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Office of the Public Sector Integrity
Commissioner of Canada

2012-13 ANNUAL REPORT

Office of the Public Sector
Integrity Commissioner
of Canada



Commissariat à l'intégrité
du secteur public
du Canada

This Report is available on our website at: www.psic-ispcc.gc.ca

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The Honourable Noël A. Kinsella
Speaker of the Senate
The Senate
Ottawa, Ontario K1A 0A4

Dear Mr. Speaker:

I have the honour of presenting you with the Office of the Public Sector Integrity Commissioner's sixth annual report for tabling in the Senate, pursuant to section 38 of the *Public Servants Disclosure Protection Act*.

The report covers the fiscal year ending March 31, 2013.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Mario Dion". The signature is fluid and cursive, with a large loop at the end.

Mario Dion
Public Sector Integrity Commissioner

The Honourable Andrew Scheer, M. P.
Speaker of the House of Commons
House of Commons
Ottawa, Ontario K1A 0A6

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Mario Dion
Public Sector Integrity Commissioner

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Public Servants Disclosure Protection Act

The federal public administration is an important national institution and is part of the essential framework of Canadian parliamentary democracy;

It is in the public interest to maintain and enhance public confidence in the integrity of public servants;

Confidence in public institutions can be enhanced by establishing effective procedures for the disclosure of wrongdoings and for protecting public servants who disclose wrongdoings, and by establishing a code of conduct for the public sector;

Public servants owe a duty of loyalty to their employer and enjoy the right to freedom of expression as guaranteed by the *Canadian Charter of Rights and Freedoms* and this *Act* strives to achieve an appropriate balance between those two important principles.

– Excerpt from the Preamble
Public Servants Disclosure Protection Act

Office of the Public Sector Integrity Commissioner of Canada

Our Vision

As a trusted organization where anyone can disclose wrongdoing in the federal public sector confidentially and safely, the Office of the Public Sector Integrity Commissioner of Canada enhances public confidence in the integrity of public servants and public institutions.

Our Mission

The Office provides a confidential and independent response to:

- disclosures of wrongdoing in the federal public sector from public servants or members of the public; and
- complaints of reprisal from public servants and former public servants.

Our Values

The Office operates under a set of values that defines who we are and how we interact with our clients and stakeholders:

RESPECT FOR DEMOCRACY

We recognize that elected officials are accountable to Parliament, and ultimately to the Canadian people, and that a non-partisan public sector is essential to our democratic system.

RESPECT FOR PEOPLE

We treat all people with respect, dignity and fairness. This is fundamental to our relationship with the Canadian public and colleagues.

INTEGRITY

We act in a manner that will bear the closest public scrutiny.

STEWARDSHIP

We use and care for public resources responsibly.

EXCELLENCE

We strive to bring rigour and timeliness as we produce high-quality work.

IMPARTIALITY

We arrive at impartial and objective conclusions and recommendations independently.

CONFIDENTIALITY

We protect the confidentiality of any information that comes to our knowledge in the performance of our duties.

We adopted our new PSIC Values and Ethics Code in June of 2012. In addition to the values set out in the Values and Ethics Code for the Public Sector, this code includes two values that are central to our work, namely Impartiality and Confidentiality.



Commissioner's Message

Although it may seem premature to make such a statement for an organization that has only existed for six years, 2012-13 was an unprecedented year for the Office of the Public Sector Integrity Commissioner.

First, there was a 20% increase in disclosures over the last twelve months, which could mean that not only is awareness of the Office growing but also that it is seen as an organization that can be trusted. The disclosures we handle are diverse and come from all areas of federal activity, meaning we have not yet been able to determine any trends or systemic issues.

