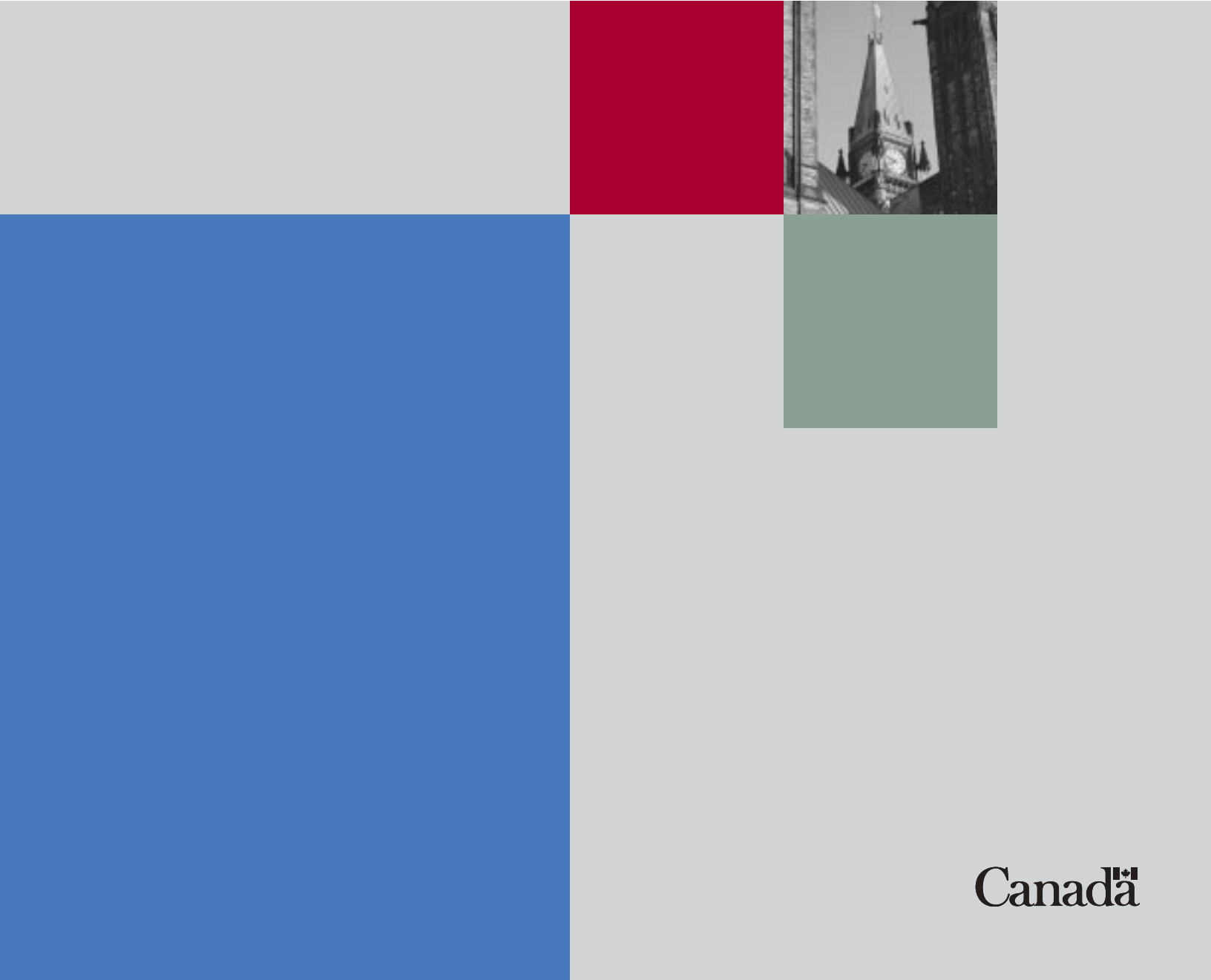


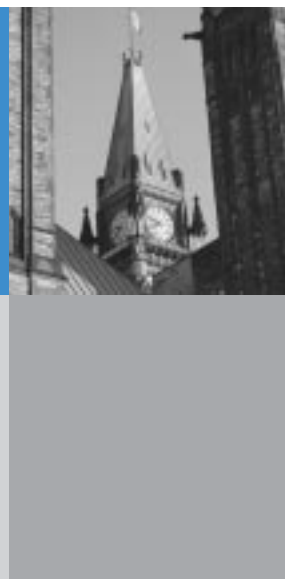


**One Year Later:  
Report of the Public Service Commission of Canada  
on the Office of the Privacy Commissioner of Canada**





**One Year Later:  
Report of the Public Service Commission of Canada  
on the Office of the Privacy Commissioner of Canada**



