



HOUSE OF COMMONS
CANADA

**FOLLOW-UP ON THE INFORMATION
COMMISSIONER'S REPORT ON THE 2008-2009
REPORT CARDS**

**Report of the Standing Committee on
Access to Information, Privacy and Ethics**

**Hon. Shawn Murphy, P.C., MP
Chair**

MARCH 2011

40th PARLIAMENT, 3rd SESSION

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THE STANDING COMMITTEE ON ACCESS TO INFORMATION, PRIVACY AND ETHICS

has the honour to present its

TWELFTH REPORT

Pursuant to its mandate under Standing Order 108(3)(h)(vi), the Committee has studied the follow-up on the Information Commissioner's Report Cards and has agreed to report the following:

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FOLLOW-UP ON THE INFORMATION COMMISSIONER'S REPORT ON THE 2008-2009 REPORT CARDS

I. Introduction

On April 13, 2010, the then Interim Information Commissioner tabled in Parliament a special report entitled *Out of Time: 2008-2009 Report Cards: Systemic Issues Affecting Access to Information in Canada*.¹ By means of "report cards," this report grades various government institutions on their compliance with the *Access to Information Act*.

The Office of the Information Commissioner of Canada (hereafter the Information Commissioner) had long included report cards on certain institutions in its annual reports, but for the last two years these cards have been the subject of a separate special report issued annually. The present report, which is the second of this type, concerns a sample of access to information requests made to 24 federal institutions (versus 10 in the first year), representing 88% of the access requests submitted in 2008-2009.

Suzanne Legault, the current Information Commissioner of Canada, appeared before the Standing Committee on Access to Information, Privacy and Ethics (hereafter the Committee) on April 15, 2010 to talk about these report cards. In her evidence, she explained their purpose:

The purpose of the report cards is not to chastise institutions. This process is a tool at my disposal to affect greater compliance with the requirements of the act. It allows me to see compliance issues in their full context and to recommend meaningful solutions.²

II. The Institutions Examined

Of the 24 federal institutions assessed by the Information Commissioner, 13 performed below average. Those 13 institutions accounted for 27% of the requests made to the federal government in 2008-2009, representing roughly 9,000 requests.³

Some of the federal institutions assessed received a good grade. For example, Citizenship and Immigration Canada and Justice Canada both obtained perfect scores of 5

1 Information Commissioner of Canada, *Out of Time: 2008-2009 Report Cards: Systemic Issues Affecting Access to Information in Canada*, April 2010, http://dsp-psd.pwgsc.gc.ca/collections/collection_2010/infocom/IP4-5-2010-eng.pdf.

2 The Committee, *Evidence*, 3rd Session, 40th Parliament, April 15, 2010, 1105, Suzanne Legault, Interim Information Commissioner of Canada, <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=4429677&Mode=1&Parl=40&Ses=3&Language=E#Int-3094399>.

3 Ibid., at 1110.

(equivalent to an A). The Information Commissioner attributes this result to “senior management’s ongoing support for a compliance-prone culture”.⁴ Other institutions improved from their previous year’s performance. For example, Public Works and Government Services Canada received a score of 4.5 (equivalent to a B) in 2008-2009 compared with a score of 2 in the previous fiscal year.⁵

However, the report cards demonstrate that many federal institutions have posted below-average performance. This is the case for Natural Resources Canada, the Canadian International Development Agency, the Correctional Service of Canada, Canadian Heritage and Environment Canada. They received a grade of 1 out of 5 (equivalent to an F), which is an unsatisfactory result. One federal institution, the Department of Foreign Affairs and International Trade (DFAIT), stands out in particular, as its performance was so poor that the Information Commissioner was unable to rate it against the established criteria.⁶

In fall 2010, the Committee invited representatives from two departments to appear for questioning about their performance. On November 23, 2010, the Committee heard evidence from representatives of the Department of the Environment. On November 30, representatives of the Department of Foreign Affairs and International Trade appeared. The report cards of these two departments are appended to the present report.

A. Environment Canada

1. The Commissioner’s Recommendations

Based on assessment of the report card, the Information Commissioner has made the following recommendations for Environment Canada:⁷

1. The Office of the Information Commissioner recommends that the deputy minister of Environment Canada allocate sufficient resources on a permanent basis to stabilize and ensure a full access to information staff complement and meet the requirements of the *Access to Information Act*.