The year was also productive: we completed almost four times as many investigations than last year (37 versus 10). The effort put into the investigations in 2012-13 led to the submission of three case reports to Parliament. Tabling these reports is no longer seen as a rarity but as a normal outcome for an investigative body such as ours. As I present Parliament with this annual report, I will have tabled six case reports to Parliament in total since March 2012. By making public our findings of wrongdoing, we help deter the occurrence of wrongdoing in the federal public sector.

The organizations affected by our investigations also take us seriously. They collaborate with us and accept our recommendations, which aim to improve the situation or reduce the risk of recurrence of wrongdoing.

I am very proud of our achievements but am also convinced that we can do much better in terms of public awareness, the effective use of our resources, accessibility to our Office and in increasing understanding of how we add value to the federal public sector.

To increase the ease with which our services can be accessed and the quality of exchanges with people, on-line submissions will soon be accepted. We have also adopted service standards, which came into force on April 1, 2013. These commit us to conducting case analysis in fewer than 90 days, and where an investigation is launched, completing it within a year, unless the situation is clearly exceptional.

As an independent agent of Parliament, one of the keys to our success is the confidence people and public sector organizations have in us. We have made clear progress in this regard. We have become more effective, efficient, and rigorous in the past years. We will continue in this direction, and endeavour to fulfill the spirit of the *Act* and fully leverage the mandate of my Office.

Mario Dion
Public Sector Integrity Commissioner

Operational Achievements

OUR OFFICE SERVES A DEMONSTRATED NEED IN THE PUBLIC SECTOR: A SAFE, EFFECTIVE MECHANISM FOR PEOPLE WITH GENUINE CONCERNS TO COME FORWARD IN GOOD FAITH, KNOWING THAT THEY CAN DISCUSS THEIR CONCERNS OPENLY AND CONFIDENTIALLY WITH AN INDEPENDENT BODY THAT WILL ACT ON THE INFORMATION PROVIDED, OR ASSIST IN GUIDING THEM TO SOMEONE WHO COULD MORE APPROPRIATELY HELP THEM.

This year, we made significant progress in solidifying our foundation of operational achievements.

Founded Cases of Wrongdoing

Following the tabling of our first case report in 2011-12, we tabled three more cases this year. These cases, each different in scope and nature, demonstrate the extent of our mandate under the *Act*, both in terms of the breadth of the definition of “wrongdoing” and the jurisdiction we have over the wide range of federal public sector organizations. These case reports are available on our website at www.psic-ispcc.gc.ca.

This year’s [first case report](#) involved a Crown Corporation that issued licences to apprentice pilots who did not meet the statutory requirements under the Laurentian Pilotage Authority Regulations. The definition of wrongdoing includes contravention of an Act or Regulation. In this case, the breach was specific and represented what appeared to be an isolated action, but it nevertheless constituted a wrongdoing under the *Act* and was duly reported to Parliament. As we stated in our case report: “Respect for the law is a fundamental obligation of all public servants, and any failure to do so must be identified and addressed. In this way, respect for and compliance with the law will be encouraged, and contravention of the law will be discouraged.”

This year's [second report](#) focused on the actions of a senior public servant at the Canadian International Development Agency who misused government assets, breached the *Values and Ethics Code for the Public Service* and committed gross mismanagement by engaging in private business activities and accepting private business contracts with an organization that also deals with the government. The public servant failed to properly disclose these private business activities, as required, used government property for non-official use, and wilfully disregarded the obligations to uphold a public servant's ethical values. This was the first case in which we defined a "serious breach" of a code of conduct, and it has provided guidance and clarity to public servants in this regard.

In all three cases, recommendations were made for corrective action, and our Office was satisfied with the responses we received from the Chief Executives in regard to implementing them.

Our [third report](#) involved the actions of a border services officer at the Canada Border Services Agency (CBSA) who refused to conduct examinations of individuals under "look out" at a border crossing in Northern Ontario. The officer also identified himself

as a border services officer as a means of evading the law during a police operation and affiliated himself with known organized crime figures. We found that these actions constituted a serious breach of CBSA's Code of Conduct and the *Values and Ethics Code for the Public Service*.

