official languages to members of the committee and has met the notice requirements.

The Chair: Thank you, Mr. Barrett.

The motion is in order.

Keeping in mind that I do need to keep time for the budget, do you want to say a few words on that?

• (1720)

Mr. Michael Barrett: Yes. Thanks, Chair.

The confidence that Canadians have in their democratic institutions is fundamental. We have independent officers of Parliament, whom Canadians trust to serve as independent arbiters of what happens with government. We have seen the important role the Ethics Commissioner has played since the creation of that office, and it added a level of accountability that wasn't there before, though I would argue that higher standards need to be applied.

We have standards that we have right now that need to be applied in a way so that Canadians are sure this is done in a manner that's beyond reproach, and that even the appearance of a conflict of interest is avoided in the appointment of the officer of Parliament, who's going to be discharging those duties and conducting investigations.

While I do hope we can dispense with this motion quickly with members of the committee having had it in their possession since Thursday of the week prior, I look to the committee. Hopefully, we can get to a vote, but perhaps you would like to take a moment to excuse the witnesses if this isn't going to come to a vote right away.

The Chair: I am going to do that. Thank you, Mr. Barrett.

I'm going to excuse the witnesses—Mr. Rubin, Mr. Matas and Mr. Larsen.

Mr. Matthew Green: I have a point of order.

Can I ask one thing of the witnesses, sir?

The Chair: Please, go ahead.

Mr. Matthew Green: If there were rebuttals to some of the questions that you didn't have an answer for, I wanted to extend to you the ability to provide any supplementary responses in writing, because I feel like you got cut off.

Would that be okay, Mr. Chair?

The Chair: I appreciate that.

If the witnesses do have anything they would like to submit to the committee, please do. This is an ongoing study. I know we have another study scheduled for next week with a list of witnesses. If you can provide that to the committee and the clerk, that would be appreciated.

Before I go to Ms. Hepfner, keeping in mind the time, I really need to get this budget approved. Perhaps I can do this now. I will go to you in a second, Lisa.

We have a budget for foreign interference in the amount of \$9,850. Is there any question on the budget at all?

Can I get unanimous consent from the members?

Some hon. members: Agreed.

The Chair: Ms. Hefner, I may have to cut you off at some point, because we did agree to go to 5:30. Please go ahead.

Ms. Lisa Hefner: Thanks, Chair.

I wanted to advise the committee that I am opposed to this motion. I will outline the reasons why.

First off, it's an interim position for six months. Ms. Richard has been in that office for more than 10 years. She served as number two to the previous...Mr. Dion, for much of his term, so she is the most obvious choice to replace him on an interim basis. She should already have an invitation to appear on the main estimates.

I don't understand why we would invite Minister LeBlanc for this particular question. He is not the minister responsible. He recused himself from the decision. He would have absolutely nothing to say as part of this discussion.

I think the final point is the timing. We already have a number of studies under way. We're involved in important studies on access to information. We have other studies that have been proposed that I think are very important—like the TikTok study. When this motion talks about immediacy, it gives me pause. It makes me wonder what we're putting aside for something that's really just a partisan dig and has no relevance to anything important that we're doing here.

The Chair: Thank you, Ms. Hefner.

Mr. Fergus, I have you next on the list. Again, keeping in mind the time, I may have to stop you and adjourn the meeting.

Go ahead, Mr. Fergus.

Hon. Greg Fergus: I won't take up much time. I just want to reinforce my colleague's second point in the fact that the minister, as we all know, recused himself from any decision on this and was not involved in any way. I'm not certain what we would get and how we would be spending the committee's time by inviting him to come here just for him to say he doesn't know. He wasn't there, because of the recusal that was put in place—a recusal that was publicly known to everyone.

To the third point, Madam Richard served in this post when the previous ethics commissioner was ill and he took a leave of absence. It wasn't a problem then. I'm not certain why it's a problem now.

Thank you, sir.

• (1725)

The Chair: Thank you, Mr. Fergus.

Is there any further discussion on the issue?

Go ahead, Mr. Green.

Mr. Matthew Green: I want to go on the record about this, and, again, this isn't about impugning somebody who has clearly worked in this department for quite some time. I can't fathom a scenario where the commissioner would have to recuse themselves for the

purpose of a perceived conflict of interest. I think that fundamentally erodes the faith in the institutions that we should be restoring.

I have a hard time believing that, in this population of ours, we couldn't find another person who.... Regardless of whether there's a conflict of interest or not, if there is a perception of a conflict of interest in the public's eyes, that's a problem.

I just don't understand why this government proceeds to continue these own goals, these self-owns. I would hope that, through the course of this study.... Not only that, but to put pressure on the person who has been appointed with an asterisk beside them for the entirety of their term is also not fair.

I would hope that the government or perhaps the commissioner would come to a more practical solution on this particular matter, which is why I will be supporting this motion. I think it's a completely unnecessary thing to do at this point in time when our democracy is fragile and there's cynicism out there. I will be supporting this.

Thank you.

The Chair: Thank you, Mr. Green.

[*Translation*]

Mr. Villemure, I will give you a moment to speak. I have to leave the meeting at 5:30.

Go ahead.

Mr. René Villemure: Thank you, Mr. Chair. I will be very quick.

With regard to conflicts of interest, my years as an ethics adviser taught me something very simple: everything must be obvious to a reasonable person.

In the present matter, I think a reasonable person would have doubts. I share those doubts. That is why I will also be supporting the motion.

The Chair: Thank you, Mr. Villemure.

[*English*]

It is 5:28. We had an agreement. I don't have any speakers. We can proceed to a vote on this, if you would like.

Mr. Michael Barrett: Hear, hear!

The Chair: Madam Clerk, can we have a recorded vote, please?

• (1730)

The Clerk of the Committee (Ms. Nancy Vohl): Mr. Chair, the vote is five yeas and five nays.

The Chair: I will vote in favour.

(Motion agreed to: yeas 6; nays 5)

The Chair: Thank you, everyone, for today.

This meeting is adjourned.

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