COMMISSIONS AND TRIBUNALS

Caron Rollins

Commissions of inquiry and administrative tribunals are agencies created and authorized by all levels of government in Canada. This chapter begins with an overview of federal Royal Commissions of Inquiry (cois) and includes comparator information for provincial commissions of inquiry. Seven federal Royal Commissions spanning the years 1970 to 2012 are examined for their publication output and for the dissemination and stewardship practices provided for these outputs, by the commissioner(s), the Privy Council, DSP, Lac, or others. The publication output of a coi is more than just a final report. At the time of going to press, only incomplete information was available for the Truth and Reconciliation Commission, and the National Inquiry into Missing and Murdered Indigenous Women and Girls was just beginning its work. The chapter concludes with a section on tribunals—indeed independent government agencies that may be referred to as a tribunal, an administrative board, or even a commission (in this chapter the word tribunal will be used). Tribunals must be created by federal or provincial legislation or municipal bylaw. Once created, tribunals deal with a particular public policy area and may move decision making out of the courts. The outputs of tribunals typically consist of reports and decisions. Sources
consulted to locate coi and tribunal outputs are listed in the bibliography at the end of the chapter.

COMMISSIONS OF INQUIRY

All of the outputs produced by cois, particularly Royal Commissions, inform citizens, have enduring value, are precarious, and, because of their “difference,” require attention to their dissemination and stewardship. These four points are explained in full in the introductory chapter to this book. Attention to dissemination and stewardship must be more focused in the digital era, where changing digital formats pose challenges, analog formats (print and microform) play a lesser role, and the dissemination practices of traditional publishers, including the Government of Canada and commercial publishers, have changed (e.g., open government) or ceased, and where documents have become subject to access-to-information laws. Budget 2012 required Publications Canada to transition to exclusively electronic publication by 2014. These changes require that a variety of sources and approaches be employed to find all the output of cois. Attention should focus on government websites; web archives; electronic collections including text and video; libraries; archives; public legal information institutes like canlii (a website project of the Federation of Law Societies of Canada); and open government initiatives. It is important to consider the possibility that donations of coi material may be found in local archives or libraries.

It is through the Privy Council Office (PCO) of Canada, the Prime Minister’s Office, and the federal Cabinet that federal cois come into being. The Privy Council website states that “although Canadians are perhaps most familiar with ‘royal commissions,’ there are several different kinds of Commissions of Inquiry. These can be established under either Part I or Part II of the Inquiries Act, or any one of 87 or more federal statutes.”

A federal coi is officially established when the Privy Council of Canada issues an Order-in-Council (OIC), designated by the abbreviation “P.C.” plus a numeric identifier consisting of a number and the year. Federal cois may or may not be designated Royal Commissions, and it
was recommended by the Law Reform Commission of Canada in its 1997 report that “technically a royal commission is a commission issued under the great Seal of Canada, which in practice generally means a commission established under Part I of the Inquiries Act. But the adjective ‘royal’ is much abused with some commissions technically entitled to its use not employing it, and others appropriating it when they have no business doing so. In our view the term is best ignored.”

Federally, in Canada, departmental inquiries also exist; these are created under Part II of the Inquiries Act. As well, a federal statute may allow a federal minister to create a coi. Two notable examples of federal inquiries created under statutes other than the Inquiries Act are the Mackenzie Valley Pipeline Inquiry (Berger, 1974), established on March 21, 1974, by Order-in-Council P.C. 1974-641 under s. 19(f) and (h) Territorial Lands Act; and the Truth and Reconciliation Commission, established by schedule N of the Indian Residential Schools Settlement Agreement.

Provinces may also create cois under their respective inquiry statutes. For a list of these statutes see the “Table of Authorizing Statutes” in The Conduct of Public Inquiries: Law, Policy, and Practice. Current versions of these provincial inquiry statutes (as well as the federal Inquiries Act) are available on c an l i i . Every province has a bibliography covering its inquiries. See, for example, Royal Commission and Commissions of Inquiry under the “Public Inquiries Act” in British Columbia, a 1945 publication updated twice (1946–80 and 1981–2009), and Royal Commissions and Commissions of Inquiry in the Province of Alberta, 1905–1976. There is an older bibliography that covers all provinces, Provincial Royal Commissions and Commissions of Inquiry, 1867–1982: A Selective Bibliography.

Digitized collections of provincial cois are available for some provinces. Four examples are British Columbia Royal and Special Commissions: 1872–1980, Alberta Digital Royal Commissions, New Brunswick Digital Commissions of Inquiry: The Early Years, and Royal Commissions of Ontario. The Registry of Canadian Government Information Digitization Projects (see chapter 9 herein) lists these four.

For a fuller discussion of the distinction between a commission of inquiry and a Royal Commission, see Canadian Official Publications and
Records of Federal Royal Commissions (RG 33).\textsuperscript{14} For greater detail about the historical, legal, and political aspects of commissions and tribunals, consult Administrative Law: Commissions of Inquiry;\textsuperscript{15} Commissions of Inquiry: Praise or Reappraise;\textsuperscript{16} and The Conduct of Public Inquiries: Law, Policy, and Practice.\textsuperscript{17} The first two titles discuss in detail policy and advisory commissions and investigative commissions. Commissions of Inquiry and Policy Change: A Comparative Analysis,\textsuperscript{18} in its case studies of ten commissions, includes both types.