These two cases underscored the obligations placed on public servants to carry out their duties in accordance with the departmental and public service-wide codes of values and

ethics, and of the importance of respecting and maintaining the relationship of trust that all public servants have with Canadians.

In all three cases, recommendations were made for corrective action, and our Office was satisfied with the responses we received from the Chief Executives in regard to implementing them. It is also important to underscore that under the *Act*, organizations and individuals have an obligation to cooperate during an investigation and to provide access to any information, person or premises that we require. We are pleased to report a consistently high and complete level of cooperation from each of the three organizations who were the subject of case reports this year.

Reprisal Cases

The *Act* provides for the possibility of conciliation of a reprisal complaint during the course of an investigation by our Office, at the recommendation of the investigator. Last year, we reported that in one case, conciliation was ongoing at the time of our Annual Report. We can now report that this case was settled, to the satisfaction of all parties, as a result of that process, using the services of an outside conciliator appointed by our Office and agreed to by the parties. Consequently, this investigation was closed. In accordance with the *Act*, the Commissioner reviewed the terms of settlement before they were finalized and approved them. This oversight function allows the Commissioner to be satisfied that the settlement represents a fair and equitable resolution of the issues that he directed to be investigated.

This year, another reprisal case was settled among the parties, after we had completed our investigation and referred it to the Tribunal. This matter was not conciliated under the provisions of the *Act*, but rather settled by the parties themselves before the Tribunal hearing occurred. It clearly demonstrates that reprisal complaints can be settled not only during an investigation, but at any time the parties involved feel it is appropriate to do so and before a final determination is made by the Tribunal.

At the end of this fiscal year, there is one active case before the [Tribunal](#).

Operational Statistics

This year saw a number of successes that are key to demonstrating continued and increased success in carrying out our core investigative and reporting mandate.

In addition to the three founded cases of wrongdoing which we reported to Parliament, this year showed a marked increase in the number of disclosures and in the number of investigations launched and completed. There were a total of 113 disclosures made to our Office, which represents a 20% increase from last year. We launched 28 investigations (disclosure and reprisal) and we completed 37 investigations. The number of reprisal complaints however, has decreased from 43 in 2011-12 to 24, which is on par with the historical average.

There may be many reasons for the increased number of disclosures and founded cases of wrongdoing, while reprisals have returned to their previous level, but we feel there is no clear evidence at this point to fully explain these movements. We know, from the number of website visits and media interest, that the tabling of case reports

heightens the attention paid to our work. Similarly, our increased outreach activities (see next Chapter) have also improved awareness and confidence in coming forward with a disclosure.

Introducing Service Standards

Recognizing that coming forward with a disclosure is a difficult decision and one that requires careful consideration, it is important that files are dealt with by our Office in a timely manner. Beginning April 1, 2013, we will be instituting service standards in order to provide greater transparency and certainty to our stakeholders, as well as to have an objective means of measuring our own performance. These standards will apply to new files as of April 1, 2013.

The *Act* provides a 15-day time limit for us to determine whether to act on a complaint of reprisal. In addition, we will apply the following service standards, barring exceptional circumstances:

- General inquiries will be responded to within one working day;
- A decision to investigate a disclosure of wrongdoing will be made within 90 days of the discloser's first contact with our Office; and
- Investigations will be completed within one year of being launched.

These standards will be implemented and supported through a streamlining and process-mapping initiative that will be completed next year. We will assess the adequacy of current processes and structures, and identify ways to improve our efficiency.

In addition to the three founded cases of wrongdoing which we reported to Parliament, this year showed a marked increase in the number of disclosures and in the number of investigations launched and completed.