2. The Office of the Information Commissioner recommends that Environment Canada develop a clear plan to tackle the backlog of access requests.

4 Supra note 1, page 3.

5 Office of the Information Commissioner of Canada, *2007-2008 Report Cards*, February 2009, http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2007-2008.aspx.

6 Office of the Information Commissioner of Canada, supra note 1, page 3.

7 Ibid., p. 108.

3. The Office of the Information Commissioner recommends that Environment Canada identify and implement the necessary enhancements to records management systems to ensure a quick and proper search of records in response to an access to information request.

4. The Office of the Information Commissioner recommends that Environment Canada comply with the Act and notify the Office of the Information Commissioner of all the extensions it takes for more than 30 days.

2. Appearance of the Department's Representatives Before the Committee

Three representatives of the Department of the Environment appeared before the Committee on November 23, 2010: Bob Hamilton, Associate Deputy Minister, Pierre Bernier, Director General, Corporate Secretariat, and Shelley Emmerson, Manager, Access to Information and Privacy.

According to the report card on Environment Canada issued by the Information Commissioner, this department's ATIP office describes the last three years as difficult. In their opening remarks, the department's representatives mentioned the particular challenges the department has to face which have had an impact on its access to information performance. First of all, they pointed out that the Department of the Environment ranks among the top 10 federal institutions for the number of requests received. Canadians' growing interest in environmental issues has been reflected in a 10% increase in the number of requests over the last five years and a 40% increase in the number of pages reviewed. This upward trend is continuing and causing a workload problem at the department.⁸ The Information Commissioner had noted this increase in her report, as well as the sizeable backlog of requests that has accumulated. At the time of the Information Commissioner's assessment, the department had a backlog of 276 files.⁹

Second, the department went through a major reorganization in 2008-2009, which has had repercussions on its capacity to resolve access to information files promptly.¹⁰ During that fiscal year, the department was also receiving the access to information requests of Parks Canada. As a result, it received more requests that year than normal, which also affected its workload.¹¹

8 Bob Hamilton, 1530.

9 Office of the Information Commissioner of Canada, *supra* note 1, page 106.

10 Bob Hamilton, 1535.

11 *Ibid.*

Finally, the department pointed out that a number of experienced employees left the departmental ATIP office in 2008-2009, causing a major staff shortage at the time that the department was evaluated.¹² The Information Commissioner recognized that this staff shortage had an impact on the department's performance:

Staffing affected Environment Canada's compliance in 2008-2009; at times, only 9 of the available 18 positions in the access to information office were filled. In the view of access officials, finding and retaining qualified access to information staff is the biggest challenge they face to achieving better compliance. It should be noted that the office did complete continuous staffing actions to address these shortages.¹³

The departmental representatives informed the Committee of the action plan developed to respond to the Information Commissioner's four recommendations and of the progress made to date. On the subject of staff recruitment, the department says that it has developed a professional development program:

We were having difficulty recruiting and retaining these people and we needed to develop a good succession plan, so we instituted this program. It's meant to help us bring people into the access to information area, make it a better place for them to be so that they stay with us, and provide some continuity of succession going forward.¹⁴

The department claims that the action plan is already yielding results:

We're already seeing some signs of success. We've got the second round of recruitment under way and we're starting to see people building their knowledge, not only of the *Access to Information Act* and how one has to deal with that, but also, importantly, of the department. In this area you have to know the rules, obviously, and how to process that, but you also have to gain a knowledge of the department. We're starting to see that.¹⁵

The Committee is pleased to see that progress is being made in this area. In the introduction to her report on report cards, the Information Commissioner notes that the resource-related problems (which include staff recruitment) are in fact systemic and exist in a great many federal institutions:

[...] all institutions interviewed this year mentioned difficulties in staffing their analyst positions due to a shortage of qualified and experienced personnel. Retention of qualified staff is also a great challenge for institutions. As a result of capacity gaps, access to information offices often had to invest considerable time in staffing and training, causing further delays in responding to access requests. There is an urgent need to develop a recruitment, renewal and retention strategy for access to information officers.¹⁶