\section*{Output and Checklists}

The output of a commission includes interim reports, the required final reports, research studies, briefs, submissions, and evidence presented at hearings, as well as minutes or transcripts. Final reports should provide listings of these documents, as well as the names of the commissioners and other members of the commission’s staff, secretariat, researchers, and consultants hired. The Order-in-Council should include section(s) detailing disposition of the outputs of the commission. The Order-in-Council should be included in the final report; when it is not included, the Order-in-Council may be difficult to obtain. Although federal Orders-in-Council are a type of statutory instrument, Orders-in-Council that establish a commission and appoint its commissioner(s) are not of the type whereby the full text is required to be published in the Canada Gazette, Part I.\textsuperscript{20} The Privy Council database only includes the full text of Orders-in-Council approved “after November 1, 2002,” and older Orders-in-Council must be requested from LAC; those published between 1867 and 1924 can be searched online.\textsuperscript{21} Provincial Orders-in-Council lists are maintained either by the Queen’s Printer for the province or by the office of the Executive Council (the provincial equivalent of the Privy Council).

Final reports of federal commissions are tabled in the House of Commons, recorded in the Debates (Hansard) and Journals, and assigned a sessional paper number. Prior to Budget 2012, final reports were available in print from Publications Canada and at federal depository libraries (see chapter 1) and have been available online from LAC for a number of years (see chapter 2). A comparison of the names of the commissioners submitting the final report, and those originally appointed, may reveal changes over the course of a commission’s inquiry. The names of participating individuals have research value because these individuals...
may write about a coi afterwards or donate their documents to an archive or library.

Print, microfilm, and online bibliographies and checklists exist for federal cois. George Fletcher Henderson’s *Federal Royal Commissions in Canada, 1867–1968: A Checklist* [Henderson],\(^{22}\) is a listing of 396 federal coi entries; in 1977 Micromedia issued a complete microfiche edition of the reports listed.\(^{23}\) Additionally, with permissions from coi staff, official reporters, and Public Archives of Canada (now Library and Archives Canada), Micromedia had worked with official reporters and commission office staff to create microform collections of final reports and transcripts of public hearings. Content guides were created by Micromedia for these coi collections. Micromedia’s last production of coi transcripts of proceedings was in 1984.\(^{24}\) Final reports and select documents other than proceedings continue to be added to the Microlog microfiche collection and the Canadian Public Policy e-book collection. Canadian Public Policy is a commercial product produced by the Canadian publisher Des Libris. Henderson has been updated by the Library of Parliament a total of four times,\(^{25}\) which has continued the numbering system established by Henderson and included federal cois regardless of the use of the word *Royal* in the title of the coi. “Each entry contains the title of the commission, date of appointment, Order in Council, P.C. number, the Minister recommending the commission, commissioner(s), report title, when tabled in the House, sessional paper number, whether or not public meetings were held and whether there are any supplementary reports, or studies commissioned.”\(^{26}\) The group of federal cois now numbers 436: 433 listed in the 2009 Library of Parliament update plus three listings (Air India, Indian Claims, Cohen) retrieved from the PCO Commissions of Inquiry website.


Two important online sources for listings of cois are the *Index to Federal Royal Commissions* from Library and Archives Canada (LAC)\(^{27}\) and the Commissions of Inquiry website from the PCO.\(^{28}\) Both list cois established under the *Inquiries Act*. The *Index to Federal Royal

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Commissions includes bibliographic records for all documents held at LAC including print, microformat, and online holdings. The Commissions of Inquiry website is organized by name of commissioner chair and includes the title of the final report, date of final report, and a link to the LAC Electronic Collection where a PDF copy of the final report resides. LAC also maintains the Government of Canada Web Archive (see chapter 2). OCLC WorldCat is a source for bibliographic information with holdings from academic and public libraries, and from the Library of Parliament. AMICUS is also a source for bibliographic information and Canadian library holdings.29

Whalen’s Records of Federal Royal Commissions (RG 33) provides details about COIS, from Order-in-Council to transfer of records at the end of a commission.30 According to Whalen, between 1960 and 1985, records were transferred directly to the Dominion Archivist (now Library and Archives Canada); by 1985 and with the coming into force of the Access to Information Act,31 they were transferred directly to the Clerk of the Privy Council. The PCO website states that “Commissions of Inquiry created under Part I of the Inquiries Act file their records with the Clerk of the Privy Council at the end of their work. The Privy Council Office then arranges for the safe transfer of the records to Library and Archives Canada.”32 Once transferred, COI records may be subject to review under the Access to Information Act33 and by restrictions on Cabinet records.34 Records not available to the public are subject to review prior to release. Records of COIS can be difficult to access (i.e., only upon request) if held only at the PCO or the LAC or by the Library of Parliament. However, the PCO has underway a project to digitize documents that are supplementary to the final reports of federal COIS. Supplementary documents, referred to as outputs in this chapter, include research studies, briefs, submissions, and minutes or transcripts of hearings. The digitized documents will initially be available only by request, but plans are in place to add them to the Publications Canada electronic collection.
Current Scholarship

