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Annual Report on the *Public Servants Disclosure Protection Act*

2011-12



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on the *Public
Servants Disclosure
Protection Act***

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Introduction

Section 38.1 of the *Public Servants Disclosure Protection Act* (PSDPA) requires that the Chief Human Resources Officer prepare an annual report for the President of the Treasury Board to table in Parliament. The report must provide information on activities related to the disclosures made in public sector organizations that are subject to the Act. The current document, the fifth annual report under the PSDPA, covers the reporting requirements for the period April 1, 2011, to March 31, 2012.

The PSDPA establishes procedures for handling allegations of wrongdoing and complaints of reprisal and provides concrete support for grounding public sector culture firmly in values and ethics. For details on the origin and intent of the Act and definitions of key terms used in this report, please refer to the *Annual Report on the “Public Servants Disclosure Protection Act” 2007–08*ⁱ and the information related to the Act provided on the Office of the Chief Human Resources Officer’s (OCHRO’s) website.ⁱⁱ

This report includes information on disclosures made according to internal procedures established under the Act, as reported to OCHRO by the senior officers or the chief executives of public sector organizations. It does not cover disclosures or reprisal complaints made to the Office of the Public Sector Integrity Commissioner of Canada, which are covered by the Commissioner’s report to Parliament.

Reported Disclosure Activity

There are 155 active organizations in the federal public sector that are currently subject to the Act.¹ Of these organizations, 124 inform OCHRO of senior officer appointments made under the Act. Pursuant to subsection 10(4) of the Act, 31 organizations have declared that they would not establish internal disclosure procedures or appoint a senior officer because the size of the organization made it impractical to do so.

Subsection 38.1(1) of the Act requires chief executives to prepare and submit to OCHRO, within 60 days after the end of every fiscal year, a report on the activities related to disclosures made in their organizations. The following is a summary of these reports. Statistics from previous years are included for comparison.

Disclosure Activity 2007–12

Disclosure Activity	2011–12	2010–11	2009–10	2008–09	2007–08
Number of active organizations	155	154	155	153	153
Number of general inquiries related to the Act	225	277	281	186	259
Number of organizations that reported inquiries	32	33	29	28	35
Number of disclosures received under the Act	197	291	213	181	234
Number of organizations that reported disclosures	28	33	32	27	30
Number of referrals resulting from a disclosure made in another public sector organization	4	3	4	2	1
Number of cases carried over on the basis of disclosures made in previous year	118	75	31	25	N/A
Total number of disclosures handled (new disclosures + referrals + cases carried over)	319	369	248	208	N/A
Number of disclosures received that were acted upon	186	350	218	162	179

1. This figure does not include the three organizations excluded from the definition of “public sector” in the Act (the Canadian Forces, the Canadian Security Intelligence Service and Communications Security Establishment Canada) or the organization that requires an order-in-council to become subject to the Act (the Canada Pension Plan Investment Board).

Disclosure Activity	2011–12	2010–11	2009–10	2008–09	2007–08
Number of disclosures received that were not acted upon	47	19	30	45	50
Number of investigations commenced as a result of disclosures received	78	111	75	60	87
Number of disclosures received that led to a finding of wrongdoing	24 ²	9	7	6	7
Number of organizations that reported findings of wrongdoing	10	7	4	3	6
Number of disclosures received that led to corrective measures	74	31	36	38	26
Number of organizations that reported corrective measures	15	16	14	13	14
Number of organizations that reported finding systemic problems that gave rise to wrongdoing	1	2	4	1	2
Number of organizations that did not disclose information about findings of wrongdoing within 60 days	3	7	N/A	N/A	N/A

In accordance with paragraph 11(1)(c) of the Act, it is the responsibility of organizations to provide public access to information describing findings of wrongdoing and any follow-up action taken. Consequently, OCHRO does not collect or report on specifics of findings of wrongdoing by organizations.

