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# **Standing Committee on Government Operations and Estimates**

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**EVIDENCE**

**Thursday, April 17, 2008**

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**Chair**

**The Honourable Diane Marleau**

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## Standing Committee on Government Operations and Estimates

Thursday, April 17, 2008

•(0905)

[English]

**The Chair (Hon. Diane Marleau (Sudbury, Lib.)):** We have quorum, therefore we will start the meeting.

We will have the first hour with the commissioner, who is responsible for the Office of the Public Sector Integrity Commissioner, Madame Christiane Ouimet, accompanied by the deputy commissioner, Wayne Watson; and general counsel Joe Friday.

[Translation]

Ms. Ouimet, we generally allocate about 10 minutes for presentations and then we move on to questions. We have about one hour for your testimony because there are other items on the agenda. Congratulations on your appointment.

You have the floor, Ms. Ouimet.

**Ms. Christiane Ouimet (Commissioner, Office of the Public Sector Integrity Commissioner):** Good morning and thank you very much, Madam Chair.

I am very pleased to appear this morning, accompanied by my colleagues, before the Standing Committee on Government Operations and Estimates.

It has been almost a year since I appeared before your Committee for the review of my candidacy for the role of Canada's first Public Sector Integrity Commissioner. I would like to say once again that I was honoured to receive your confidence after that appearance. We have been working hard since my appointment to build this new institution while fulfilling our responsibilities.

This morning, if the committee members are in agreement, I would like to take you briefly through my mandate, the approach and steps taken to fulfill that mandate, the challenges faced in establishing a new office and some discussion of our budget.

[English]

I'd like to begin by telling you who we are and why we were established, for the benefit of members who were not here a year ago when I first appeared before this committee. And I always like to turn to the preamble of the legislation, the Public Servants Disclosure Protection Act, the legislation that created my office last year.

It expressly recognizes the essential role of the federal public administration in Canadian democracy, and this is really important. It underscores the importance, from a public interest perspective, of maintaining and enhancing confidence in the integrity of public

servants and in public institutions. And this is the way I like to describe the role, in addition, of course, to implementing a disclosure process and protection against reprisal. These principles of enhancing confidence and serving the public interest are the solid foundation upon which I've established my office and which guides our day-to-day work.

Under the act, very specifically, the office is charged with receiving and investigating allegations of wrongdoing in the public sector. When wrongdoing is found, we inform the head of the relevant department or agency, provide recommendations for corrective action, and we also table a report in Parliament.

The act is very clear. It specifically prohibits reprisals against public servants and charges us with protecting those public servants from reprisals.

The jurisdiction extends to 400,000 public sector employees. This is a very large mandate. We can also receive complaints of wrongdoing from the public. Security agencies such as CSIS, CSE, and the armed forces do not fall within our jurisdiction, but they do have their own internal systems.

I'd like now to provide you with more details on both the disclosure and the reprisal components of my mandate, to give you a clearer idea of how we can enhance confidence in public institutions while supporting strong governance at the federal level.

The act defines wrongdoing as follows: a contravention of any act of Parliament or any provincial legislature; a misuse of public funds or a public asset; a gross mismanagement; an act or omission that creates substantial danger to the life, health, or safety of persons, or to the environment; a serious breach of a code of conduct; or knowingly directing or counselling a person to commit any of these identified wrongdoings.

Under the act, though, there are safeguards to ensure there is no duplication. And I have the discretion to determine on a case-by-case basis whether an investigation is warranted. For instance, if it were more appropriate to refer the matter to another procedure provided under an act of Parliament, or if the disclosure was not made in good faith, we would of course refuse to investigate.

When we do launch an investigation, we use the combined expertise and experience of my staff, careful judgment, legal analysis, and sound investigative techniques to try to come to the best resolution in each case. The act requires—and this is very important—that we conduct our investigations as informally and expeditiously as possible. Of course the principles of natural justice and procedural fairness must be respected. In addition, and very importantly, our investigations are confidential. And what guides us throughout our work will be acting in the public interest.

[*Translation*]

The second aspect of my mandate, and one that is related to but distinct from the disclosure process, is the protection of public servants who come forward to disclose wrongdoing—people sometimes known as whistleblowers. This is an innovative and important step on the part of Parliament. In fact, we are the first in Canada, as well as in the world, to combine all the responsibilities and powers entrusted to my office.

A key feature of the Act is that it absolutely prohibits reprisals against any person who makes an allegation of wrongdoing in good faith or anyone who has cooperated in an investigation. We have exclusive jurisdiction in such matters.

I feel it is important to examine the definition of the term “reprisal”. The Act defines a reprisal as a disciplinary measure, demotion, termination of employment, anything that adversely affects employment or working conditions, or a threat to take any of these measures.

When a complaint of reprisal is presented to us, I decide whether or not an investigation is warranted. I may send the complaint to conciliation or dismiss it. The Act provides me with the discretion to refuse to deal with a complaint when, for example, the complaint was made in bad faith or if it is beyond my jurisdiction.