Commissions of Inquiry and Policy Change: A Comparative Analysis, the most recent (2014) study of Canadian cois, includes studies of eight federal and two provincial commissions. A “theoretical framework of ideas, institutions, actors and relations” was employed to study the selected cois; each coi was studied by a separate researcher, with a separate chapter devoted to it. Inwood and Johns state that “where cois are concerned, key actors include the commissioners, coi staff, researchers, the public and the media.” In the examination of the actors in each of the cois, the researchers did not restrict themselves to just the commissioner’s final reports but also cited documents relating to public hearings (transcripts, submissions, exhibits) and research reports. The importance of long-term access to coi documents is underscored by research of this type. One argument refuted in Commissions of Inquiry and Policy Change, and by other scholars, is that unless a coi results in legislative change, it is a failure. Current scholarship on cois in Canada and Britain points to the complexity of policy change and that all “cois have some potential to be the source of, or stimulus for, policy change.” The importance is in the doing: “the value of a royal commission may arise from its report, the data compiled, and the analysis made, indeed, in the process itself...one can easily be misled by making assumptions based only [on] a commission’s report.”

Stewardship and Dissemination

Of the ten cois studied in Commissions of Inquiry and Policy Change, six and the Cohen Commission were examined for this chapter’s review of dissemination and stewardship practices. The tables show the results particularly for the dissemination and stewardship of the reports, submissions, hearings, and exhibits of each coi. It cannot be emphasized enough the importance of examining the complete table of contents and appendices of a coi, as well as any web archive, to ascertain all of the outputs. The chief commissioner is responsible for dissemination of material during the inquiry and for the contents of the final report. It
is often assumed that a final report contains just the report; other outputs of the coi are likely included.

Following are the seven Canadian federal cois examined (with the chair and the year of final report following the name):

- Royal Commission on New Reproductive Technologies (Baird; 1993). See table 4.3.
- Royal Commission on Aboriginal Peoples (Erasmus and Dussault; 1996). See table 4.4.

Once the outputs of the seven cois were determined by examining the reports of each, information about dissemination and stewardship of the outputs was obtained from bibliographic verification of reports, submissions, hearings, and exhibits; location of Canadian holdings and public accessibility for these holdings; examination of the final reports of each coi for information about the disposition of final reports and papers; and contact with official agencies such as the PCO, Library of Parliament, LAC, federal departments, plus court reporters and the Cable Public Affairs Channel (CPAC).

ACCESS TO COMMISSION OF INQUIRY MATERIALS

The specific sources consulted for the seven cois, and which should be consulted when looking for documents from any particular coi, are listed as follows; all sources are freely available on websites (as shown in this chapter’s bibliography).
Privy Council Office, *Commissions of Inquiry*, for commission name, name of chair, OIC number, and link to final report in LAC Electronic Collection

Library and Archives Canada

- *Index to Federal Royal Commissions* [LAC Index], for bibliographic information on materials associated with 200 federal OICs
- Amicus search, for holdings in various libraries and at LAC
- Archives search, for archival holdings at LAC
- LAC Electronic Collection website, for locating e-books and MARC records
- Government of Canada Web Archive

Government of Canada Publications Catalogue, for bibliographic information, particularly final reports and links to Government of Canada publications electronic collection

- OCLC WorldCat website, for holdings at research libraries and other contributing member libraries, in particular Canadian academic libraries and the Library of Parliament
- Archive-It website, for web archives created by member institutions that may include OICs
- The Cable Public Affairs Channel (CPAC), for video archives of select OIC hearings

For provincial OICs, additionally consult:

- Government and Legislative Libraries Online Publications (GALLOP) portal, for locating “full-text and bibliographic content from the electronic government documents collections of 10 Canadian jurisdictions”
- Legislative Library websites, for library catalogues and digital collections
- Provincial archives websites, for online catalogues and finding lists
- Provincial Queen’s Printer and Executive Council websites, for OIC listings
The Commission of Inquiry into the Wrongful Conviction of David Milgaard is a good example of a provincial inquiry in which careful checking of alternate sources can unearth previously inaccessible material. The final report was published in print in two volumes with an accompanying CD-ROM that contained nineteen appendices; one appendix includes the complete transcript of the trial by jury. The report and appendices have been digitized by the Saskatchewan Legislative Library, and the website of the inquiry is in the Internet Archive.

The precarious nature of commissions is illustrated by the access issues that the CD-ROM For Seven Generations presents. It contains everything collected and published by the Royal Commission on Aboriginal Peoples. See figure 4.1 for the six sections of For Seven Generations.