12 Ibid.

13 Office of the Information Commissioner of Canada, *supra* note 1, page 106.

14 Bob Hamilton, 1535.

15 Ibid.

16 Office of the Information Commissioner of Canada, *supra* note 1, p. 16.

She then proceeds to make a recommendation (recommendation 5 in the introduction to the report) to address this specific systemic issue:

That the Treasury Board of Canada Secretariat, in collaboration with relevant institutions and agencies, develop and implement, as a matter of urgency, an integrated human resources action plan to address the current shortage of access to information staff.¹⁷

The Committee shares the Information Commissioner's concerns, and is concerned that recruitment and retention programs are being put in place in various departments rather than across the government as a whole, as they feel the latter would afford a better response to the shortage of specialized employees. Therefore the Committee recommends:

Recommendation 1:

That the Treasury Board Secretariat of Canada report to the Committee on steps taken and progress made in acting upon recommendation 5 of the Information Commissioner of Canada in her 2008-2009 report on report cards before June 30, 2011.

The Information Commissioner's second recommendation for Environment Canada concerned the backlog of requests. Because of the staffing difficulties and the absence of a full complement, the department has resorted to subcontractors to remove the backlog, thereby enabling departmental employees to attend to new access requests. The department also notes some progress in this area:

We have made some progress. We've reduced our overall backlog by 28% this year, and we've reduced the backlog of some of our oldest files by over 50%. We are seeing signs of progress, but as in all of these areas, there is more work to be done.¹⁸

The Commissioner's third recommendation concerned the need to enhance the records management system to permit quick records searching within the department for purposes of access to information requests. To act on this recommendation, the department decided to emphasize education and training in information management for its employees in general, and not just ATIP specialists.

In the last 18 months, the department has also introduced a SharePoint automated document collaboration and storage system in order to better manage its records. Departmental representatives have said that the system is operational but still incomplete, and that improvements will be made to it.¹⁹

17 Ibid.

18 Bob Hamilton, 1535.

19 Ibid.

Hence the department indicates that it has made progress on the time required to retrieve documents sought through access to information requests. At the time of evaluation by the Information Commissioner, the department was taking an average of 26 days to retrieve information requested. That average has come down to 18 days, and the department would eventually like to reach an average of 13 days.²⁰

As for the Information Commissioner's fourth recommendation, the department says that it has strengthened its internal administrative procedures to ensure that the Information Commissioner is notified of all extensions of more than 30 days.²¹

The current Information Commissioner, and her predecessors, have often noted that strong leadership on access to information by senior management is vital for ensuring compliance with the requirements of the Act. Regarding leadership, the Associate Deputy Minister said:

Reports on the statistics that we've generated on how we're doing are presented quarterly to the senior management team. The deputy minister and I review those reports, and we are closely watching how our progress is going. We know it's challenging, but we know that we have instituted an action plan. We're seeing some signs of progress and we're looking for more over time.²²

The Committee is reassured to learn that there has been follow-up at the senior levels of the department, and hopes that this practice continues even after the objectives of the action plan have been met, so that the department can maintain its progress and its level of performance. While the Committee is reassured by the comments of the departmental representatives, it would still like to be informed of the department's progress in the coming months, and therefore recommends:

Recommendation 2:

That the Department of the Environment forward to the Committee a report containing available internal statistics on its performance regarding access to information starting April 1, 2011 and every three months thereafter.

With regard to accountability, the Committee is however concerned to note that the department's unsatisfactory performance on access to information as well as the measures taken by the department in response to the Information Commissioner's report

20 Ibid.

21 Ibid.

22 Ibid.

do not appear anywhere in its most recent *Departmental Performance Report*.²³ When questioned about this, the Associate Deputy Minister said:

It certainly felt as though it was an item that was pretty heavily on our agenda as a management team. But I'll have to look, I suppose for next year, at whether we should find a place in our departmental performance report to report on this or whether we feel that we have adequate avenues to provide this information. It's a good question that I'll take under advisement.²⁴

The departmental performance reports are the primary instruments for reporting to Parliament. The Committee therefore feels it is important that the departments' performance regarding compliance with federal legislation, in particular the *Access to Information Act*, be included in the performance report that they table every year in Parliament. Therefore the Committee recommends:

Recommendation 3:

That the Treasury Board Secretariat of Canada encourage federal departments to include information on their performance and their activities in the area of access to information in their Departmental Performance Report.