For an electronic version of this publication, please consult the PSC Web site at [www.psc-cfp.gc.ca](http://www.psc-cfp.gc.ca)

© Her Majesty the Queen in Right of Canada, represented by the Public Service Commission of Canada, 2004

Cat. No. SC3-105/2004

ISBN 0-662-68419-2



## TABLE OF CONTENTS

---

<b>SUMMARY</b> .....	1
<b>PREAMBLE</b> .....	3
<b>CONTEXT</b> .....	3
<b>THE STAFFING AUDIT: JUNE – SEPTEMBER 2003</b> .....	5
<b>THE INVESTIGATIONS: SEPTEMBER 2003 – MARCH 2004</b> .....	6
The Approach .....	6
The Systemic Investigation – Conclusions .....	7
The Individual Investigations – Conclusions .....	8
<b>THE FOLLOW-UP TO THE AUDIT: MARCH 2004</b> .....	11
The Approach .....	11
The Findings .....	12
<b>THE ACTION PLAN</b> .....	13
<b>THE OPC ONE YEAR LATER – JUNE 2004</b> .....	14
<b>A SUMMARY OF THE PSC’S RECOMMENDATIONS FOR THE OPC AND THEIR STATUS</b> .....	15
<b>CONCLUSION</b> .....	20
<b>RESPONSE OF THE PRIVACY COMMISSIONER</b> .....	21
<b>APPENDICES</b> .....	24
Appendix A: Chronology of Events/Activities .....	24
Appendix B: The Individual Investigations in More Detail .....	25
Appendix C: Public Service Commission (PSC) Action Plan .....	31
<b>GLOSSARY</b> .....	32





## SUMMARY

---

1. In March and May of 2003, the House of Commons Standing Committee on Government Operations and Estimates held hearings to scrutinize the Estimates of the Office of the Privacy Commissioner (OPC).
2. The Committee, citing its loss of confidence in the then Privacy Commissioner, George Radwanski, requested audits of the OPC by the Office of the Auditor General of Canada and the Public Service Commission (PSC) of Canada.
3. The reports of both audits, tabled in late September 2003, noted irregularities in the way staffing was conducted at the OPC.
4. This report, “One Year Later”, presents an overview of the PSC’s interventions with respect to the management of staffing at the OPC since June 2003, and provides an update on the situation at the OPC, one year later. The report includes: background information on the staffing audit of the OPC; summaries of the investigation reports; the preliminary findings of the follow-up staffing audit activities; the PSC’s Action Plan; an update on progress at the OPC; and a summary of the PSC’s recommendations.
5. The PSC conducted one systemic investigation and eight individual investigations into nine staffing actions. The systemic investigation concluded that there was a pattern of irregularities in recruitment and staffing at the OPC. Several of the individual investigations concluded that, while the appointments were made in accordance with the *Public Service Employment Act* (PSEA) and Regulations, there was a lack of adherence to the values of fairness, equity and transparency, or a violation of the terms of the Staffing Delegation and Accountability Agreement (SDAA).
6. In one instance, an appointment was found not to be in accordance with the Act; this resulted in a Board of Inquiry and the revocation of the appointment. (The PSC has the jurisdiction to take, or order a Deputy Head to take, appropriate corrective measures and, where warranted, to establish Boards of Inquiry to determine whether appointments should be revoked. These Boards may recommend such revocations to the Commission pursuant to section 6(2) of the PSEA.)



7. The preliminary findings of the follow-up to the audit were that, although by the end of the fiscal year the OPC had made some progress in addressing the findings and recommendations of the audit, indications were that in spite of significant effort, the OPC had not yet finalized, implemented and communicated its staffing strategy; nor had it put in place the required reporting and control system. The PSC is maintaining the conditions on OPC staffing until it is confident that the OPC has the necessary management capacity and human resources function in place.
8. Follow-up audit activities will continue until the PSC decides, on the basis of progress made, that the OPC has satisfied the conditions for restoration of its delegated staffing authority.



## PREAMBLE

---

1. Staffing and recruitment under the *Public Service Employment Act* (PSEA) are based on merit and non-partisanship as well as the Public Service staffing values of fairness, equity of access and transparency. Such a values-based approach places a special responsibility on managers in federal government departments and agencies, and will demand professionalism, judgement and irreproachable behaviour.
2. The regrettable situation at the OPC during the tenure of the former Privacy Commissioner has highlighted the importance of managers basing their actions on these staffing values and of a strong and effective oversight role in building a Public Service that fulfills the expectations of Canadians.

