

Privy Council Office Responses to Undertakings
Standing Committee on Government Operations and Estimates (OGGO)
June 5, 2023

Volume of records

Transcript:

Ms. Joanne Thomson: Mr. Shea, thank you for making yourself available as the main witness here. I will direct my question to you. The McKinsey study production of papers is uniquely large, and it's covering over a decade of contracts with the company McKinsey. How many pages of documents in total do you estimate will be provided to the committee once all of the departments, agencies, and Crown corporations have reported back to the committee? Do you have any sense of what the cost is?

Mr. Matthew Shea: I do not have an estimate of the cost. I think each individual department may or may not have that depending on how they track their translation costs which would be one of the major costs. Obviously we do not always track the work of each individual employee against different projects. You may never be able to get that full cost. In terms of the number of pages the number I've heard was 220,000 pages in total. I can return and confirm that number once I have the department's, but that's my understanding of the total number that we're talking about.

Response:

- **The estimated total amount of pages responsive to the motion for papers on behalf of the Government of Canada is estimated at 220,000 pages. The cost of translation would be tracked by each individual department.**

Waiving Cabinet Confidences

Transcript:

Mr. Gord Johns: I'm going to go back to Mr. Shea. Mr. Shea, where is the line? When you're drawing the line on whether to redact a document or not when it's in the public's interest or government's interest? I'll start with that first of all: where's the line?

Mr. Matthew Shea: I think in each case we would consult with the Department of Justice when it comes to making a decision to override, for example, personal information. There are situations where personnel information is released because it's in the public's interest to do so. When it comes to cabinet confidence, I think it's a much broader discussion and involves other consultations. But, again, the Department of Justice is really the lead for that, and it wouldn't be myself.

Mr. Gord Johns: But there's no political involvement at all in this?

Mr. Matthew Shea: There's no political involvement [Inaudible].

Mr. Gord Johns: Was it the same in 2010 under the Conservatives?

Mr. Matthew Shea: It would be the same under both. Now for cabinet confidences, I believe the Prime Minister needs to approve that, but I would have to check that.

Response:

- **The decision to disclose a Cabinet confidence must be authorized by the Prime Minister who was in office when the confidence was created, supported by the Clerk of the Privy Council.**

Using Artificial Intelligence for Translation Purposes

Transcript:

Mr. Joël Godin: Canada Post translated documents using artificial intelligence and stated that it did so in order to save time and meet the deadline. Does that mean that, because it did not have the necessary staff or internal resources to meet the deadline, they had to ride roughshod over the French language? That is how I interpret it.

By the way, I am talking about Canada Post, but this also applies to the Public Sector Pension Investment Board or Employment and Social Development Canada. There is a long list, but I will not spend all my time on that.

Don't you think this sends a negative and inconsistent message and shows a lack of will and good faith? Yes, redactions and transparency have to be considered, but so too does respect for both official languages. To my mind, as long as Canada is a bilingual country—and I want to emphasize that the two founding languages are English and French—, I will fight for this cause.

Should that same intent and will not be evident in the Privy Council's actions?

Response:

- **The Government takes protecting Canada's official languages and upholding the Official Languages Act very seriously.**
- **The Privy Council Office (PCO) submitted its documents in response to the motion for papers on time and in both official languages.**
- **Typically, translation services in the Government of Canada are provided by the Translation Bureau, who employs professional translators.**
- **The Translation Bureau has made various machine translation tools available to its professional translators and is undertaking a number of pilot projects to train these tools on specific subject fields in order to improve the quality of the machine translation.**
- **While these machine translation tools can support professional translators, translations should be reviewed by a professional translator whenever possible as part of quality assurance.**
- **PSPC's Translation Bureau is best placed to provide additional details.**

Origins of the Government’s position, particularly the 1973 principles and the 2010 reaffirmation of those principles

Transcript:

Mr. Anthony Housefather: The policy that you stated, that I believe you said was adopted in 1973 and reaffirmed in 2010, who reaffirmed that? Was it the cabinet at the time?

Mr. Matthew Shea: It would have been the government that tabled it, I believe at a parliamentary committee, if I'm not mistaken. The open and accountable government which I referenced would have been approved by the prime minister in 2011 and then reaffirmed by the current Prime Minister.

Mr. Anthony Housefather: I understand, but what I'm asking you is about the policy that you are stating allows for redactions to documents that committees call for. You used the word “government”. Who? Was it the cabinet? Was it the Clerk of the Privy Council? Who approved the policy?

Mr. Matthew Shea: I would need to return to the committee to say exactly who submitted the policy. It was submitted to parliamentary committee on behalf of the government, if you're talking about the 1973 principles governing the production of government documents.

Mr. Anthony Housefather: Yes, I would like to know—and I think probably others would like to know—who the unnamed person was that presumes to speak on behalf of the government.

Response:

- **In 1973, the government of the day tabled guidelines in the House of Commons describing its policy for the process it would take when responding to notices for the production of papers. The Hon. Allan McEachern, then President of the Queen’s Privy Council for Canada, tabled the principles on March 15, 1973 on behalf of the Government and stated as follows:**

“We believe that Members of Parliament require factual information about the operations of the government in order that they may carry out their parliamentary duties. (...) We are also aware that the desire to make available as much information as possible must be balanced against effective public administration, protection of the security of the state and the rights to privacy.”

- **The principles set out sixteen categories of information that are not usually provided to parliamentarians. These categories have traditionally been accepted by the House of Commons and its committees. Examples of these categories include, but are not limited to:**
 - **Cabinet papers**
 - **Legal advice**
 - **Information detrimental to national security, international relations or federal-provincial relations**
 - **Information received in confidence from outside of the government**
 - **Information the disclosure of which is prohibited by statute**

- **These principles were re-evaluated and reaffirmed in the 2010 Government response to the 22nd Report of the Public Accounts Committee. In a letter to the Committee, then Minister of Justice and Attorney General of Canada, the Honourable Rob Nicholson, and then Leader of the Government in the House of Commons, the Honourable Jay Hill, welcomed the “opportunity for the Government to state its views on the powers of committees to order the production of government documents....” The government response emphasized that “successive governments have taken the view that it is not always in the public interest to disclose certain classes of information.” It also respectfully disagreed with the assertion that the power to send for papers and records is absolute and unfettered, while committing to providing as much information as possible to uphold the values of openness, transparency and accountability.**

Disclosure of the Government’s legal opinion regarding its obligations to disclose documents to parliamentary committees

Transcript:

The Chair: We're out of time, Mr. Housefather. Do you have a quick question and they can get back to us?

Mr. Anthony Housefather: Thank you, Mr. Chair. I guess my only question, if you can get back to me in writing, would be to ask: would it possible, then, to get a copy —and I'm sure it would be privileged—of the legal opinion of the Department of Justice that says there is this ability to trump parliamentary supremacy when it comes to the production of documents. Thank you.

Response:

- **Legal advice provided to the Government of Canada is protected by solicitor-client privilege and is usually not disclosed outside of the executive branch of government. I can share the government’s legal position that there are certain limits imposed on public servants in terms of the types of information that can be disclosed in response to requests from Parliamentary committees. The underlying advice and analysis is protected by solicitor-client privilege.**