For over a decade there have been problems in accessing the content of the CD-ROM. The operating system on which it was based is obsolete. The CD-ROM was created in 1996 for use with a microprocessor 386; it was originally distributed by the DSP and was available for purchase until 2010. With a patch, the compact disc could be used with Windows 2000, Vista, and XP. Now only older machines can access the content. The CD-ROM continues to be sought by researchers, for it is the only source for two hundred research reports and, until a University of Saskatchewan digital archives project in 2012, for the transcripts of public hearings. The digitization project of the Privy Council Office offers hope for access to the research reports through Publications Canada. The reasoning behind the creation of the CD-ROM is documented in the final report. References to the intended content of the disc are found in the opening pages of volume 1, page xiii, of the final report and in the appendices to volume 5 (appendix C, page 303, and appendix G, page 332).

At the close of our work, a CD-ROM containing a large part of the evidence we considered will be available: the public hearing transcripts, this report and other special reports, discussion papers and much of the research conducted for us. The CD-ROM will include a guide for use by teachers in secondary schools and adult learning programs.
The University of Victoria Archives holds manuscripts from commission staff who worked on the commission’s CD-ROM project. The University of Saskatchewan Archives holds the transcripts of hearings and round-table discussions, donated by Commissioner Alan Blakeney.

In contrast to the inaccessible outputs stored on the Royal Commission’s CD-ROM are the very accessible outputs of the Mackenzie Valley Pipeline Inquiry. Most outputs of this COI are available in a Micromedia collection and a (still usable) CD-ROM issued in 2004. On November 2016, LAC released on its website a database of the Royal Commission on Aboriginal Peoples; the database contains the previously inaccessible outputs.45

Will researchers working on other commissions of inquiry encounter similar technical problems in accessing research reports and transcripts of public hearings? The spring 2016 addition of more years of content to the Government of Canada Web Archive has improved

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access to the outputs of cois; the latest version of the archive, released in 2016, includes the web archives of four recent cois (Cohen, Major, Iacobucci, and Oliphant). Commissioners of cois choose the material that is to be placed for public dissemination on a coi website. Websites do provide improved access (over physical format) to coi outputs. Web archives, properly preserved, can provide for long-term dissemination and stewardship.

For the seven federal cois chosen for this chapter, tables 4.1 to 4.7 show the results of examining each coi for dissemination and stewardship of its outputs, in particular the reports, submissions, hearings, and exhibits. It can be assumed that final reports are all listed in the Government of Canada Publications Catalogue, in all formats available at the time of publication and as added afterwards, for example, PDF versions. As previously noted, the Privy Council Office transfers all records of a coi (outputs) to lac. When the OIC establishing a commission has included a section on disposition of documents, this has been noted in the table for the coi. Questions about federal cois may be sent to the Privy Council Office. Abbreviations used in the tables an be found in the Abbreviations section at the start of this book. As with the Royal Commission on Aboriginal Peoples, commercial publication of outputs and donations of papers to libraries and archives are not unusual for federal cois.

Access to the documents of the Truth and Reconciliation Commission (TRC) and the Indian Residential Schools Settlement Agreement [IRSSA] is still evolving. The work of the TRC ended in December 2015. As of August 2016, the TRC website was live. It has been web archived and is available in two Internet archive collections: Canadian Government and Columbia University. The National Centre for Truth and Reconciliation (NCTR) at the University of Manitoba will continue the work of the TRC, including the responsibility for the core of material gathered by the commission, described as “7,000 video statements of Survivors and intergenerational Survivors of the schools, and in the millions of documents from government and churches that attest to their experience.” The NCTR has underway a project, “Websites of Reconciliation,” that will include the websites of the TRC and IRSSA. The final report of the TRC was published on the TRC website and is included
The National Inquiry into Missing and Murdered Indigenous Women and Girls was established on August 3, 2016, by Order-in-Council P.C. 2016-0742 (website http://www.mmiwg-ffada.ca/). The OIC details the requirements for interim and final reports, the availability of transcripts of public hearings, and the deposit of records with the Clerk of the Privy Council. The Government of Canada held a “pre-inquiry design process” that lasted from December 2015 to January 2016. Overviews of the pre-inquiry design meetings and a final report are available on the Pre-Inquiry Design Process website. This coi is also referred to as the Joint National Commission into Murdered and Missing Indigenous Women and Girls; to date, OICs from Saskatchewan and Alberta have been issued. A previous example of provinces joining a federal coi was during the Commission of Inquiry on the Blood System in Canada.
### Table 4.1.

