

and except for those documents for which solicitor-client privilege applies and is asserted.

In cases where privacy interests of an individual exist, and subject to and in compliance with applicable privacy legislation and access to information legislation, researchers for the Commission shall have access to the documents, provided privacy is protected. In cases where solicitor-client privilege is asserted, the asserting party will provide a list of all documents for which the privilege is claimed.

Canada and the churches are not required to give up possession of their original documents to the Commission. They are required to compile all relevant documents in an organized manner for review by the Commission and to provide access to their archives for the Commission to carry out its mandate. Provision of documents does not require provision of original documents. Originals or true copies may be provided or originals may be provided temporarily for copying purposes if the original documents are not to be housed with the Commission.

Insofar as agreed to by the individuals affected and as permitted by process requirements, information from the Independent Assessment Process (IAP), existing litigation and Dispute Resolution processes may be transferred to the Commission for research and archiving purposes.¹⁵⁵

Gaining access to archival government records about the administration of the residential school system has been an important part of the mandate of the Truth and Reconciliation Commission of Canada. Such access has been essential for our own understanding of the history of government policy and practice in relation to Aboriginal peoples in general and residential schools in particular. But it has also been necessary to fulfilling our mandate obligation to ensure ongoing public access to the records through the National Centre for Truth and Reconciliation. The Commission's attempts to obtain records were frustrated by a series of bureaucratic and legal roadblocks.

In April 2012, the Commission was compelled to file a "Request for Direction" in the Ontario Superior Court of Justice regarding access to relevant federal records housed in the national archives. At issue was the question of what Canada's obligations were under the Settlement Agreement with respect to providing to the TRC archived government documents housed at Library and Archives Canada. The Commission, Aboriginal Affairs and Northern Development Canada, the Department of Justice, and Library and Archives Canada had very different views as to how the TRC should acquire these records.

In LAC's view, its role was that of the neutral keeper of government records, whose task was to facilitate and empower federal government departments to canvass their own archival holdings.

Faced with the onerous task of conducting its own research through LAC's vast holdings, Canada's position was that its obligation was limited to searching and producing relevant documents from the active and semi-active files in various departments. The government's