Again, as in the case of wrongdoing, the investigation is to be conducted informally and expeditiously. I also have the authority to apply to the newly created Public Servants Disclosure Protection Tribunal for an order for remedial or disciplinary actions.

This reprisal mandate that has been given to my Office is a powerful and important one, and it underscores that protecting public servants who make honest and well-intentioned disclosures of wrongdoing is fundamental to good governance, and also to confidence in our public institutions.

● (0910)

[*English*]

I've spoken about the specifics of our mandate, but I also would like to stress our approach to how we interpret and fulfill our mandate. How we do our job is as important as what the job is. Our office is about integrity, not just breaches of integrity. We have a bias in favour of prevention over investigation. We've already been quite proactive in our communications and education and about who we are and what we want to do. We build on existing ethics foundation work in partnership with parliamentarians, chief executives, unions, managers, and employees to promote prevention, to encourage confidence, and to discourage wrongdoing.

When I first took office and when I appeared before this committee, as well as through a message to all parliamentarians that I sent the first week on the job, August 6, I indicated I would consult broadly on how to fulfill my mandate. I am very pleased to report that I've had more than 70 bilateral discussions—and my office has had more than 80 group meetings—with Parliament, experts in Canada and around the world, with former and current chief executives, people from all levels, and also the private sector. Also, I was reminded by the high interest of the Parliament that we also should include the regions in that consultation, which I was very pleased to do.

One unique message across Canada that I got from those consultations, as well as from my own thinking, is that prevention is absolutely a shared responsibility, and it becomes a core piece of our mandate. We will continue to do our part to educate and communicate with public servants, but we'll also be seeking the advice of this committee and all parliamentarians as we go forward.

I would also like to mention—and it is something that I mentioned last time I appeared before this committee—that we'd like to look as much as possible into how we can integrate alternative dispute resolution, such as mediation, into our operations and processes.

This gives you a general sense of how we approach the work. Of course I'll be tabling my first annual report in a few weeks, we hope, and you will have more details on where we are. We are completing the analysis, but perhaps now I'll say just a few words on the establishment of the office.

Creating a new organization is a challenge, be it in the business, private, or government sector, and certainly my office was no exception. With the establishment of this new institution we needed to interpret legislation and develop guidelines for disclosures and complaints of reprisals at the same time as we were recruiting staff, setting up offices, and putting basic systems and processes into place. One unique challenge is that we're operating in a brand new field of law, with many unknowns. Each decision has the potential to be precedent-setting.

At the same time, the act in many ways prescribes very short deadlines during which decisions and reports have to be made. So in fact we had the dual task of creating the new organization and at the same time operating it.

Another challenge—and this was very important for our organization—was to design the right governance and accountability structures. We wanted to become a model in those same internal management accountability practices that we were created to promote and that we believe are essential for the whole public sector.

Certainly I must confess the experience has made me acutely aware of the unique challenges facing small organizations, which have the same reporting obligations as larger organizations but may not have the expertise or the capacity. Because we're a small organization and because there's a shortage of experts, we decided to use shared services for human resources, information technology, and financial services.

I'm very pleased to report that we did create the new organization. We staffed it with highly competent core people. We defined its mission and values and put management procedures into place, and we opened our doors for business in less than four months.

Having established who we are and what we do and confirming with this committee that we're now fully operational as Canada's newest agent to Parliament, I would like to now turn to the main estimates.

• (0915)

[*Translation*]

Our budget is \$6.5 million. I believe this is adequate, at this stage, to meet our needs and build capacity. It is very difficult to estimate our workload. In the future, we will receive a number of requests for information, disclosures and complaints of reprisal.

From the outset, I realized that there was a great deal of confusion about our mandate, namely about what we are and what we are not. However, I plan, after our first three years of operation—our budget is allocated equally over the next three years—, to conduct a thorough analysis of the trends observed, to establish a business case for the future that is based on facts and experience and to provide a more accurate sense of the resources required.

[*English*]

It is truly an honour and a privilege to appear before you today. The responsibility given to me by Parliament is a very important one and I take it very seriously. I bring to the position not only my many years of experience as a public servant—more than 25 years—but also my deep and abiding respect for the public service and Parliament. I consider it an honour to be able to serve as Canada's first Commissioner of Public Service Integrity.

Madam Chair, I welcome your questions and those of the members.

**The Chair:** Thank you very much.

We will go first to Mr. Mario Silva.

**Mr. Mario Silva (Davenport, Lib.):** Thank you, Madam Chair.

I want to thank the commissioner and her staff for the work they're doing and for being here before this committee. It's important that this committee is also reassured—and I think in some ways you have already done that today—that you have the proper financial and staff resources, and you feel that the mechanisms and safeguards are in place to allow you to carry out your work in an effective way.

That is my first question. I think you've answered it, but I want to make sure that is correct. Can you elaborate on whether there are any additional resources you may need to carry out your duties?