Royal Commission on the Status of Women, 1970 (Chair: Florence Bird)

<table>
<thead>
<tr>
<th>Output</th>
<th>Dissemination</th>
<th>Stewardship</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>OIC P.C. 1967/312, section 9(d), “file with the Dominion Archivist the papers and records of the Commission”</strong></td>
<td>Privy Council, Final report included</td>
<td>Privy Council, LAC</td>
</tr>
<tr>
<td>Final report</td>
<td>Print; Publications Canada</td>
<td>DSP, LAC, LACEC</td>
</tr>
<tr>
<td>Commissioners</td>
<td>Listed in OIC, Final report</td>
<td></td>
</tr>
<tr>
<td><strong>COI staff/secretariat</strong></td>
<td>Final report, listed in appendix</td>
<td></td>
</tr>
<tr>
<td>Studies prepared</td>
<td>Final report, listed in appendix. Print, Publications Canada</td>
<td>DSP, LAC, LACEC</td>
</tr>
<tr>
<td>Consultants</td>
<td>Final report, listed in appendix</td>
<td></td>
</tr>
<tr>
<td>Submissions (briefs)</td>
<td>Final report, listed in appendix</td>
<td>LAC</td>
</tr>
<tr>
<td>Briefs and transcripts</td>
<td>Final report, listed in appendix. Micromedia 1972 briefs drawn from RG 33/89, vols. 11–18, National Archives of Canada</td>
<td>LAC, MM</td>
</tr>
<tr>
<td>Information kit</td>
<td>Print, Publications Canada</td>
<td>LAC, DSP</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>OUTPUT</th>
<th>DISSEMINATION</th>
<th>STEWARDSHIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>O IC P.C. 1974/641 pursuant to s. 19(f) and (h) <em>Territorial Lands Act</em>; now 23(h), “report to the Minister of Indian Affairs and Northern Development...dispatch and file with the Minister the papers and records of the inquiry”</td>
<td>Privy Council, Final report included</td>
<td>LAC</td>
</tr>
<tr>
<td>Transcripts of community hearings</td>
<td>INAC CD-ROM</td>
<td>INAC, LAC, DSP</td>
</tr>
<tr>
<td>Transcripts of public hearings, briefs, exhibits, submissions, and index</td>
<td>Print; Micromedia film of verbatim transcripts of public hearings and most textual exhibits (briefs, submissions)</td>
<td>INAC, LAC, MM</td>
</tr>
<tr>
<td>OUTPUT</td>
<td>DISSEMINATION</td>
<td>STEWARDSHIP</td>
</tr>
<tr>
<td>--------------------------------------------</td>
<td>---------------------------------------------------</td>
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</tr>
<tr>
<td>Final report</td>
<td>Print, Publications Canada</td>
<td>Privy Council, LAC, LACEC, DSP</td>
</tr>
<tr>
<td>Commissioners</td>
<td>Final report, listed in vol. 1</td>
<td>Privy Council, LAC, LACEC, DSP</td>
</tr>
<tr>
<td>COI staff/secretariat/contractors</td>
<td>Final report, listed in vol. 2, appendix F</td>
<td>Privy Council, LAC, LACEC, DSP</td>
</tr>
<tr>
<td>Participants in public hearings</td>
<td>Final report, listed in vol. 2, appendix B</td>
<td>Privy Council, LAC, LACEC, DSP</td>
</tr>
<tr>
<td>Participants in symposia colloquia, and other commission activities</td>
<td>Final report, listed in vol. 2, appendix C</td>
<td>Privy Council, LAC, LACEC, DSP</td>
</tr>
<tr>
<td>Written submissions and opinions</td>
<td>Final report, listed in vol. 2, appendix D, plus a report of 500 personal submissions in research report volumes</td>
<td>LAC</td>
</tr>
<tr>
<td>Briefs submitted at public hearings with lists of intervenors</td>
<td>30 print volumes of transcripts of hearings, submissions, and related material</td>
<td>LAC, LP</td>
</tr>
<tr>
<td>Research studies</td>
<td>15 print volumes, listed in vol. 2, appendix E; Print, Publications Canada</td>
<td>LAC, DSP</td>
</tr>
<tr>
<td>Background papers, other contributors</td>
<td>Final report, listed in vol. 2, appendix E</td>
<td>LAC</td>
</tr>
<tr>
<td>Information kit</td>
<td>Print, Publications Canada</td>
<td>LAC, DSP</td>
</tr>
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</table>