B. Foreign Affairs and International Trade

1. The Information Commissioner's Recommendations

The Information Commissioner made the following recommendations for DFAIT based on assessment of the report card and taking into account the pressures on the department (she confines her recommendations to those upon which DFAIT can take immediate action while officials prepare a long-term plan):

1. The Office of the Information Commissioner recommends that the deputy ministers of Foreign Affairs and International Trade Canada immediately devote the necessary personnel and financial resources, both in the access division as well as in the program areas, in order to comply fully with the *Access to Information Act* and, more specifically, enable staff to deal with the backlog, new requests and consultations alike.

2. The Office of the Information Commissioner recommends that the deputy ministers of Foreign Affairs and International Trade Canada, as

23 Environment Canada, *Departmental Performance Report for the year ending March 31, 2010*, online at: <http://www.tbs-sct.gc.ca/dpr-rmr/2009-2010/inst/doe/doe-eng.pdf>.

24 Bob Hamilton, 1640.

well as the appropriate assistant deputy ministers, directors general and directors, comply with the Act, including their responsibility to respond to mandatory consultations, and that these responsibilities be included in their performance agreements.

3. The Office of the Information Commissioner recommends that Foreign Affairs and International Trade Canada immediately cease counselling other government institutions to close files when there is the prospect of section 13 or section 15 exemptions, and follow through instead with the mandatory consultation process in a timely manner.

4. The Office of the Information Commissioner recommends that Foreign Affairs and International Trade Canada adopt a collaborative approach with the OIC to respond to complaints, in accordance with the specific points enumerated by the OIC in DFAIT's report card.²⁵

2. Appearance of the Department's Representatives Before the Committee

Three representatives of the department appeared before the Committee on November 30, 2010: Gerald Cossette, Associate Deputy Minister, Roxanne Dubé, Director General, Corporate Secretariat, and Monique McCulloch, Director, Access to Information and Privacy Protection Division.

In his opening remarks, the Associate Deputy Minister told the Committee about the particular difficulties which the department has to face, and which the Information Commissioner considered in the report card.²⁶ DFAIT in fact acts as a central agency within the federal government, since under sections 13 and 15 of the *Access to Information Act*, the other departments are obliged to consult it before releasing records that may affect the conduct of international relations. Consequently, the department receives a great many requests for consultation from other departments, and this has a significant impact on its workload. The department notes that, in 2008-2009, 42% of the workload of the unit responsible for access to information at DFAIT consisted of requests for consultations.²⁷

The Information Commissioner notes that this department's performance also has a significant impact on the time required for other departments that submit requests for consultation to DFAIT to process their access to information requests:

25 Ibid., pp. 36 and 37.

26 Office of the Information Commissioner of Canada, *supra* note 1, page 34.

27 Gérald Cossette, 1545.

Nearly every institution the OIC surveyed reported being extremely frustrated with the lengthy turnaround times for consultations with DFAIT, particularly since they are accountable for processing the associated requests, yet powerless to hasten the consultation process. In response, institutions have increased the length of the extensions they take.²⁸

The department also saw a substantial increase in requests between 2004-2005 and 2008-2009, “for a total increase of 78%. Since then, there continues to be an array of very sensitive and challenging ATIP requests.”²⁹

In the departmental report card, the Information Commissioner also noted a substantial backlog of access to information requests at DFAIT:

DFAIT received more than 1,000 consultation requests in 2008-2009, on top of the ordinary access workload of 665 new requests. Moreover, with 459 requests carried over from 2007-2008, DFAIT faced close to the equivalent of a full year’s work at the start of the new fiscal year. The fact that nearly 60 percent of overdue requests were late by more than 30 days shows just how dire the situation has become.³⁰

The department notes that a chronic shortage of ATIP specialists in the federal government has had an impact on DFAIT’s capacity to process requests.³¹ The Information Commissioner has indeed confirmed that the department’s problems stem in part from a lack of resources. The Information Commissioner noted that the department has stabilized its staff complement by permanently funding 12 new positions and hiring consultants to reduce the request backlog.