**Ms. Christiane Ouimet:** Thank you very much for the question. It is a very important one, because in my new role as agent of

Parliament there has to be some independence, not only in how decisions are made and how we operate in a quasi-judicial environment, but also from a financial perspective. We cannot be at the mercy of insufficient resources. So I'm very grateful for that.

I've already met with the Speaker of the House, Mr. Peter Milliken, who is heading a panel that deals with similar issues in relation to all agents of Parliament. I did not have an opportunity to appear before him because I did not have specific requests, but I will use the opportunity to ascertain before this panel and before this committee, once we've determined the more specific needs, any area that may require some assistance. I'm very grateful for the opportunity.

My last comment is on the capacity of small organizations and the importance of having access to shared services. It is very onerous for a small organization, yet we want to meet the standards that are expected by Parliament and other public sector organizations. It remains a challenge, but I think we have the seeds of the solution, and I'm grateful for that.

**Mr. Mario Silva:** I don't disregard the fact that you have an important challenge. It's one of the reasons we want to make sure this office is fully supported.

Part of your mandate is really the whole issue of accountability—how public money is accountable, and how the civil service is operating. The framework around accountability is so important. What measurements do you have in place? What have you set up to deal with the whole issue of accountability in the civil service?

**Ms. Christiane Ouimet:** That is a very good question indeed. When we set up office we put in place some measurements, statistical data, and some systems to be able to capture it. We're at a very early stage, because the vast majority of cases that have been referred to our office do not fall within our jurisdiction. But we want to look at what is being done in other organizations of similar size.

We have to take into consideration that some of the indicators, such as length and number of investigations.... I used to be at the Immigration and Refugee Board, and at one point we had a backlog of 55,000 cases. So the relativity of the numbers was very different, as opposed to a small organization building up capacity. In fact, my deputy commissioner has been charged with the responsibility of developing performance indicators, and we will have the basic data in our first annual report. Certainly our first objective is to have very clear procedures and a reasonable length of time to deal with the specific cases, and of course the quality of our decisions is absolutely crucial.

So we have the basic systems in place, but I think over the years we'll be a little more definitive.

• (0920)

**Mr. Mario Silva:** Is it an internal program? Are you looking in the private sector for programs to deal with the statistical measurements for accountability? Is there something that you're looking to purchase or that you have in place?

**Ms. Christiane Ouimet:** In fact, we've developed our own.

**Mr. Mario Silva:** You've developed your own.

**Ms. Christiane Ouimet:** It's in-house, because it's relatively modest. We had the basic system in place. We will be looking at something a little more sophisticated if need be, but given the numbers, I think it's adequate for the time being.

**Mr. Mario Silva:** Is there something comparable in the private sector, or in different provincial governments throughout the country, so that you can compare that statistical analysis work you're doing with how they're doing, to see if it's on the right track? I trust that you're doing a great job and things are working well, but two or three years down the road you could find that the work was not done the way it should have been done. I just want to make sure you have done a comparative analysis with other markets out there to see if it's working well.

**Ms. Christiane Ouimet:** This is a very important question, because you have to build a solid foundation with respect to collection of data.

I would go back to the extensive analysis I did when I was at the Immigration and Refugee Board. Given the magnitude of the mandate, what exists in the private sector in Ontario, and the number of cases we have, a model that is quite interesting is the one at the Human Rights Commission. It has more similarities. In fact, we have just started to get our IT services from the Human Rights Commission, and we will be looking at their model in more detail. But in the meantime, given that we're handling roughly 200 inquiries, roughly 80 cases that need a little more analysis, and approximately half a dozen cases.... In fact, my deputy commissioner and I, and my management team, went one by one to ensure that the data was accurate with respect to what we were going to table in Parliament.

I can assure you that our basic structure, basic data, is accurate, but we will make sure we build on that foundation based on what's available. We'll probably look at some provinces that have similar challenges as well.

**Mr. Mario Silva:** Good.

**The Chair:** Thank you very much.

Madame Bourgeois.

[Translation]

**Ms. Diane Bourgeois (Terrebonne—Blainville, BQ):** Thank you, Madam Chair.

Good morning, Ms. Ouimet. Good morning, gentlemen.

I gather from your presentation that this has been a very busy year with the establishment of the office. Have you started dealing with inquiries from public servants?

**Ms. Christiane Ouimet:** Absolutely.

**Ms. Diane Bourgeois:** How many cases have you dealt with to date?

**Ms. Christiane Ouimet:** I indicated that the vast majority of files were outside our jurisdiction. We received approximately 200 requests for information. In 80 of these cases, we conducted a bit more research. Even though some of these cases are not within our jurisdiction, we try to point them in the right direction, towards the organization that can deal with them.

There is a great deal of confusion about what is in the public interest and what is in the private interest. Many people have submitted matters that are private in nature. In addition, about six very complex files required very in-depth research. We are presently working on those while awaiting the tabling of the annual report.

• (0925)

**Ms. Diane Bourgeois:** With due regard for confidentiality, could you give me a few examples of cases outside your jurisdiction?