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<table>
<thead>
<tr>
<th>OUTPUT</th>
<th>DISSEMINATION</th>
<th>STEWARDSHIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>OIC P.C. 1991/1597, section 11, states “the Commissioners be directed to file papers and records and papers of the inquiry as soon as reasonably may be after the conclusion of the inquiry with the Clerk of the Privy Council”</td>
<td>Privy Council, Final report (only schedule 1 to the OIC included)</td>
<td>Privy Council, LAC</td>
</tr>
<tr>
<td>Final report</td>
<td>Print, Publications Canada; Libraxus CD-ROM; INAC html, Queen’s IR(^52)</td>
<td>The Mandate Royal Commission on Aboriginal Peoples: Background Documents(^52)</td>
</tr>
<tr>
<td>Commissioners</td>
<td>Final report, listed in appendices</td>
<td></td>
</tr>
<tr>
<td>Staff and advisors</td>
<td>Final report, listed in vol. 5</td>
<td></td>
</tr>
<tr>
<td>Commission consultations and research</td>
<td>Final report, listed in vol. 5, appendix C, providing an overview of the public hearings</td>
<td></td>
</tr>
<tr>
<td>Commission publications</td>
<td>Final report, vol. 5</td>
<td>LAC, LACEC, DSP</td>
</tr>
<tr>
<td>Research studies, special studies</td>
<td>Libraxus CD-ROM</td>
<td>LAC, LACEC, DSP</td>
</tr>
<tr>
<td>Round-table reports</td>
<td>Print, Publications Canada; Libraxus CD-ROM</td>
<td>LAC, DSP, LACEC</td>
</tr>
<tr>
<td>Transcripts of hearings and round tables</td>
<td>Libraxus CD-ROM; University of Saskatchewan Archives (Smith 2009); StenoTran Services Ltd.</td>
<td>LAC, University of Saskatchewan Archives(^54)</td>
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<tr>
<td>OUTPUT</td>
<td>DISSEMINATION</td>
<td>STEWARDSHIP</td>
</tr>
<tr>
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<td>-------------------------------------------------------------------------------</td>
<td>----------------------------------</td>
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<tr>
<td>Briefs and submissions, and research studies not published in book or CD-ROM</td>
<td>Final report, vol. 1, page ii</td>
<td>LAC</td>
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<tr>
<td>Education guide</td>
<td>Libraxus CD-ROM; University of Victoria Archives holds manuscripts</td>
<td>University of Victoria Archives</td>
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<tr>
<td>Videos (VHS)</td>
<td>Final report, listed in VHS format, vol. 5, appendix C, p. 303; streaming digital, University of Victoria Libraries</td>
<td>Privy Council, LAC, University of Victoria Libraries</td>
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</table>
TABLE 4.5.
Commission of Inquiry on the Blood System in Canada, 1997
(Chair: Horace Krever)

<table>
<thead>
<tr>
<th>OUTPUT</th>
<th>DISSEMINATION</th>
<th>STEWARDSHIP</th>
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<tbody>
<tr>
<td>OIC (1 federal, 3 provincial)</td>
<td>Privy Council, Final report includes Saskatchewan,</td>
<td>Privy Council,</td>
</tr>
<tr>
<td>P.C. 1993-1879, section J,</td>
<td>Ontario, and Prince Edward Island</td>
<td>LAC</td>
</tr>
<tr>
<td>states that the Commissioner</td>
<td></td>
<td></td>
</tr>
<tr>
<td>“is directed to file papers and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>records of the inquiry with the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clerk of the Privy Council”</td>
<td></td>
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</tr>
<tr>
<td>Final report</td>
<td>Print, Publications Canada</td>
<td>Privy Council,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>LAC, LACEC, DSP</td>
</tr>
<tr>
<td>Commissioner</td>
<td>Listed in OIC</td>
<td></td>
</tr>
<tr>
<td>Persons appearing before the inquiry</td>
<td>Final report, listed in vol. 3, appendix F</td>
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</tr>
<tr>
<td>Public submissions</td>
<td>Final report, listed in vol. 3, appendix G</td>
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<td>Exhibits of hearings and</td>
<td>Print</td>
<td>LAC, Dalhousie Law</td>
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<td>supplementary documents</td>
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<td>LAC, computer disc by</td>
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<td>Health Canada,</td>
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<table>
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<tr>
<th>OUTPUT</th>
<th>DISSEMINATION</th>
<th>STEWARDSHIP</th>
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<tbody>
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<td>OIC P.C. 2001/569, section d(vii) states: “the Commissioner is to file papers and records of the inquiry with the Clerk of the Privy Council.”</td>
<td>Privy Council, Final report included</td>
<td>Privy Council, LAC</td>
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<td>Final report</td>
<td>Print; Publications Canada</td>
<td>Privy Council, LAC, LACEC, DSP, GCPE</td>
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<td>Website</td>
<td>Health Canada</td>
<td>GCWA</td>
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<td>Staff</td>
<td>Final report, listed in appendix D</td>
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<td>Submissions</td>
<td>Final report, listed in appendix A; Gc.ca web archive</td>
<td>GCWA</td>
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<td>Consultations including open public hearings</td>
<td>Final report, listed in appendix B; CPAC video archive (partial); website includes summaries of open public hearings</td>
<td>LAC, GCWA</td>
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<tr>
<td>Research</td>
<td>Final report, listed in appendix C; website, discussion papers; research projects summarized on others by request to LAC or by request to principal researchers. Expert research round tables by request to host. Selected papers republished in Romanow Papers, 3 vols. (Marchildon, McIntosh, and Forest 2003)</td>
<td>LAC, GCWA</td>
</tr>
<tr>
<td>Transcripts</td>
<td>Website</td>
<td>GCWA</td>
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<tr>
<td>Output</td>
<td>Dissemination</td>
<td>Stewardship</td>
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<td>---------------------------------------------</td>
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</tr>
<tr>
<td>OIC P.C. 2009/1860, directs the commissioner to use an automated document management system specified by the Attorney General of Canada and the Privy Council; directs the commissioner to ensure that members of the public can obtain transcripts of public proceedings; all records to Privy Council for transmittal to LAC; Ringtail Legal database to remain confidential</td>
<td>Privy Council, Final report included</td>
<td>Privy Council, LAC</td>
</tr>
<tr>
<td>Final report</td>
<td>Print, Publications Canada; DVD, Publications Canada; website</td>
<td>Privy Council, LAC, LACEC, DSP, GCPE, SFU</td>
</tr>
<tr>
<td>Interim report</td>
<td>Print, Publications Canada; CD-ROM, Publications Canada; website</td>
<td>LAC, LACEC, DSP, GCPE, SFU</td>
</tr>
<tr>
<td>Commissioner and staff, public forum presenters, submitters, witnesses, hearings, participants</td>
<td>Final report, listed in appendices</td>
<td></td>
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**Table 4.7.**
Commission of Inquiry into the Decline of Sockeye Salmon in the Fraser River, 2012 (Chair: Bruce Cohen)
**Table 4.7. (cont’d)**