Table 1 – 2012-13 Operational Statistics

Total number of general inquiries received and responded to in FY 2012-13		244
Disclosures		
Total number of disclosures of wrongdoing (2012-13)		214
Number of disclosures of wrongdoing carried over from previous years	93	
Number of disclosures of wrongdoing received in 2012-13	113	
Number of disclosures of wrongdoing (reconsideration files)	8	
Active disclosure files as of March 31, 2013		78
Currently under admissibility review	54	
Currently under reconsideration at admissibility review	1	
Currently under investigation	23	
Investigation completed - Case Report pending	1*	
Completed disclosure files		136
After admissibility review	106	
After investigation	19	
Number of files resulting in a Case Report to Parliament	4**	
Completed after reconsideration	7	
Reprisals		
Total number of reprisal complaints (2012-13)		53
Number of reprisals carried over from previous years	27	
Number of reprisals received in 2012-13	24	
Number of reprisals (reconsideration files)	2	
Active reprisal files as of March 31, 2013		13
Currently under admissibility review	4	
Currently under investigation	7	
Currently under reconsideration at admissibility review	1	
In conciliation as part of an ongoing investigation	1	
Currently before the Public Servants Disclosure Protection Tribunal	1	
Completed reprisal files		40
After admissibility review	23	
Completed after reconsideration at admissibility review	1	
After investigation	14	
After conciliation	0	
Further to decisions of the Public Servants Disclosure Protection Tribunal	2	

* This Case Report was tabled in Parliament on April 18, 2013.

** 4 files resulting in 3 case reports tabled in Parliament

Additional Statistics

In accordance with the *Act* and to manage operations effectively, the Office has been tracking operational activity and results. Below is a quick snapshot of some of the overall trends.

Table 2: The number of disclosures continues to increase each year, with reprisals coming down from a peak last year

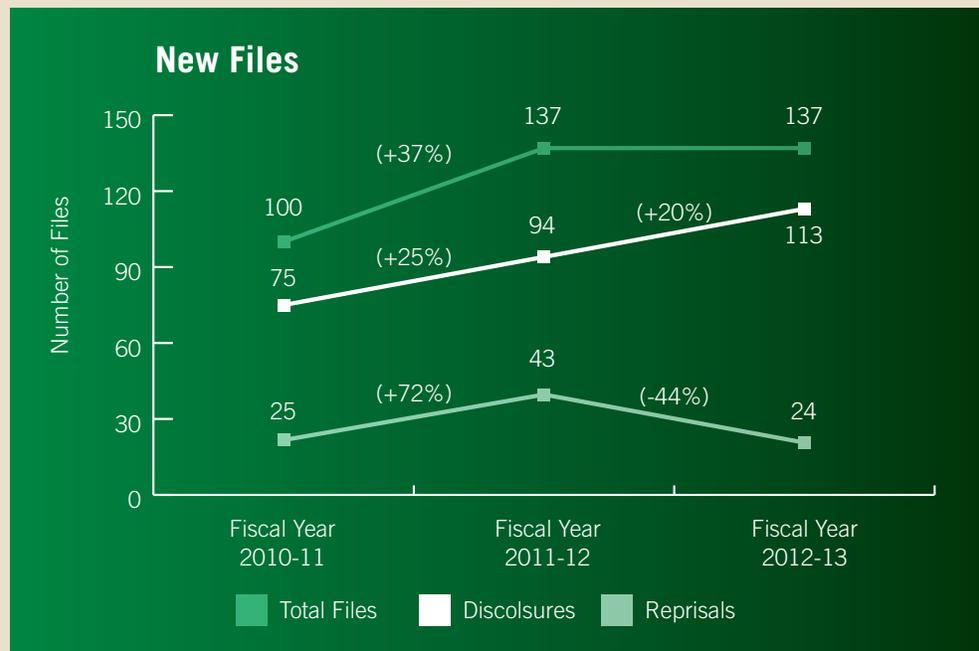


Table 3: Over the last two years the number of launched investigations has drastically increased