**Ms. Christiane Ouimet:** Some files dealt with grievances, some were related to competitions, reclassifications and working conditions. There were also some possibly involving a very serious allegation of harassment, but that is outside the scope of our mandate. I repeat that we must always remind those making a disclosure that, even in the case of a reprisal, it must be related to a disclosure.

**Ms. Diane Bourgeois:** On page 4 of your text, under "Establishment of the Office", you state: "One unique challenge is that we are operating in a whole new field of law and policy, with many unknowns; each decision has the potential to be precedent-setting."

Do you have the authority to make a distinction between political power and the work of public servants? I have some concerns about this.

**Ms. Christiane Ouimet:** The Act defines our area of jurisdiction in terms of wrongdoing as defined by the legislation. There are 400,000 public servants subject to this Act. The public sector is somewhat larger on the English side.

As you undoubtedly know, conflicts of interest, governor in council appointments and elected members do not fall within our jurisdiction. They are the responsibility of Ms. Mary Dawson. Our work deals with the operations of the public service.

**Ms. Diane Bourgeois:** That means that you have no authority in matters associated with the political staff in a minister's office, for example.

Therefore, could we use your services if a member of the public service could prove that a minister or parliamentarian interfered in a given decision-making process? Could the public servant turn to you?

**Ms. Christiane Ouimet:** Ms. Dawson retains the authority to deal with conflicts of interest. Our role is to apply the Act in cases of wrongdoing.

**Ms. Diane Bourgeois:** Therefore, we could not turn to you in the case of a scandal such as the sponsorship scandal.

**Ms. Christiane Ouimet:** It is very clear that matters pertaining to the public service fall within our mandate.

**Ms. Diane Bourgeois:** Because of the public servants.

**Ms. Christiane Ouimet:** Exactly. You are right.

**Ms. Diane Bourgeois:** When will you be tabling your next report in Parliament?

**Ms. Christiane Ouimet:** We are currently completing the analysis of the most recent files. We would like to table our report in May. That will depend on availability in terms of depository services and printing.

**Ms. Diane Bourgeois:** You said that you met with some parliamentarians and a good number of public servants while conducting your research in order to clearly define your mandate. I do not recall having heard that you met with Quebec parliamentarians. Did you meet with some?

**Ms. Christiane Ouimet:** Yes, we met with two Senate leaders. We corresponded with Ms. Hervieux-Payette. We also met with the Speakers of both chambers. In addition, on August 6, I sent all parliamentarians from the various regions in Canada a message in which I stated that I would meet with any interested individual to talk about our role. I also met with Ms. Marleau and, on several occasions, we offered to give a presentation to the committee but I believe the committee members were too busy. I received correspondence from certain Quebec parliamentarians.

• (0930)

**Ms. Diane Bourgeois:** If I have understood correctly, you have 41 employees.

**Ms. Christiane Ouimet:** That is what we are proposing. Right now I have a staff of 22 in addition to those people working for us under shared services agreements.

**Ms. Diane Bourgeois:** My understanding is that you had difficulty recruiting staff.

**Ms. Christiane Ouimet:** It is the process in particular that is long and cumbersome. Things have to be done right. I was the chair of the Public Service Commission Appeal Board. I was the decision-maker. It is very important that the principle of merit be respected. We followed the processes to the letter and made use of the flexibility available. However, despite everyone's best intentions and the best processes, recruitment remains difficult. In addition, good talent is highly sought after. I believe we have an excellent pool. My deputy commissioner, for example, spent more than 31 years at the RCMP. He is an expert in investigations. I "stole" my principal advisor from the Department of Justice, where he was responsible for dispute resolution services. Therefore, we have solid expertise in investigation as well as concrete experience in dispute resolution.

We also had competitions and transfers. We absolutely had to recruit suitable individuals in record time because cases were being referred to us. We could not afford to make mistakes.

**Ms. Diane Bourgeois:** I was wondering, given that these individuals had a certain experience, if you drew employees from the pool of public servants already in place.

**Ms. Christiane Ouimet:** Naturally. The people with me here today are a good example. Some changed careers or decided to work in other areas after working in this one for five or seven years. The

fact of the matter is that I am fortunate to have with me a core group of people who are of great help to me in terms of institutional memory and interpretation of the Act. These people appeared before the committees examining the new Act.

**The Chair:** Thank you, Ms. Bourgeois.

[English]

**Mr. Harold Albrecht (Kitchener—Conestoga, CPC):** Thank you, Madam Chair.

Thank you to Ms. Ouimet and also the witnesses who are here.

I think you've given us a very comprehensive report, so I don't imagine we'll have a lot of questions. I just want to clarify a few things.

First of all, let me say how pleased I am to see the emphasis you've placed on prevention. I think that's a very positive step for us and I think all of us around this table are interested in enhancing confidence in the public service.