<table>
<thead>
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<th>Output</th>
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<th>Stewardship</th>
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<td>Exhibits</td>
<td>Website; Ringtail Legal</td>
<td>LAC, SFU, GCWA, DSP</td>
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<td>Research reports</td>
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<td>Technical reports</td>
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<td>Policy and practice reports</td>
<td>Website; DVD; Ringtail Legal</td>
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<tr>
<td>Transcripts</td>
<td>Website; DVD; Ringtail Legal</td>
<td></td>
</tr>
<tr>
<td><strong>DVD:</strong> terms of reference, final report, interim reports, statutes, transcripts, cited exhibits, 15 technical reports, 21 policy and practice reports</td>
<td><strong>CD-ROM</strong>, Publications Canada</td>
<td>LAC, DSP</td>
</tr>
<tr>
<td>Website: introductory videos, calendar, transcripts, exhibits, policy and practice reports, submissions, witness and participant lists, reports and publications. The website will continue to be available through LAC.</td>
<td>Fisheries and Oceans Canada</td>
<td>LAC, GCWA, SFU</td>
</tr>
</tbody>
</table>

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TRIBUNALS

Tribunals are created by federal, provincial, or municipal legislation. They fall under the area of administrative law. There are many legal and scholarly works available that discuss Canadian boards and administrative tribunals, such as *Administrative Law in Canada*, which opens with this quotation: “in Canada, boards are a way of life. Boards and the functions they fulfil are legion.” Tribunals issue decisions on applications, conduct investigations, and issue reports, guidelines, and standards. These outputs have the same characteristics as other government documents; they inform citizens, have enduring value, are precarious, and, because of their “difference,” require attention to their dissemination and stewardship.

Tribunal decisions may involve citizens as individuals or affect all citizens collectively. Tribunals are created by government and can be dissolved by government. A recent example is the establishment of British Columbia’s Civil Resolution Tribunal in July 2016 to focus on strata title and small claims disputes. The Canadian Wheat Board was established by the Government of Canada in 1935 and dissolved in 2012. The National Energy Board regulates pipelines and energy in Canada, and its recent panels and decisions (regarding Trans Mountain pipeline, Kinder Morgan Canada, Energy East pipeline) affect all Canadians. The decision of a provincial workers’ compensation board can have grave consequences for workers and their families—as may the decision of a veterans tribunal.

The “Federal Organizations by Category” section of the Government of Canada website lists 27 “administrative tribunals” and 110 “agency/boards”; a description of the difference between the two categories is not provided. A 1970s study examining the print publication practices of administrative boards in Canada surveyed 145 Canadian boards, of which 35 were federal boards, agencies, or tribunals. Recently, Warkeruk examined losses in access to the content of federal government databases, comparing the *Weekly Checklist of Canadian Government Publications* and *InfoSource: Directory of Federal Government Databases*. She found that tracking changes and migrations of databases was “difficult and convoluted” and that publication of some board decisions on
government websites ceased in favour of publishing on canLII. For example, the Immigration and Refugee Board states on its website: “A selection of decisions rendered by the IRB are available on the Canadian Legal Information Institute’s (canLII) website.”61

ACCESS TO TRIBUNAL MATERIALS

Tribunal websites may publish their decisions as browsable or searchable lists or may embed them in a database. Some federal tribunals, such as the National Energy Board, had reports and decisions disseminated by the DSP. Prior to the Internet, requesting to be added to a tribunal’s “mailing list” for receipt of print reports and decisions was routine work for government documents librarians. Final reports and other documents of tribunals may also be found in the Microlog microfiche collection and the Canadian Public Policy e-book collection.