The department’s representatives next told the Committee about the initiatives introduced and progress made in response to the Information Commissioner’s report card and recommendations.

In response to the Information Commissioner’s first recommendation, the Associate Deputy Minister informed the Committee that \$2.7 million in additional funding had been reallocated for access to information.³² Consultants were also hired in July 2010 to deal with the file backlog, and the department notes that real progress has been seen: “So far, the backlog team alone has closed 135 late ATIP files and has cleared 95,000 pages.”³³

28 Office of the Information Commissioner of Canada, *supra* note 1, page 36.

29 Gérald Cossette, 1545.

30 Office of the Information Commissioner of Canada, *supra* note 1, page 35.

31 Gérald Cossette, 1545.

32 *Ibid.*, 1550.

33 *Ibid.*

The department also indicated that 10 new positions have been created and are soon to be staffed.³⁴

In the department's opinion, these efforts have borne fruit:

For example, the number of late files for those new requests received since April 1, 2010, has dropped to approximately 5%. Our turnaround time to respond to consultations from other institutions has gone from 110 days to an average of under 60 days. These improvements are encouraging.³⁵

Next, the department informed the Committee of its progress on professional development and recruitment. Its ATIP professional development program is intended to recruit and retain specialized staff. The department claimed that the program has yielded good results.³⁶

The department's representatives told the Committee about various initiatives introduced to improve its access to information performance. First of all, it has introduced a streamlined, single-gateway ATIP tasking process across the organization and has placed dedicated ATIP liaison officers in all branches and bureaus of the department.³⁷ It will be interesting to see whether this new method will have positive repercussions on the department's turnaround times.

Second, the department indicated that it has set up a department-wide awareness program to ensure that DFAIT employees clearly understand their roles and responsibilities with respect to access to information, particularly as regards international affairs exemptions.³⁸

Third, as the Information Commissioner had noted in her report card, the department is now submitting monthly ATIP statistics to senior management. The Deputy Minister feels that this initiative has served to improve understanding of and commitment to ATIP compliance within the department.³⁹ In her report, the Information Commissioner noted however that this improvement has yet to have a significant impact on the compliance rate or request processing time in the department.⁴⁰ The Committee would like this practice of submitting statistics to senior management to continue, and hopes that it allows the department to make substantial progress.

34 Ibid.

35 Ibid.

36 Ibid., 1545.

37 Ibid.

38 Ibid.

39 Ibid.

40 Office of the Information Commissioner of Canada, *supra* note 1, page 36.

Beyond the quarterly reports already issued by the government on the war in Afghanistan⁴¹, the Information Commissioner believes DFAIT should be more sensitive to Canadians' need to be informed and to have access to relevant information about the international affairs in which Canada is involved. In the Information Commissioner's opinion:

[...] DFAIT could take a more proactive approach to sharing information with Canadians, for example, in regard to its role in Afghanistan. This could at least somewhat stem the influx of requests, and eliminate the duplication of work from responding to similar applications by simply directing requesters to an established resource.⁴²

When questioned on this subject, the department's representatives said:

Currently, the Treasury Board Secretariat is working with the ATIP community, including me, to have a more proactive approach and to make available on the departmental Internet sites a summary of requests being made under ATIP legislation. [...] The initiative that is under way right now with the Treasury Board is to make available those summaries of requests and to be more transparent in terms of the types of requests that are being submitted to the department so that interested parties can simply obtain copies informally.⁴³

The Committee will be following this issue with great interest during its study on open government.

During their appearance, the departmental representatives did not indicate to the Committee how they intend to act upon the fourth recommendation of the Information Commissioner, more specifically, that the department adopt a collaborative approach with the Information Commissioner in responding to complaints. In her report the Information Commissioner mentions this lack of cooperation:

Although DFAIT provides good cooperation at the intake stage of a complaint when the OIC requests documents, collaboration in advancing investigations is very difficult.⁴⁴

The Committee is concerned about this situation, and would like the department to consider the Information Commissioner's recommendation immediately. The Committee would also like to be informed of steps taken to improve cooperation in the context of investigations conducted by the Information Commissioner. Therefore the Committee recommends:

41 Link to quarterly reports: <http://www.afghanistan.gc.ca/canada-afghanistan/documents/qr-rt.aspx>.

42 Ibid.

43 Monique McCulloch, 1555.

44 Office of the Information Commissioner, *supra* note 1, page 36.

Recommendation 4:

That the Department of Foreign Affairs and International Trade report to the Committee on steps taken to implement the Information Commissioner's fourth recommendation before June 30, 2011.