The one question I had is this. There are a few times on page 2 where you talked about good faith. Earlier on in the page you say you will not accept a complaint that's not made in good faith, and then at the bottom of the page you say a complaint made in bad faith is rejected. That seems to me to be rather subjective in terms of evaluating whether you would pursue an investigation.

Could you clarify for me how you would make that decision?

**Ms. Christiane Ouimet:** Certainly, Madam Chair.

As part of any quasi-judicial process, the credibility of witnesses and the reliability of the evidence is always absolutely critical to the credibility of the process. I think Parliament has rightfully indicated, as a key criterion for both disclosures and reprisals, that they have to be made in good faith. There are also specific provisions in section 40 and following that deal with false statements made by any party to an investigation. Again, that goes to the heart of the quality of the quasi-judicial process.

The member is quite right that there is an element of subjectivity, because you have to look at whether the evidence is reliable. But there are very specific criteria that determine if the evidence is contradicted by other witnesses or if there are some missing events. We will deal with the facts with witnesses, do it very informally, and record our proceedings so that we'll be able.... Before you actually say that somebody acts in bad faith, however, you have to be on pretty solid foundation. Often, the related questions that I get have to do with frivolous and vexatious proceedings, which is also the side coin of the issue.

All I can say is that early on, one of the first things I wanted to do was to set out guidelines of procedures to ensure that it would be clear for all people working from within, and that as we guide a person coming forward with a disclosure, we explain to them their rights and their obligations. And that will go to the heart of our mandate.

• (0935)

**Mr. Harold Albrecht:** I think you've answered my concern in that you do have a system in place to make the decision. It's not just a matter of, well, this person doesn't look credible or something very superficial.

You mentioned as well in your report that your office is now fully operational. I think I heard you say you've had roughly 200 inquiries and 80 processed. Of those 200, were the other 120 in other departments, or were some of them actually rejected on the basis of this good faith, bad faith scenario?

**Ms. Christiane Ouimet:** In fact, I have to say that the vast majority, when they were rejected, simply had nothing to do with our mandate. There is really a lot of confusion, as I indicated, between public interest and private interest, hence the importance of clarifying our role, and we will continue to do that.

**Mr. Harold Albrecht:** On the issue of receiving complaints from the public sector employees, I assume most of your complaints are from that sector. You also indicated in your report, if I read it correctly, that you accept complaints from the public.

Have you received complaints from the public at this point, and what percentage of the 80 that you've dealt with have been from the public, versus the public sector employees?

**Ms. Christiane Ouimet:** We're still doing the analysis, but only a very small percentage come from the general public. It's very small—I'm guessing 1% or 2%—but we will be happy to take a closer look at it.

**Mr. Harold Albrecht:** It would seem to me that if there's a high level of confusion among public service sector employees in terms of which complaint goes where, it would be enlarged in terms of the level of confusion on the part of the public, so it will probably take a number of years for this to become more settled in and for people to become aware of the appropriate area to file their complaints.

**Ms. Christiane Ouimet:** The member is quite right, but I would also like to highlight the role of the Canada Public Service Agency with respect to disseminating information to clarify the role. Roles were also given specifically to chief executives of each department to set up their own systems. As well, in each organization senior officers need to be designated to receive the complaints. So in fact accountability and responsibility are shared and belong not only to my office but also to a number of key players and organizations around town.

**Mr. Harold Albrecht:** Your points on page 3 mention the broad consultations you've entered into. Certainly they would have gone a long way in terms of reducing the level of confusion and doing a good job of informing the various sectors of the process about their rights and abilities to access this information.

Again, thanks for the good report. You've certainly answered a lot of my questions.

Thank you.

**The Chair:** Thank you.

Please go ahead, Madame Savoie.

[*Translation*]

**Ms. Denise Savoie (Victoria, NDP):** Thank you for your presentation.

You play a very important role in the preservation of our democracy. I would like to ask you about a few definitions.

At the very beginning, in response to a question, you spoke about a certain confusion between public and private interests. I would first ask you to explain what it means to act in the public interest.

Then you stated that some complaints were rejected simply because they were not within your jurisdiction, and because of this confusion between public and private interests. I would like you to explain that to me in more detail because I believe, on the contrary, that it is your mandate that gives rise to this confusion. Perhaps it is just because I do not understand it very well.

**Ms. Christiane Ouimet:** First, I must tell you that you are presenting me with a great challenge. Many experts have attempted to define the public interest, including experts at the United Nations, which has similar mandates.

The public interest can be defined in several ways. It can come into play, for example, when an issue arises and prevents us from carrying out our mandate. That is very broad. There are many factors that can affect my role as defined by the Act.

As for the distinction between public and private interests, I would say that when an individual turns to us—and the Act is very specific about this—we must first establish that there was wrongdoing.

Furthermore, if another agency is already looking into a case, whether in the context of a grievance or a specific matter, I cannot intervene. A process is already underway. Parliament does not want us to compete with other tribunals that have specific expertise in certain areas. For example, it is not my role to take the place of the Auditor General. Nor do I rule on labour relations issues. There are agencies throughout the public sector to do that.