Tribunal decisions may also be republished by commercial legal publishers, as stand-alone print (or electronic) subject reporters (lists of these can be found in legal research handbooks and citation manuals)—for example, the Canada Energy Law Service, in which are published select National Energy Board decisions. Tribunal publications, including decisions, may be found in commercial online legal databases, such as LexisNexis Quicklaw, particularly true prior to the advent of the Internet. Commercial online legal databases would provide access to many individual databases on their mainframe computers, and the databases were accessible, pre-Internet, via “terminal access to mainframe computers via a telecommunications network.”62 As far back as the 1990s, Quicklaw (which merged with LexisNexis in 2002) had a practice of actively seeking board decisions for inclusion in its online service. Since the advent of the Internet and the creation of government websites and websites like canLII, more decisions are easily and freely accessible. canLII includes federal and provincial board decisions on its site; in 2008 alone, twenty-five databases of labour board and tribunal decisions were added. To date, nineteen federal boards have been included. The interest of canLII and legal publishers in tribunal decisions likely arises from the right of appeal to the courts that is provided for by some tribunals.
A comparison of three important federal tribunals—the National Energy Board (\textbf{NEB}), the Canadian Environmental Assessment Agency (\textbf{CEAA}), and the Transportation Safety Board (\textbf{TSB})—shows completely different approaches to online access to outputs. \textbf{NEB} uses a document management system (OpenText Content Service) for its \textit{Decisions \\& Filings} and its \textit{Regulatory Document Index}. The \textbf{CEAA Registries} and the \textbf{TSB Reports} use website search and browse functions for document retrieval.

When locating information from a particular board, agency, or tribunal, the following open sources should be checked:

- The website of the board, agency, or tribunal. Determine the kind of publications that the board releases—annual reports, reports of investigations, decisions on applications—and whether these are available on the website. If there is no website, check the website of the government ministry or department responsible for the enabling statute that created the tribunal.
- The enabling statute of the board, agency, or tribunal. Use the Government of Canada’s Justice Laws Website, \texttt{canLII}, or a provincial laws website.
- Print publications. Determine whether publications have been or continue to be released in print, and where they might have been deposited, i.e., federally, in a provincial legislative library, a local university library, or a courthouse library.
- \texttt{OCLC WorldCat} (for holdings at research libraries and other contributing member libraries, in particular Canadian academic libraries and the Library of Parliament).
- Government of Canada Publications Catalogue website. Decisions by the federal board, agency, and tribunals listed in schedules \textit{I}, \textit{I.1}, and \textit{II} of the \textit{Financial Administration Act}\textsuperscript{63} are required to be sent to the catalogue (see Canada Treasury Board Secretariat, \textit{Procedures for Publishing}).\textsuperscript{64}
- Government and Legislative Libraries Online Publications (\texttt{GALLOP}) portal website for provincial boards.
- Government of Canada website. Search for “decisions.”
The Open Government Portal’s search function does not provide useful results, i.e., links to the decisions of a specific federal board, agency, or tribunal.

Municipal websites.

Web archives.

CONCLUSION

The starting point for locating all outputs, documents, and activities of a commission of inquiry should be the enabling Order-in-Council, followed by the final report itself. Next, examine each for information relating to the documents that have been made publicly available and those that are subject to restrictions. Look for digital collections, websites, web archives, videos (including streaming), CD-ROMS, DVDs, and databases. Look for donated collections. Search for secondary works.

The starting point for locating all outputs, documents, and activities of a tribunal is its website or the website of the government ministry or department responsible for the enabling statute that created the tribunal. Then, look for collections of decisions published in print reporters and in online commercial and free databases. Determine if the publication of decisions is required and where deposit is mandated. Contact your local law library.

Commissions of inquiry are established by our governments to examine issues, events, or institutions within Canadian society. Tribunals are established to deal with specific interactions between government agencies and particular individuals or groups. During and at the conclusion of their inquiries, COIs and tribunals produce government publications that “underpin informed citizen engagement.” Identifying the dissemination and stewardship practices for this category of government publications is complex and challenging. Complete, full-text collections of all the outputs of COIs and tribunals should be freely accessible with discovery technologies linking the activities of the producers of the outputs, the disseminators of the outputs, and the stewards of the outputs.
Notes
9. Canadian Legal Information Institute, canlii.org.
12. Maillet, Provincial Royal Commissions.
16. Manson and Mullan, Commissions of Inquiry.
17. Ratushny, The Conduct of Public Inquiries.
18. Inwood and Johns, Commissions of Inquiry and Policy Change.
27. Library and Archives Canada, Index to Federal Royal Commissions.
30. Whalen and Government Archives Division, Records of Federal Royal Commissions, xvii.
35. Inwood and Johns, Commissions of Inquiry and Policy Change, 19.
36. Inwood and Johns, Commissions of Inquiry and Policy Change, 35.
41. Canada, Royal Commission on Aboriginal Peoples, For Seven Generations.
42. Castellano and Hawkes, “Research Reports Prepared for the Royal Commission on Aboriginal Peoples.”
44. Canada, Royal Commission on Aboriginal Peoples, Dussault, and Erasmus, Report of the Royal Commission on Aboriginal Peoples.
49. Email communication with the National Centre for Truth and Reconciliation, July 2016.
55. Marchildon, McIntosh, and Forest, Romanow Papers.
56. Blake, Administrative Law in Canada, 3.
60. Wakaruk, “What Do You Mean You Don’t Have a Copy?”
61. Immigration and Refugee Board of Canada, “Decisions.”

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