

# The Insider

He's the country's most prolific filer of access-to-information requests. Ottawa wants to shut him down. Does Richard Kurland know too much?

By Alasdair Roberts

RICHARD KURLAND is on a mission to improve the Canadian tax system. Kurland, an immigration lawyer, claims he can reduce your taxes by exposing lax enforcement and mismanagement within the Canada Revenue Agency, forcing it to crack down on tax cheats. "I'm going to bleed out to the media abuse story after abuse story," Kurland says from Vancouver. If Revenue Minister John McCallum is "nice" and implements Kurland's reforms, "then I release stories about how good the minister is. And if the minister's bad, well, there's malfeasance in every agency, mischief, waste, even corruption—and those stories get pushed to the top. That way you can help things along."

His plan sounds wildly improbable: how can a single citizen hold a government minister as his personal political hostage? But senior bureaucrats take Kurland's threats seriously. He is well known to them for his unending stream of requests under the Access to Information Act. Since 2002 he has filed thousands of access requests with Revenue officials, and warned them to expect "a minimum volume" of 350 requests a year, each of which can involve hundreds of documents.

Kurland, 47, has played this game before: over the past decade he's been hounding officials at Citizenship and Immigration Canada, gleaning numerous stories of departmental misconduct through his innumerable access queries and passing those stories along to the media. To senior mandarins, Kurland is a poster boy for access-to-info abuse. The Liberal government also appears to have had enough: this fall, Justice Minister Irwin Cotler's promised overhaul of the access law will likely include

changes designed to end Kurland's one-man watchdog operation.

The Access to Information Act, adopted in 1982, allows Canadians to pay a \$5 fee and request any government document of interest to them. Kurland began using the law 15 years ago, and now spends about 20 hours a week managing his stockpile of re-

quests. In 1992 he made national headlines when he disclosed that civil servants at the Immigration and Refugee Board were influencing the decisions of refugee judges. Kurland boasts that he negotiated with federal officials to obtain the early retirement of IRB chairman Gordon Fairweather as a result of the controversy. In 2003, thanks in part to documents he obtained, Immigration agreed to reconsider the cases of 92,000 Chinese applicants whose visa applications were backlogged—and pay them \$3 million in legal costs.

Kurland clearly relishes the power gained from his access requests. "It was no secret that I was helping Elinor Caplan"—Canada's minister of citizenship and immigration from 1999 to 2002—"for the first 18 months of her tenure," Kurland says. He also says he warned Caplan that "there's one issue you cannot cross me on," and if she did, "I've gotta leave with a bang." Kurland's condition: he didn't want Immigration to toughen procedures for appealing visa denials. When they did so anyway, he says, he told Caplan, "I've got to impose a political price on you." In

March 2001 Kurland embarrassed her by providing journalists with proof that customs officials were opening international mail on her department's behalf. (Caplan, for her part, "wouldn't say it's inaccurate" that Kurland advised her, but has "no recollection" of his threat.) After meeting Caplan, Canada's privacy commissioner, George Radwanski, called the mail-opening practice legal but "highly disturbing."

*Kurland's voluminous snooping has made him a thorn in the government's side*

The phrase "legal but highly disturbing" also applies to Kurland's most recent tactics. He's devised a new type of access query, asking for "all e-mails and attachments in the e-mail system" of named employees. He calls them "shotgun" requests: "One identifies, just for argument's sake, the top 100 bureaucrats. You then apply access requests to each of those individuals." To cope with the volume, Immigration technicians began taking digital snapshots of employees' entire e-mail systems, sending Kurland a list of headers for every e-mail, then providing copies of specific e-mails that piqued his interest.

Employees who have been singled out for Kurland's shotgun requests say they are now using the telephone more often and writing messages more carefully. The requests "border on harassment," says one employee. "It is unnerving to wonder if the request is directed at you personally," adds another. But Kurland, who says Immigration has four full-time employees working on his requests, argues that government workers have no legitimate expectation of privacy in the workplace.

The new version of the act promised by Cotler will likely contain amendments aimed at blocking Kurland's inquiries, including a new ban on "frivolous, vexatious or abusive" requests, and higher fees for people who run a business based on information extracted from government. In the meantime, Kurland says the Canada Revenue Agency has balked at providing the same service as Immigration. "The political masters at the Canada Revenue Agency know what I do, and what I can do," he says. "And in a minority government they do not want to take the risk." □