Our role is to deal with serious matters that affect the public service as a whole. It may be a systemic problem or a serious issue. We have to allow an individual to approach us in confidence. If the person's goal is to redress a personal wrong, that is if they were badly treated, and it is not a matter of public interest, they will be referred to the agency best able to deal with the issue.

Does this clarify things for you?

• (0940)

**Ms. Denise Savoie:** Yes, that is much clearer.

You mentioned the Auditor General. I would imagine that, in certain cases, your roles overlap. Is that right? Do you work with her office? Is there some collaboration?



**Ms. Christiane Ouimet:** My very first week in office I phoned the Auditor General. I have met with her on a few occasions to ensure that our mandates are clear and that there is no duplication and also to determine if she could provide us with her expertise in complex cases. In the end, what we want to do is to deal quickly with a complaint by using the best available resources and expertise and to find a solution, no matter the issue. Sometimes, the Auditor General is in the best position to accomplish this. I can assure you that all officers of Parliament will collaborate promptly in our informal process.

**Ms. Denise Savoie:** All right. I have one last question, if you do not mind.

You touched on my other question regarding the assessment and performance criteria for your office. You spoke about quality, decisions, quickness, transparent procedures. This is very important because I believe that sometimes a commission is called into question, for example the Canadian Human Rights Commission, because of procedures that may be interminable and make it difficult for those involved.

Are these criteria in place or will they be put in place? Will they be in your report?

**Ms. Christiane Ouimet:** Thank you, Madam Chair.

These are very important questions. I took office about nine months ago. All the information required by the Act will be in the report, which is absolutely vital. With regard to analysis, I would like to say at this point that we will develop better tools. As I indicated, in the meantime we are establishing precedents because this is new legislation. I wanted to ensure that we do not make mistakes and that we re-examine even our investigative procedures in order to respect the principles of natural justice and to not overlook important elements. The criteria were established one month after my arrival. Over the next few years, we will certainly report to Parliament.

Quality must absolutely be the key factor. It is a condition *sine qua non*. We cannot proceed too quickly at the very beginning. I have already been on a small tour of the provinces to look at their systems and new legislation. Our processes are a little faster for various reasons. It is very difficult for me to give you exact comparisons but we will be taking a closer look. In the meantime, I can assure you that the necessary attention has been paid to each case and that our expertise has been called upon. I believe that we made good decisions that were justified in all cases.

• (0945)

**Ms. Denise Savoie:** Thank you.

**The Chair:** Thank you.

Ms. Jennings.

**Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.):** Thank you, Madam Chair.

Thank you very much for your presentation. I would like to ask two questions.

On page four of your presentation under “Establishment of the Office”, paragraph five reads:

Another challenge was to ensure this new organization was designed with the right governance and accountability structures to ensure our day-to-day activities

were conducted properly. We wanted to become a model of those same internal management and accountability practices that we were created to promote—

How are the governance and accountability structures that you established for your organization different from those that already exist in other government organizations? That is my first question.

I have a second question.

[*English*]

I'd like to better understand your role as the Public Service Integrity Commissioner, as a means of bringing accountability to the people of Canada. Given the current Prime Minister's tight-fisted control of all aspects of government and his micro-managerial style, there is a concern being expressed by many in the public that your office could become a tool to root out experts who disagree with the government's position: for instance, scientists who call for action on Kyoto, child care experts calling for universal child care, aboriginal experts—and I'm talking about within the government—who defend Kelowna.

So I'd like to know how you as the commissioner are going to ensure that while you and your office protect the public service integrity, you do not become a tool of control and censorship for the government in place. And what powers do you have to ensure enforcing the rights of public servants whose expert opinion makes them a target by the current government?

**Ms. Christiane Ouimet:** Thank you very much. Those are very good questions indeed.

**Hon. Marlene Jennings:** I thought so.

**Ms. Christiane Ouimet:** On the accountability front, in terms of what I thought might be needed immediately, first I had an outside party come and look at our financial controls. Whether we're talking about \$1 million or \$100 million, I wanted to make sure we had the financial controls.

I also set up a governance structure, including an executive committee, a committee of operations, and a case management committee, to deal specifically with the issue of case management, performance indicators, and looking at the system.

We also have a regime whereby people can actually come to either my senior officer, because Joe Friday also wears the hat of senior officer for anybody who wants to come and complain about the operations of the office....

[*Translation*]

We have to do what the law requires of everyone, without exception.

[English]

I also made sure, because I'm changing hats—I used to be a public servant for 25 years—that I understood as well the accountabilities of an agent of Parliament. I spent some time with former Auditors General, and I spent some time with experts in the field who also were critical of the legislation, to ensure that from an accountability perspective and in terms of management and financial controls, but also the approach, I understood the background to the legislation.

[Translation]

History, what Parliament presented and the bills themselves are also very revealing.