Statistics on organizational reports of activities related to disclosures made under the Act are available in the Appendix. These statistics provide a useful snapshot of activity under the PSDPA. The following points should be noted:

- ▶ It is difficult to compare statistics across organizations because the cultures vary; issues may be dealt with through different mechanisms in different organizations.
- ▶ Sometimes a disclosure will contain several allegations, each taken as a separate disclosure.
- ▶ Cases identified through disclosure may be followed up through another process, such as a grievance procedure, as appropriate.

2. This figure includes one finding of wrongdoing that was unintentionally omitted in The National Battlefields Commission's annual report for the reporting period 2010–11.

- ▶ Disclosures can be made to a supervisor, a senior officer for disclosure, the Public Sector Integrity Commissioner, or an individual named by the empowering legislation. The choice of a particular channel for disclosure cannot be construed to reflect a lack of trust in other channels.
- ▶ Given that an anonymous disclosure is not a “disclosure” made under the Act, this report does not include situations where information about a possible wrongdoing is provided anonymously.³
- ▶ The increase in the findings of wrongdoing (24 in 2011–12 compared with 9 in 2010–11) is due, in part, to multiple findings as a result of a few disclosures in one department. Overall, organizations that report findings of wrongdoing are demonstrating that their internal disclosure regimes are working, that these matters are being dealt with in a serious manner, and that corrective measures are being taken.

3. To trigger the protections of the Act, a public servant must be identifiable as the source of the disclosure, or be involved in a disclosure investigation.

Appendix: Summary of Organizational Activity Related to Disclosures Under the Act

A. Organizations reporting activity under the Act in 2011–12

Organization	General inquiries	Disclosures						Investigations commenced	Disclosures that led to	
		Received	Referred	Carried over from 2010–11	Acted upon	Not acted upon	Carried over ⁴ into 2012–13		A finding of wrongdoing	Corrective measures
Aboriginal Affairs and Northern Development Canada	2	1	0	2	3	0	0	0	0	0
Atlantic Canada Opportunities Agency	3	1	0	0	0	0	1	1	0	0
Atomic Energy of Canada Limited	0	19	1	3	18	0	5	18	0	7
Canada Border Services Agency	0	49	0	18	54	3	10	3	0	18
Canada Council for the Arts	1	1	0	0	1	0	0	1	1	1
Canada Post Corporation	0	32	0	0	32	0	0	32	1	15
Canada Revenue Agency	5	1	0	1	1	1	0	1	0	0
Canadian Food Inspection Agency	8	2	0	3	3	2	0	1	0	2
Canadian Nuclear Safety Commission	3	0	0	0	0	0	0	0	0	0

4. The disclosures that are “carried over” also mean that they are “acted upon.”

Organization	General inquiries	Disclosures						Investigations commenced	Disclosures that led to	
		Received	Referred	Carried over from 2010-11	Acted upon	Not acted upon	Carried over ⁴ into 2012-13		A finding of wrongdoing	Corrective measures
Canadian Space Agency	2	1	0	0	1	0	0	1	0	0
Citizenship and Immigration Canada	0	0	0	1	1	0	0	0	0	0
Correctional Service Canada	18	19	0	21	14	14	12	1	11	11
Department of Justice Canada	2	0	0	0	0	0	0	0	0	0
Environment Canada	13	2	0	1	0	0	3	0	0	0
Export Development Canada ⁵	0	1	0	2	2	1	0	0	2	2
Fisheries and Oceans Canada	9	5	0	0	2	2	1	3	0	2
Foreign Affairs and International Trade Canada	2	0	0	0	0	0	0	0	0	0
Health Canada	24	10	0	0	1	6	3	2	0	1
Human Resources and Skills Development Canada	15	3	0	0	1	0	2	0	0	0
Human Rights Tribunal of Canada	3	0	0	0	0	0	0	0	0	0
Immigration and Refugee Board of Canada	10	2	0	0	1	1	0	0	0	0

