

## Governmental Secrecy in Canada: A Postscript

September 2008

Many writers assert that the current Conservative Prime Minister is applying a steadily tightening chokehold on information, the oxygen of democracy. The policy reversal on *Access to Information Act* reform is only one sign of this trend, whereby it appears that, more than the Prime Minister realized or would have wished, the style has often become the substance, detracting from and colouring the message. (See the important and disturbing six part *Toronto Star* series *Secret Capital*, which began on May 26, 2008 - [www.thestar.com/News/Canada/article/429906](http://www.thestar.com/News/Canada/article/429906) )

‘To judge from his first four months in office,’ as Ian Brown wrote in the *Globe and Mail*, ‘Mr. Harper is running the most hands-on, centrally controlled federal government in living memory, a government so Harper-centric and so micro-managed by the Prime Minister's Office it feels literally patriarchal.’<sup>1</sup> Examples of secrecy appear throughout the report *Fallen Behind: Canada's Access to Information Act in the World Context*, yet many others could be noted:

- Prime Minister Harper barred reporters from the lobby outside the House of Commons chamber where they would formerly question ministers, and his office stopped advertising the time and location of cabinet meetings. The PM sharply curtailed the number of prime ministerial press conferences, and even when these occurred, his office demanded reporters submit their names for approval on a list, before they would be permitted to ask the PM a question. He tries to limit the numbers and kinds of questions reporters ask, and has adopted the Bush White House strategy of favouring friendly questioners. There was also an uproar over a new control-oriented media centre in Ottawa
- Instead of decentralizing power as promised, Mr. Harper has funnelled more and more control straight into the Prime Minister's Office. The PMO now pre-approves everything Tory ministers and MPs do in their political lives. They have been ordered to speak less to the media, and banned from discussing the government's plans. The PMO vet even MPs' letters to small-town newspapers.<sup>2</sup> Ministers who break these rules are sternly rebuked by the Prime Minister, in public.
- The Privy Council Office has such strict control over the Tory government's messaging that it pre-approves and revises comments attributed to federal ministers, does ‘severe’ edits on departmental press releases and even vets words that are to come out of the

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<sup>1</sup> *In Harper's regime, Big Daddy knows best*, by Ian Brown. *Globe and Mail*. May 13, 2006

<sup>2</sup> *'Message discipline' often springs leaks, experts caution PM*, by Campbell Clark and Bill Curry. *Globe and Mail*, March 18, 2006

mouths of university officials, according to documents obtained by Canwest News Service through an *ATIA* request.<sup>3</sup>

- On Parliament Hill, access to Mr. Harper and his cabinet has been so restricted that it has become a source of levity among reporters. The Hill Times recently carried a story on how the PM goes to great lengths to avoid reporters by taking the freight elevator and exiting out the back door.<sup>4</sup>
- In April 2006, to avoid bad press, Mr. Harper banned the media from filming the return of the bodies of four Canadian soldiers who died in Afghanistan, despite that the military and several of the families had wished for cameras to be present. The CBC had discovered through an *ATIA* request that the PMO had overruled their wishes. At the funeral of one captain, her father gave a stirring eulogy saying the young woman died to protect Canada's freedoms, not to restrict them.<sup>5</sup>
- Early in 2008, a government-appointed panel on the future of the military mission in Afghanistan, headed by John Manley, bluntly criticized the Prime Minister for allowing an "information deficit" to develop. They urged the government to immediately address the problem by, among other things, expanding the circle of public servants and ambassadors who can talk about the mission and by providing 'franker and more frequent reporting on events in Afghanistan' to Canadians.

The Information Commissioner said the Manley panel's criticism on the Afghan file could be applied elsewhere: 'They are saying Afghanistan, but you could extrapolate that to foreign affairs, to the RCMP, to the Mahar Arar affair ... all the way down the line.' The criticism by the panel - which included Derek Burney, a former chief of staff to Tory Prime Minister Brian Mulroney, and Paul Tellier, a former clerk of the Privy Council - was seen as significant because it gives third-party validation to complaints by the media, opposition MPs and others about Mr. Harper's tight lid on information.<sup>6</sup>

- In secret, then Defence Minister Gordon O'Connor signed a new NORAD continental defence agreement with the Americans – renewing it for an indefinite term and expanding to include naval operations - and parliament was allowed to debate it only after the fact. News of the deal came from Washington, and Canadian public servants

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<sup>3</sup> *Ministers' 'quotes' edited by non-elected Privy Council: Documents reveal Harper government's messaging strictly controlled, including department press releases*, by Margaret Munro. The Vancouver Sun, Sept. 15, 2008

<sup>4</sup> *Government keeps public in the dark, critics warn; Canadians denied information to which they are entitled*, by Richard Brennan. Toronto Star, April 7, 2008

<sup>5</sup> *Military officials resisted casket policy*, by Alexander Panetta. The Globe and Mail, July 3, 2006

<sup>6</sup> *Government Openness Scrutinized; Complaints Double; Lack of access to information cited* by Norma Greenaway. National Post. Feb. 4, 2008

were not allowed to talk about it. (Similarly, Trade Minister David Emerson told Canadians there was no deal with the Americans on softwood lumber hours after it had actually been finalized.)