When I appeared before the Senate last week, it was also pointed out to me that some elements are not part of the legislation and I was asked if I would take them into account. I certainly will as part of the five-year review. I will report on how the law worked and how we implemented it. I understand that you expect us to implement a law that is very complex and that will help enhance confidence in our public institutions. And I strongly believe in that.

Finally, the Auditor General will be auditing our books. She will also look at accountability. She is very interested in the responsibility of small agencies to be accountable. Some reports have already been published. I have already been in contact with her to ensure that we actually have a model for recruitment and for our internal systems that will withstand scrutiny. This touches on the obligation to be accountable.

You spoke of the various sectors of the public service where I worked. I am thinking of the scientists, for example. I began my career at the agency then known as the Atomic Energy Control Board. I developed the science strategy or approach for Agriculture and Agri-Food Canada. I worked very closely with scientists.

You spoke of aboriginal affairs. I managed the aboriginal police program for five years. We had 125 agreements in Canada. Thus, I have a very good understanding and respect for the expertise found within the public service.

I also worked at crown corporations. That is what happens when you have 25 years' experience at more than nine departments.

In addition, the legislation contains a provision pertaining to “wrongdoing” that deals with the decision-making process in relation to political or operational decisions.

It is not our role to take the place of experts in these matters, but rather to ensure that a process has been developed that takes into account the expertise available and that undue influence has not been exercised. That must take place in a quasi-judicial context with respect for the principles of natural justice. We will have to ensure, once again, that we bear in mind the parameters of the Act.

That creates considerable confusion and leads to questions about who does what, who should be consulted and which organization is best equipped to deal with the request. That is part of our role. If that were not the case, if it were Mary Dawson's responsibility, we would absolutely call her office. There is a great deal of confusion about Ms. Dawson's role and mine. Many people have called me Ms.

Dawson and I also receive correspondence addressed to her. I must say that I have the greatest respect for her.

I hope that answers your questions. Rest assured that no matter the issues referred to us, we will examine them and determine if we have a role to play. Once again, we want to find solutions and, no matter the issue, we will refer it to the colleagues or the organizations that can help that person.

● (0950)

**The Chair:** Thank you.

Ms. Faille, you have the floor.

**Ms. Meili Faille (Vaudreuil-Soulanges, BQ):** Thank you very much.

Welcome to the committee, Ms. Ouimet. We have met on several occasions. Perhaps you do not remember. I was the immigration critic and I also worked at the Department of Immigration. In addition, I believe you crossed paths with members of my family in the scientists' group at Agriculture Canada. I am pleased to have you here today.

I have some questions I would like to ask but I am not sure that you will be able to answer them. From the outset, we have tried to understand in which specific cases you have intervened to date. There seems to be a certain malaise. For almost one year we have been receiving many complaints. Public servants come to see us because they are very uneasy with the directives issued by the departments regarding communications with elected officials.

For example, when an organization's representative comes to see us because he has not received the answer to a question or he does not know what has happened with his file, we call Service Canada and yet the information officers cannot provide us with the information even though we have a letter from the organization asking us to intervene. For some unknown reason the information that we provided to Service Canada finds its way to staff of the political candidates. Public servants are ill at ease and still do not know whether they can communicate in confidence with the people from your office. They also wonder whether or not your office can intervene in these situations.

There also seems to be a problem with respect to scientists. People from Agriculture Canada, a department where you worked, and from Statistics Canada and the Department of Foreign Affairs have raised the issue. Can you provide some details about this?

● (0955)

**Ms. Christiane Ouimet:** Madam Chair, I will be pleased to do so.

I would not want to mislead the committee. To date we have not intervened in a case of wrongdoing. There have been concerns in this regard but the fact remains that, had it been a case of wrongdoing, I would have to make a report to Parliament within 60 days. Therefore, you would have been the first to be informed.

As for the specific examples to which the member alluded, I would like to point out that we will intervene in situations which, according to the definition, are considered serious. I would also invite parliamentarians and all public servants who do not know if they can knock on our door to just call us. We will be pleased to provide an explanation. If it is a serious case, which we will investigate, we can also provide legal opinions. I believe that this was discussed by this committee. However, we can only provide these opinions once the investigation is launched.

The member also alluded to a very important aspect covered by the preamble to the Act, in which I truly believe. It pertains to democracy and public institutions and reads as follows:

—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 that this Act strives to achieve an appropriate balance between those two important principles;

There is jurisprudence in this regard. We must always try to balance the duty of loyalty and freedom of expression. As I have already said, our guide will be the Act and the powers that we can exercise. Each case will be examined on its own merits. We will have to determine if, according to the definition, it is a serious matter. It would be inappropriate for me to speak to the present case. In the event of uncertainty, I invite you to knock on our door.

**Ms. Meili Faille:** These people have before them a memo or directive concerning communications. When an elected member contacts them, they have to pass the information on to their supervisor, who forwards it to a certain number of people. Do you feel that this is loyalty to the employer?

**Ms. Christiane Ouimet:** Unfortunately, I do not know all the details, so it would be inappropriate for me to say. I am talking about general principles. Once again, we will be pleased to examine the situation once we have more detailed information.