The Committee would also like to refer back to DFAIT's appearance before this same committee in October 2005 regarding its performance on access to information. During that appearance, the department stated that it was introducing a staff recruitment plan to ensure that it had a sufficient workforce to assume the department's heavy workload, that a structured awareness program had been developed so that employees clearly understood their roles and responsibilities, and that it was going to introduce new procedures for responding to requests.⁴⁵ In many respects, the statements by departmental representatives have not changed since 2005.

When questioned on this subject, the Associate Deputy Minister said:

[...] there may be the impression that nothing has happened since 2005, but I can confirm to you that in 2005 and 2006, the department was spending a bit more than \$2 million on ATIP. For the current fiscal year, the department will be spending \$8.2 million to respond to ATIP. So it's not as if the department hasn't tried to increase its capacity since 2004. However, with a growth of 78% over that period of time, we've been playing catch-up.⁴⁶

The deputy minister explained that once the backlog has been removed, the staff will have 10 to 12 additional analysts to manage the constant increase in requests. Later on, he added that the department believes progress will be seen shortly:

Now that we have the financial resources and the capability to deliver within the proper timeframe, it is my responsibility and within my accountability to make sure that in 18 months, if I show up at this committee, I don't repeat the same story we've heard in the past. That being said, given the current backlog, and given the fact that the commissioner will report on the current fiscal year, we expect to have a bad score next year as well, because we need to get rid of it. Then we'll be in a position, basically, to meet the proper deadlines. So there is an expectation, on my part, that I'll see another F for this year, as we get rid of the backlog. Next year should be much better.⁴⁷

The Committee is concerned by this seemingly persistent situation at DFAIT, and it intends to closely monitor the department's performance on access to information. Therefore the Committee recommends:

45 ETHI, 1625.

46 Gérald Cossette, 1625.

47 Ibid., 1705.

Recommendation 5:

That the Department of Foreign Affairs and International Trade forward to the Committee a report containing available internal statistics on its performance regarding access to information starting April 1, 2011 and every three months thereafter.

III. Conclusion

First of all, the Committee wishes to thank the Office of the Information Commissioner for its thorough work in preparing these report cards and its own report. The Information Commissioner's report is an essential tool which allows parliamentarians to hold the government accountable, and that is precisely what the Committee has done in inviting these two federal institutions to appear.

Of the 24 institutions that were evaluated by the Commissioner, 13 received a score of D or F. The Committee considers this situation unacceptable. Therefore, the Committee recommends:

Recommendation 6:

That the Government of Canada give priority to the access to information file and demonstrate the necessary leadership to fix the systemic problems identified by the Information Commissioner in her report on the report cards so that a greater number of federal institutions comply with the Act's requirements.

The *Access to Information Act* is not a guideline or a policy which can be followed or not followed, with little consequence. It is a statute adopted by Parliament that has been recognized by the courts as having quasi-constitutional status. Therefore breaches of the Act should not be without consequence. The Committee will therefore continue this accountability exercise by following up with these two departments and inviting other institutions with an unsatisfactory performance to appear in the future.

LIST OF RECOMMENDATIONS

Recommendation 1:

That the Treasury Board Secretariat of Canada report to the Committee on steps taken and progress made in acting upon recommendation 5 of the Information Commissioner of Canada in her 2008-2009 report on report cards before June 30, 2011.

Recommendation 2:

That the Department of the Environment forward to the Committee a report containing available internal statistics on its performance regarding access to information starting April 1, 2011 and every three months thereafter.

Recommendation 3:

That the Treasury Board Secretariat of Canada encourage federal departments to include information on their performance and their activities in the area of access to information in their Departmental Performance Report.