5. This organization reported a related systemic problem that has been addressed through corrective measures.

Organization	General inquiries	Disclosures						Investigations commenced	Disclosures that led to	
		Received	Referred	Carried over from 2010-11	Acted upon	Not acted upon	Carried over ⁴ into 2012-13		A finding of wrongdoing	Corrective measures
Industry Canada	0	1	0	0	1	0	0	0	0	0
International Development Research Centre	0	0	0	1	0	1	0	0	0	0
Marine Atlantic Inc.	1	0	0	1	1	0	0	0	0	0
Military Police Complaints Commission of Canada	0	1	0	0	0	0	1	0	0	0
National Capital Commission	19	0	0	0	0	0	0	0	0	0
National Defence	11	28	3	4	6	14	15	4	1	1
National Energy Board	1	0	0	0	0	0	0	0	0	0
National Research Council Canada	10	1	0	5	4	0	2	0	0	0
Natural Resources Canada	11	3	0	2	4	0	1	5	1	4
Office of the Public Sector Integrity Commissioner of Canada	0	1	0	0	0	1	0	0	0	0
Parks Canada	1	1	0	0	0	0	1	1	0	0
Passport Canada	3	0	0	0	0	0	0	0	0	0
Public Health Agency of Canada	2	1	0	0	0	0	1	1	0	0
Public Prosecution Service of Canada	0	0	0	1	1	0	0	0	0	0

Organization	General inquiries	Disclosures						Investigations commenced	Disclosures that led to	
		Received	Referred	Carried over from 2010–11	Acted upon	Not acted upon	Carried over ⁴ into 2012–13		A finding of wrongdoing	Corrective measures
Public Sector Pension Investment Board	0	0	0	1	1	0	0	0	0	0
Public Works and Government Services Canada	29	0	0	14	11	0	3	0	4	6
Registrar of the Supreme Court of Canada	1	0	0	0	0	0	0	0	0	0
Royal Canadian Mounted Police	4	0	0	37	13	0	24	0	1	1
Statistics Canada	5	8	0	0	8	0	0	2	1	2
The National Battlefields Commission	0	1	0	0	1	0	0	1	1	1
Transport Canada	5	1	0	0	0	0	1	0	0	0
Treasury Board of Canada Secretariat	1	0	0	0	0	0	0	0	0	0
Veterans Affairs Canada	0	1	0	0	0	1	0	0	0	0
Western Economic Diversification Canada	1	0	0	0	0	0	0	0	0	0
Totals	225	197	4	118	186	47	86	78	24⁶	74

6. This figure includes one finding of wrongdoing that was unintentionally missed in The National Battlefields Commission's annual report for the reporting period 2010–11.