Table 4: The number of files the Office has completed has increased steadily, demonstrating efficiency and preventing backlog and carry over

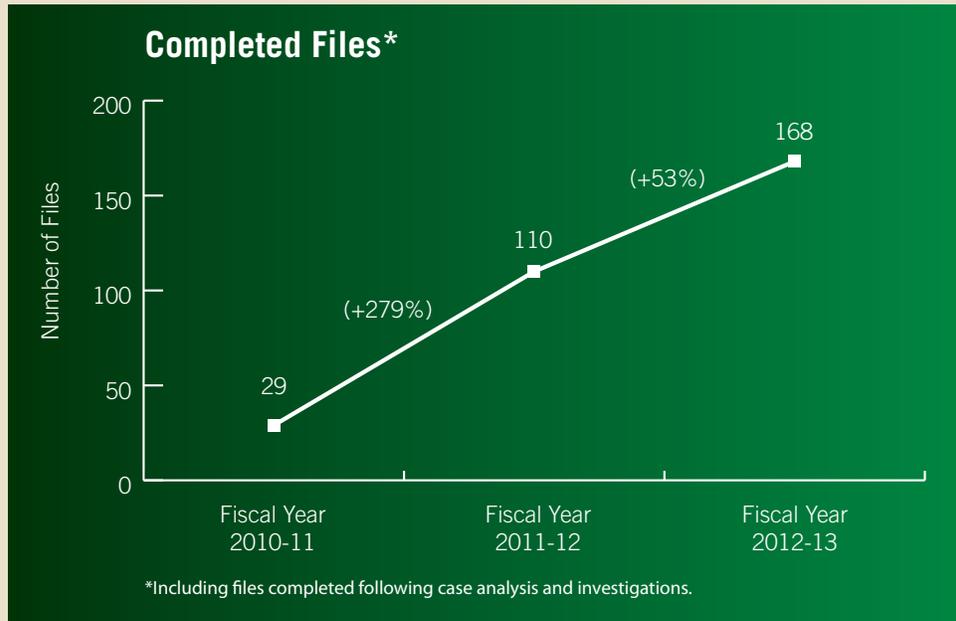
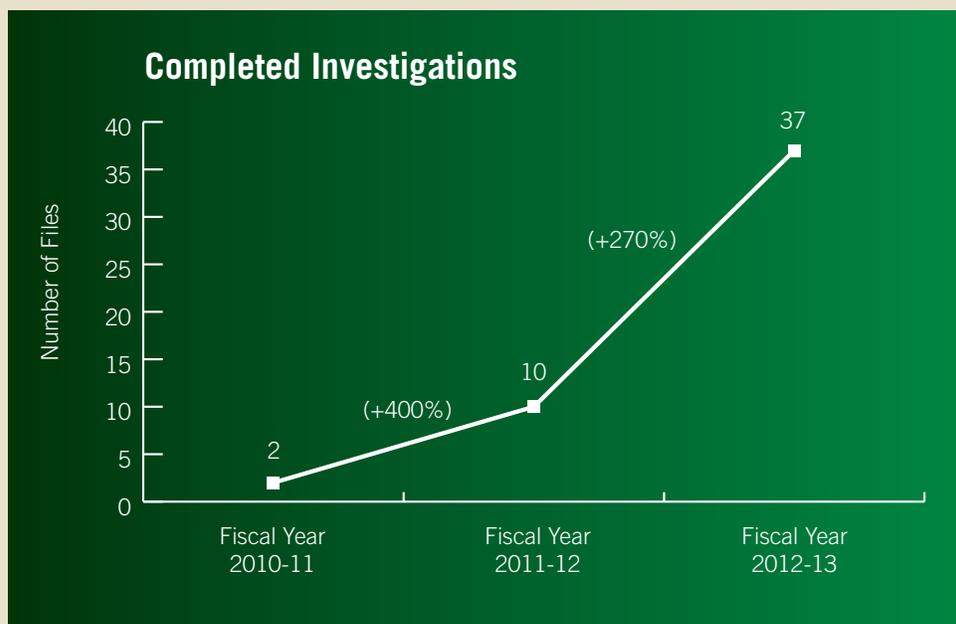


Table 5: The Office completed a record number of investigations in 2012-13, demonstrating significant operational achievements



Our ability to complete such a volume of investigations over the last year demonstrates our improved operations and is indicative of our capacity to conduct new investigations in a timely fashion, according to our new service standards.