Recommendation 4:

That the Department of Foreign Affairs and International Trade report to the Committee on steps taken to implement the Information Commissioner's fourth recommendation before June 30, 2011.

Recommendation 5:

That the Department of Foreign Affairs and International Trade forward to the Committee a report containing available internal statistics on its performance regarding access to information starting April 1, 2011 and every three months thereafter.

Recommendation 6:

That the Government of Canada give priority to the access to information file and demonstrate the necessary leadership to fix the systemic problems identified by the Information Commissioner in her report on the report cards so that a greater number of federal institutions comply with the Act's requirements.

APPENDIX A

Table 1 – Environment Canada’s 2008–2009 Report Card at a Glance

2008–2009 report card at a glance



- The deemed refusal rate was 36.9 percent.
- The average completion time was 97 days.
- It took an average of 26 days to retrieve records, due in large part to a reorganization that led to the responsibility for records changing.
- 28 percent of overdue requests were completed more than 90 days late.
- Environment Canada had a large backlog, although it did reduce it, through the work of consultants.
- Environment Canada submitted notices of extensions of more than 30 days 47 percent of the time.
- The total number of complaints increased significantly from 2007–2008 to 2008–2009 (from 35 to 54), as did the number of administrative complaints (from 16 to 38).
- An increase in interest in environmental issues has led to a corresponding increase in requests and pages reviewed in recent years.
- The access to information office is sufficiently resourced but was staffed at only half of its capacity at times during the year. Environment Canada has created a professional development program to recruit and retain access staff.
- Senior management supports the access to information office by pushing for continuous staffing actions and the hiring of consultants.
- A new document collaboration and storage system is currently being implemented.
- Environment Canada no longer has to process access to information requests on behalf of Parks Canada, since Parks Canada created its own access to information office on April 1, 2009.

Source: Information Commissioner of Canada, *Out of Time: 2008–2009 Report Cards: Systemic Issues Affecting Access to Information in Canada*, April 2010, p. 105, http://www.infocom.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009.aspx.

Table 2 – DFAIT's 2008–2009 Report Card at a Glance

2008–2009 report card at a glance



Red Alert

- DFAIT's deemed refusal rate was 59.6 percent, compared to 34.7 percent in 2007–2008.
- The average time to complete a request was 163 days, the highest among the institutions surveyed.
- DFAIT received more consultation requests than access requests and started the year with a backlog of 459 cases.
- DFAIT's compliance affects the entire system because of its role with regard to mandatory consultations about records pertaining to Canada's international relations. While DFAIT provided no data on the actual amount of time it takes to respond to these consultation requests, nearly all of the other institutions surveyed complained about the length of consultations with DFAIT.
- Delay-related complaints (those involving overdue requests and problems with time extensions) more than doubled from 2006–2007 (27) to 2007–2008 (62) but stabilized in 2008–2009 (58).
- With the hiring of 12 new staff members, and having consultants to work on the backlog, DFAIT processed 1,000 more files in 2008–2009 than it had the previous year. The consultants, however, had to be let go due to budget constraints in 2009–2010.
- With the assistance of a senior consultant, DFAIT thoroughly reviewed its management of and approach to access to information in order to seek improved processes and partnerships in the future.
- In light of its critical central role, DFAIT is working with central agencies to secure additional funding to fulfill its access to information obligations.
- DFAIT submitted 9(2) notices in 95 percent of the cases in which it took extensions of more than 30 days.

Source: Information Commissioner of Canada, *Out of Time: 2008–2009 Report Cards: Systemic Issues Affecting Access to Information in Canada*, April 2010, p. 33,
http://www.infocom.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009.aspx.

APPENDIX B LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
Department of the Environment Pierre Bernier, Director General Corporate Secretariat Shelley Emmerson, Manager Access to Information and Privacy Bob Hamilton, Associate Deputy Minister	2010/11/23	33
Department of Foreign Affairs and International Trade Gérald Cossette, Associate Deputy Minister Roxanne Dubé, Director General Corporate Secretariat Monique McCulloch, Director Access to Information and Privacy Protection Division	2010/11/30	35

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings ([Meetings Nos. 33, 35, 45 and 46](#)) is tabled.

Respectfully submitted,

Hon, Shawn Murphy, P.C., MP
Chair