B. Organizations that reported no activities related to disclosure in the reporting period

Agriculture and Agri-Food Canada

Atlantic Pilotage Authority Canada

Bank of Canada

Business Development Bank of Canada

Canada Deposit Insurance Corporation

Canada Development Investment Corporation

Canada Employment Insurance Commission

Canada Employment Insurance Financing Board

Canada Industrial Relations Board

Canada Mortgage and Housing Corporation

Canada School of Public Service

Canada Science and Technology Museum

Canadian Air Transport Security Authority

Canadian Broadcasting Corporation

Canadian Centre for Occupational Health and Safety

Canadian Commercial Corporation

Canadian Dairy Commission

Canadian Environmental Assessment Agency

Canadian Grain Commission

Canadian Heritage

Canadian Institutes of Health Research

Canadian International Development Agency

Canadian International Trade Tribunal

Canadian Museum for Human Rights

Canadian Museum of Civilization

Canadian Northern Economic Development Agency

Canadian Radio-television and Telecommunications Commission

Canadian Tourism Commission

Canadian Transportation Agency

Commission for Public Complaints Against the Royal Canadian Mounted Police

Courts Administration Service

Defence Construction Canada

Department of Finance Canada

Economic Development Agency of Canada for the Regions of Quebec

Energy Supplies Allocation Board

Enterprise Cape Breton Corporation

Farm Credit Canada

Farm Products Council of Canada

Federal Economic Development Agency for Southern Ontario

Financial Transactions and Reports Analysis Centre of Canada

Great Lakes Pilotage Authority Canada

Indian Oil and Gas Canada

Infrastructure Canada

Laurentian Pilotage Authority Canada

Library and Archives Canada

NAFTA Secretariat—Canadian Section

National Arts Centre Corporation
National Film Board
National Gallery of Canada
Northern Pipeline Agency Canada
Office of the Auditor General of Canada
Office of the Chief Electoral Officer
Office of the Commissioner for Federal Judicial Affairs Canada
Office of the Information Commissioner of Canada
Office of the Governor General's Secretary
Office of the Superintendent of Bankruptcy Canada
Office of the Superintendent of Financial Institutions Canada
Pacific Pilotage Authority Canada
Parole Board of Canada
PPP Canada
Privy Council Office
Public Safety Canada
Public Service Commission of Canada
Public Service Labour Relations Board
RCMP External Review Committee
Registry of the Specific Claims Tribunal of Canada
Ridley Terminals Inc.
Royal Canadian Mint
Science and Engineering Research Canada
Shared Services Canada

Social Sciences and Humanities Research Council of Canada

Staff of the Non-Public Funds, Canadian Forces

Statistical Survey Operations

Status of Women Canada

The Correctional Investigator Canada

The Federal Bridge Corporation Limited

Transportation Safety Board of Canada

Veterans Review and Appeal Board

VIA Rail Canada Inc.

C. Organizations that do not have a senior officer or internal disclosure procedures as of the end of the reporting period, pursuant to section 10(4) of the Act

Assisted Human Reproduction Canada

Blue Water Bridge Canada

Canada Lands Company Limited

Canadian Artists and Producers Professional Relations Tribunal

Canadian Forces Grievance Board

Canadian Human Rights Commission

Canadian Intergovernmental Conference Secretariat

Canadian Museum of Immigration at Pier 21

Canadian Museum of Nature

Canadian Polar Commission

Canadian Race Relations Foundation

Copyright Board Canada

Financial Consumer Agency of Canada
First Nations Statistical Institute
Freshwater Fish Marketing Corporation
Hazardous Materials Information Review Commission Canada
Indian and Residential Schools Truth and Reconciliation Commission
International Joint Commission (Canadian Section)
National Round Table on the Environment and the Economy
Office of the Commissioner of Lobbying of Canada
Office of the Commissioner of Official Languages
Office of the Communications Security Establishment Commissioner
Office of the Privacy Commissioner of Canada
Patented Medicine Prices Review Board Canada
Public Servants Disclosure Protection Tribunal Canada
Public Service Staffing Tribunal
Registry of the Competition Tribunal
Security Intelligence Review Committee
Standards Council of Canada
Telefilm Canada
Transportation Appeal Tribunal of Canada

D. Inactive organizations that are subject to the Act

Canada Emission Reduction Incentives Agency

Canada Investment and Savings

Cape Breton Development Corporation (amalgamated with, and reporting through, Enterprise Cape Breton Corporation)

Corporation for the Mitigation of Mackenzie Gas Project Impacts

Office of the Director of Soldier Settlement

Public Appointments Commission Secretariat

The Director, The Veterans' Land Act

Endnotes

- i. *Annual Report on the “Public Servants Disclosure Protection Act” 2007–08*, <http://publiservice.tbs-sct.gc.ca/ve/pda0708-eng.asp>
- ii. Treasury Board of Canada Secretariat, OCHRO, *Public Servants Disclosure Protection Act* (PSDPA), <http://publiservice.tbs-sct.gc.ca/ve/pda-eng.asp>