**Ms. Meili Faille:** Do I have any time left?

**The Chair:** No.

Mr. Albrecht.

[English]

**Mr. Harold Albrecht:** Thank you, Madam Chair. I have just a very short question.

If your office received an anonymous complaint about a certain employer or a certain sector, how would you proceed in that case?

**Ms. Christiane Ouimet:** We deal with that very specific question in the annual report. This is a very good one.

In fact, we don't. We cannot accept anonymous complaints, because then we can't verify the good faith issue. However, we will offer the information to the chief executive where the complaint might have originated. He or she might want to take appropriate action.

• (1000)

**Mr. Harold Albrecht:** So in a general sense you'll raise the issue with the department—

**Ms. Christiane Ouimet:** Very confidentially.

**Mr. Harold Albrecht:** —but not identify the source.

**Ms. Christiane Ouimet:** We can't pursue it under the act.

**Mr. Harold Albrecht:** You couldn't because it was anonymous.

I understand, as well, there's a five-year review in relation to the Public Servants Disclosure Protection Act. You're at about three-quarters of the year now. Have you already identified one or two or a number of potential amendments that you might suggest when that time comes?

**Ms. Christiane Ouimet:** One specific issue was brought to our attention very early on. I made it a practice to ask that whenever there's an allegation or even a suggestion of reprisal, I and my office be advised immediately, for the very good reason that, number one, this is core to the legislation—this even goes to the title of the legislation, the Public Servants Disclosure Protection Act—but more importantly, we have a very tight deadline of 15 days from the time, *prima facie*, to decide whether an investigation should be launched. This is 15 calendar days, so it is very short. Of course the file needs to be completed, but it is a challenge, absolutely.

So this is one of the examples.

**Mr. Harold Albrecht:** Thank you.

**The Chair:** Thank you.

[Translation]

Ms. Bourgeois has a question.

**Ms. Diane Bourgeois:** I have a two-part question. Do not blame me. It is just that people are having difficulty understanding what we are talking about.

First, I would like to explain what my colleague was referring to earlier. When an organization is waiting for a response to a request, employees of certain departments are strongly encouraged to notify their department before forwarding the response to the member for the riding where the organization is located. The department bypasses the member and gives the response to the organization. Some employees are currently under this sort of pressure.

Second, I am really going to be the devil's advocate, but do not get mad at me.

We are talking about a \$6.5 million budget, yet you have been telling us for some time that a host of other organizations can answer employees' requests. What sort of answers do you give them? Is \$6.5 million not too much?

**Ms. Christiane Ouimet:** Those are quite legitimate questions, and I am pleased to answer them.

First of all, the budget is very important. I am going to report on how the money is used and make sure Canadians get good value for money. We do not want to compete with other specialized bodies. We want to make sure that our mandate is clear and that people know what we are and what we are not.

To make an analogy, I would say that we are like a fire hall. We need to have very highly skilled people who are ready to respond in case of emergency. If you call the fire hall every day, that may mean that things are not going very well in the community. We have a preventive role that is difficult to measure, but I do want to say that the consultations we held across Canada were a huge success. I would very much like to have the parliamentarians' support on this. It will be your responsibility to challenge me on how we have used our resources.

We are well aware that this is taxpayers' money. But as in all quasi-legal fields, and I have worked in such fields for many years, I have to balance decisions and training and make sure we make the best decisions. You will be the judges, whether in five years, when the five-year review takes place, or much earlier, whenever I appear before you. I will be happy to answer your questions and provide you with any information you need.

It is not that I do not want to answer questions about the issue you are examining, but my quasi-legal function prevents me from speculating about a particular case and saying whether it fits the definition of wrongdoing. Obviously, you are concerned about this issue, but since it has been described in general terms, I cannot comment in five minutes. It would not be fair to you or to the department if I did. In addition, I would not be complying with the principles of natural justice and procedural fairness.

All I can say is that if the issue concerns you, we would be pleased to look at it in detail. When we refuse to take action because we are

prohibited by law from doing so, or when, at our discretion, we choose not to take action for valid reasons, we put the reasons in writing. However, I could not give you whistleblower protection, because you have made a very public request. Still, that does not mean that you will be the ones who knock on our door. That is the only challenge I see.

● (1005)

**The Chair:** Thank you, Ms. Ouimet.

[*English*]

One final, small question.

**Mr. Harold Albrecht:** Madam Chair, I have another point on this particular matter, a point of information for the committee members and our witnesses.

I'm sure we've all missed Mr. Kramp today, and I just wanted to inform the committee that the reason Mr. Kramp is not available today is that his mother passed away yesterday. I certainly want to extend our sympathies to the family, and our thoughts and prayers are with them.

**The Chair:** Mine as well. Thank you very much, Mr. Albrecht.

We thank you, Madame Ouimet, for coming before us.

We are going to adjourn for a couple of minutes and then we will move in camera.

[*Proceedings continue in camera*]

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