- In 2008, Mr. Harper's aides refused to confirm whether the Prime Minister talked with Mexican President Felipe Calderon. But Mexican officials released a page-long news release not only confirming the two leaders spoke but providing highlights of the topics they discussed.<sup>7</sup> The PMO also has sometimes not informed the public about visits by foreign statesmen, such as the president of Haiti.
- The government rejected an *ATIA* request for the mysterious Middle East report written by Liberal-turned-Conservative MP Wajid Khan. It did so on the basis that records in the PMO, and other ministers' offices, are not covered by the access law.
- This year, Ottawa moved to centralize control over the drafting of Canadian embassies' reports on the human-rights records of foreign countries. Foreign Affairs officials have sent new guidelines to embassies that order them to make a "sharp, clear distinction" between sections of the report to be made public and those that will be classified. Meanwhile the United States and many other countries issue public human rights reports with relatively unvarnished assessments.<sup>8</sup>
- The Conservative government has exempted contracts with Parliament and Canada's spy agency CSIS from oversight by a new Ombudsman's post that was central to the 2006 Conservative election campaign. The government slipped the exemptions in May 2008 in regulations that empower the contract procurement Ombudsman under the *Accountability Act*. Opposition MPs were taken by surprise at the exemptions.<sup>9</sup>
- Even civil servants involved in policy development have complained about the government's zeal for keeping things close to the vest, according to a study by the Ottawa-based Public Policy Forum. 'The problem in Ottawa ... is that government has not been effective or forthcoming in communicating their agenda to officials,' the forum said in a report of September 2007. 'Efforts to work around the bureaucracy and to guard information (have) increased, while there seems to be less willingness to accept public service advice,' the report said.<sup>10</sup>

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<sup>7</sup> Brennan. *op.cit*

<sup>8</sup> *Critics blast Ottawa plan to control rights reports*, by Campbell Clark. The Globe and Mail. Aug 13, 2008

<sup>9</sup> *Contracts with CSIS, Parliament exempt from Ombudsman's eye*, by Tim Naumetz. Globe and Mail, May 20, 2008

<sup>10</sup> *Secret Capital: Parliament Frozen Out. Parliament losing power, author says*. By Bruce Champion and Joanna Smith, May 29, 2008

- In the new Canada, even *fiction* has not escaped the censor's eye: in April 2006, an Environment Canada scientist published *Hotter Than Hell*, a science fiction novel about global warming set 50 years in the future. He was instantly prohibited from promoting the book because Mr. Harper's government was quietly cutting its Kyoto Accord budget by up to 80 per cent that week. 'I obviously not only hope, but expect, that all elements of the bureaucracy will be working with us to achieve our objectives,' the prime minister explained.<sup>11</sup>
- In April 2008 there was a charge from Auditor-General Sheila Fraser that the Tories were even trying to silence the officers of Parliament, herself included, who are supposed to be independent watchdogs. She had learned about a draft proposal for a new communications strategy - or, as precision might have it, set of gag laws. The Privy Council Office, an arm of the Prime Minister's Office, would apparently be vetting her releases to the media.<sup>12</sup>
- Mr. Harper has steadfastly refused to disclose the campaign donors for his 2002 Alliance Party leadership run. His party initially failed to report more than \$530,000 in donations for their 2005 convention.<sup>13</sup>
- The lack of transparency has drawn criticism from opposing figures including Senator Pat Carney, who held several cabinet posts under Tory Prime Minister Brian Mulroney. In an interview with the CBC upon her retirement from the senate, she told of calling Mr. Harper to express her concern about his control of communications over the caucus and cabinet.<sup>14</sup>

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<sup>11</sup> *In Harper's regime, Big Daddy knows best*, by Ian Brown. The Globe and Mail, May 13, 2006

<sup>12</sup> *Info control spinning out of control*, by Lawrence Martin. The Globe and Mail, May 5, 2008

<sup>13</sup> *So much for the new governing morality*, by Lawrence Martin. Globe and Mail, May 21, 2007

<sup>14</sup> *Proudly raise the flag for freedom of information*. Editorial. Winnipeg Free Press, April 20, 2008