While not all investigations lead to a finding of wrongdoing, in many cases we are nevertheless able to provide valuable feedback to relevant organizations following an investigation.

Raising Awareness and Engaging Stakeholders

KNOWLEDGE OF OUR MANDATE AMONG PUBLIC SERVANTS AND THE GENERAL PUBLIC, EVEN AFTER SIX YEARS, REMAINS LOWER THAN DESIRED. HOWEVER, THANKS TO STEADILY INCREASING VISIBILITY IN MEDIA FOLLOWING THE TABLING OF OUR CASE REPORTS AND ENHANCED OUTREACH ACTIVITIES WITHIN THE PUBLIC SECTOR, WE ARE RECEIVING MORE DISCLOSURES THAT ARE WITHIN OUR MANDATE.

Quarterly meetings continue to be held with the PSIC Advisory Committee, which fosters communication and dialogue among stakeholders and the Office of the Public Sector Integrity Commissioner.

Increasing Awareness Among Public Sector Employees, Managers and Executives

Since the creation of the Office, we have always sought out opportunities to meet with public sector employees at all levels as a means of increasing awareness of the disclosure and reprisal regime and our Office. We have made strides over the years making ourselves known through

presentations, one-on-one meetings with the Commissioner, participation in stakeholder meetings and conferences, in targeted communications and a more prominent web presence.

This year, we met with 20 different federal organizations thanks in part to an invitation sent by the Commissioner offering to address management groups and other public servants to raise awareness of our work. These included both large and small departments and agencies, three of the Federal Councils, and members of APEX.

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We also attended three large conferences held for public servants (National Managers' Community forum, APEX conference and Financial Management Institute's Professional Development Week).

Other Engagement Activities

Over the year, the Commissioner or other PSIC representatives met with local and provincial counterparts and stakeholders. In addition, the Commissioner met with his counterpart in the United States, at the Office of Special Counsel, to exchange information regarding best practices. Staff also met with visiting delegates from China to share information on Canada's disclosure regime. Commissioner Dion and staff also met with with l'École nationale d'administration publique, the Conference Board of Canada, the Canada School of the Public Service and the Library of Parliament. Feedback from these sessions and meetings has thus far proved to be very positive, and we will continue to seek out these types of opportunities.

Raising awareness of our work within the public sector and general public remains a priority for us, and we will continue our efforts in this regard over the coming years.

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Enhancing Accessibility

One of the new guiding principles in our 2012-15 Strategic Plan is accessibility. We have committed to being more approachable, to making our processes transparent, and to be forthcoming with our results.

In light of this principle, we put in place an accessibility action plan to focus primarily on improving the manner in which disclosers and alleged victims of reprisal can interact with our Office.

The activities of this accessibility action plan include a re-engineering of our operational processes, a thorough review of all communications between people and the Office and improving the process for making a disclosure and a reprisal complaint by developing an online submission tool.

We hope to launch the online submission tool in 2013-14.

Closing

As stated in last year's annual report, we are prepared to participate in the independent review of the *Act* to be launched by the Treasury Board Secretariat. We are ready to share our recommendations based on our experience in implementing the *Act* to date in order to improve the tools available to us in fulfilling our mandate.

In concluding this year's annual report, I look forward to continuing to serve Canadians, Members of Parliament and federal public sector employees in the delivery of a trusted and confidential disclosure protection regime in Canada.