

Another year, more government secrecy

by Ken Rubin

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Kicker: The government's regressive access-to-information bill is now in the Senate's hands, but that is not the only threat to transparency in the capital

The new year brings with it at least four basic problems that put transparency under threat.

Problem one: “pro-active” sanitized data and propaganda dominates Bill C-58

Canadian government officials and politicians like to spin their messages and manipulate records. No better example of this is found in Bill C-58 where the government gives itself license to post at its own pace, and then unilaterally destroy when convenient, government “free” sanitized or selected summary information.

Such a proposed “pro-active” disclosure system would not be subject to independent review and places the prime minister, ministers and Parliament outside of any access-to-information request-review system forever.

It is a controlled disclosure system designed to deflect from a system of full-fledged access to information and ensures there will be large expenses that will be difficult to trace.

Some of the outside-access disclosed materials will border on being pure propaganda, like the prime minister's mandate letters and briefing note titles. Briefing notes, for instance, will more and more, become sanitized government talking points. Yet they will take months to be released, and, at times, still be totally or partly exempt or excluded from public release.

Problem two: entitlement syndrome is far from being the exception

At the same time, Canadian officials, appointees and politicians like and fight for their personal secrecy entitlements. Just ask one former appointee, former Governor General Adrienne Clarkson. Her expenses, after she left office, as partly disclosed in existing public accounts, created a mini-firestorm in late 2018.

Now in 2019 it's parliamentary officials in British Columbia whose long-time and undetected extravagant spending is triggering calls for access coverage and more political oversight of the expenses.

The desire to protect their own can be as simple as not providing officials' individual bonuses and any reasons why so many public officials deserve extra public monies.

Problem three: when in doubt, subvert public access

If you ever doubted that the government predominantly hides information, do not expect 2019 to disappoint. It used to be removal of key information found in post-it notes like at National Defence dealing with the Somalia military-killing affair.

Now it's DND proudly removing banned Vice-Admiral Mark Norman's name in DND internal correspondence.

Everyone inside government knows there are creative avoidance options, including doing government business orally thus preventing the public from knowing about the real way government operates.

Problem four: cloak what you are doing in secrecy

In suppressing public access, governments need not be overtly deceptive and can avoid putting things in writing. They simply need to delay responses and choose from the large legal secrecy tool box under the Access to Information Act.

Keeping with military examples, the current government can and did use exemptions and delays to hide most data on the \$19 billion dollar fighter jet replacement program.

And they took matters a step further and placed a lifetime gag order on all those involved in replacing Canada's aging fighter jet fleet.

Expect more, not less, such exemptions and gag orders in 2019.

Enter the Senate

In 2019, the Senate among others, will be attempting to unravel and untangle the killing off - rather than the improvement - of Canadians' access-to-information rights.

Government witnesses in 2018 at the Senate Standing Committee on Legal and Constitutional Affairs hearings on Bill C-58 did not budge on wanting to keep key records either unrecorded or off-limits.

Non-government witnesses to date have provided useful discussions on matters like improving indigenous access.

Sometimes though testimony heard - like from not one but three corporate lawyers from one law firm on two separate occasions - were intent on adding to the secrecy protection accorded to their corporate clients.

Senate committee members, however, seem to be on to the government game plan that wants to:

- . exclude the prime minister and cabinet ministers from access requests and review
- . rig and damper down future reviews by Parliament
- . restrict users'access, including for indigenous requesters seeking land claims materials
- . give out expensive government published information as “pro-active” disclosure
- . do little about frequent, long delays and over-redacting records that Canadians want.

Senators' questioning of government intentions has been useful for a needed debate on the government's regressive efforts found in Bill C-58. Hearings continue this February.

But will time run out before the election call comes, so that Bill C-58 dies on the Order Paper? Or will the government amendments prevail and Bill C-58 passes with some Senate amendments?

The best that could happen, if Bill C-58 dies, is to have the Senate then undertake in a new Parliament a model bill study that explores getting transparency advances on the table. That's better than yet more efforts at secrecy and legalizing sanitized data offerings and propaganda being on the table.

Yes, turning back the Trudeau administration's secrecy practices and starting afresh would be a good ending to 2019.

Ken Rubin has championed greater transparency for over five decades and is reachable at kenrubin.ca