

Canadian Military Flouts Access to Information Law

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If Canada's armed forces exist to protect our democracy why does its leadership flout laws meant to protect citizens' rights to know what the government is doing?

Recently the *Ottawa Citizen's* David Pugliese [reported](#) that top military officers denied the existence of an internal report even though they were warned doing so would be illegal under the Access to Information Act, which gives individuals the right to government records for a small fee. The office of the Canadian Forces's top legal adviser, Judge Advocate General Commodore Geneviève Bernatchez, denied the existence of an internal report highlighting problems with the court martial system. But, in reality, there were electronic and paper copies of the document.

This incident falls on the heels of a DND official telling the pre-trial hearing of Vice Admiral Mark Norman that his superiors deliberately [omitted](#) his name from documents to skirt Access to Information rules. After receiving an access request concerning Norman, the official brought it to his superior. According to the testimony, "he gives me a smile and says ... 'Don't worry, this isn't our first rodeo. We made sure we never used his name [in internal communications]. Send back nil return.'" (Feeling the need to [protect](#) the military witness from reprisals, the judge ordered a publication ban on their name.)

In fact, DND has repeatedly broken access laws. Informed that an officer attended a talk that Rideau Institute director Steven Staples delivered about the war in Afghanistan on January 26, 2006, Pugliese requested all CF documents mentioning public speeches in Halifax between January 15 and 30 of that year. Department officials claimed they did "a thorough and complete search" and couldn't find any record of an officer who attended the function and wrote a report. But, the officer assigned to Staples' speech inadvertently left a record. When the *Ottawa Citizen* turned it over to the information commissioner, DND finally acknowledged the record existed.

The secrecy is long-standing. In 1996 Information Commissioner John Grace pointed to a "[culture within](#) ND [national defense]/CF of secrecy and suspicion of those seeking information." As part of its cover-up of the murders committed by Canadian soldiers in Somalia, CF officials illegally doctored documents concerning the brutal murder of Shidane Arone. As part of an investigation into the March 1993 slayings in Somalia, CBC reporter Michael McAuliffe requested briefing notes for officers dealing with the media. DND was caught hiding documents, wildly inflating the cost of releasing them and altering files. At the 1995-97 inquiry into the killings in Somalia, Chief of Defence Staff Jean Boyle admitted the CF deliberately violated the spirit of Access rules, while a colonel and commander were convicted by a military court of altering documents requested under that legislation. *Dishonoured Legacy: The Lessons of the Somalia Affair: Report of the*

Commission of Inquiry Into the Deployment of Canadian Forces to Somalia described DND's "unacceptable hostility toward the goals and requirements of access to information legislation."

The secrecy is not about security. DND can restrict information under access legislation for numerous reasons. This includes if information is deemed "[injurious](#) to the conduct of international affairs, the defence of Canada or the detection, prevention or suppression of subversive or hostile activities."

DND also has more explicit means of bypassing access requests since the law doesn't apply to much of the military. Since the early 2000s DND has massively expanded the special forces — Canadian Special Operations Forces Command now has [nearly 3,000](#) personnel — partly because they are not required to divulge any information about their operations. But, noted the late *Toronto Sun* columnist Peter Worthington, "a secret army within the army is anathema to democracy."

It seems the military leadership would prefer the public only learn about the Canadian Forces what they deem necessary to release, despite laws that say otherwise.

Should we trust an institution that flouts the rules of democracy to defend democracy?

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