## CONTEXT

*Note: A Chronology of Events/Activities is attached as Appendix A.*

3. In March and May of 2003, the House of Commons Standing Committee on Government Operations and Estimates held hearings to scrutinize the Estimates of the OPC.
4. As a consequence of this review and subsequent meetings on related issues, the Committee reported to the House of Commons that it had lost confidence in the then Privacy Commissioner, George Radwanski. For the Committee, it was no longer possible to believe that information provided by him about his activities “could be assumed to be complete and accurate”.
5. Citing concerns about financial practices at the OPC, the Committee asked the Auditor General (AG) to conduct a comprehensive audit of those practices.<sup>1</sup>
  - In her report of September 30, 2003, the AG found that the former Privacy Commissioner had abdicated his responsibilities as a deputy head to ensure the proper administration of the OPC, and that most aspects of human resources management showed a disregard for the legislation and regulations that govern the hiring of staff, classification of positions, labour relations and performance awards.

1. House of Commons Standing Committee on Government Operations and Estimates, 4<sup>th</sup> Report, tabled June 13, 2003.



- She noted that many of the problems at the OPC could be attributed to the absence of sound management controls and practices, and the breakdown of even the most basic management principles.
6. The Standing Committee also requested that the PSC examine the management of staffing at the OPC, including whether the staffing values were respected, and to look at the application of the Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace, with respect to appointment processes.<sup>2</sup>
    - After imposing conditions on delegated non-executive hiring and promotion and withdrawing delegation for executive appointments in July 2003, the PSC conducted a staffing audit of the OPC. In its audit report, the PSC noted irregularities and serious deficiencies in the management of hiring and promotion at the OPC.
    - In addition to individual staffing actions that did not comply with the relevant legislative and policy framework, problems included: inadequate human resources planning; poor communications; inadequate reporting and control; and unclear roles and responsibilities.
    - While some hiring and promotions at the OPC technically met legislative requirements, the staffing values that underlie those requirements were not respected.
    - Consequent to the audit, one systemic investigation and eight individual investigations into nine staffing actions were conducted between September 2003 and March 2004.
  7. In March 2004, the PSC initiated a follow-up to the audit. The findings were that the OPC has made some progress in addressing the recommendations of the 2003 audit. In spite of significant efforts, however, the OPC has not yet finalized, implemented and communicated its staffing strategy. Nor has it put in place the required reporting and control system. Based upon the way in which the OPC approaches individual staffing transactions, the PSC concluded that more work is required to demonstrate that staffing values are being respected and that efforts to change the management culture continue. The PSC is maintaining the conditions on OPC staffing until it is confident that the capacity in management and in the human resources function is in place.
  8. While the PSC was doing its work related to the OPC, the Standing Committee on Public Accounts (PAC) was also engaged in writing a report.

2. [Letter to Scott Serson dated June 20, 2003.](#)



9. On April 19, 2004, PAC issued its Fourth Report<sup>3</sup> on the role of parliamentary agencies in “strengthening the deepest values of public service”. The recommendations contained in this Report had implications for the Treasury Board Secretariat, the Privy Council Office and the PSC. The PSC has prepared a response to the Fourth Report.

## THE STAFFING AUDIT: JUNE – SEPTEMBER 2003

10. The PSC’s staffing audit took place concurrently with the AG’s audit, over the summer of 2003.
11. The PSC conducted an audit of all OPC staffing actions dating from September 1, 2000 to June 30, 2003.
12. The results of the PSC’s own audit were consistent with those of the AG’s report.
13. In its report presented to the Standing Committee on Government Operations and Estimates on September 29, 2003, the PSC audit team stated that there were serious deficiencies in the management and operation of recruitment, staffing and promotion at the OPC. In addition to staffing actions that did not comply with the relevant legislation and policy framework, problems included inadequate human resources planning, poor communications, inadequate reporting and control, and unclear roles and responsibilities.
14. The PSC’s audit report<sup>4</sup> made 12 recommendations. Some related to its own role as overseer of the integrity of the staffing system, and one dealt with the issue of internal disclosure of wrongdoing in the workplace.
15. The audit recommended that, in the immediate term, the PSC maintain the conditions it had imposed (July 2003) on the OPC’s authorities for non-executive staffing, and the withdrawal of delegation for any appointment to executive positions, until a follow-up to the audit was conducted. Other recommendations called for the OPC to develop and implement a staffing strategy, and sub-delegate staffing authority to knowledgeable individuals.

3. To see the Report, visit the Parliamentary Web site at:  
[http://www.parl.gc.ca/InfocomDoc/Documents/37/3/parlbus/commbus/house/reports/PACC\\_Rpt04-e.htm](http://www.parl.gc.ca/InfocomDoc/Documents/37/3/parlbus/commbus/house/reports/PACC_Rpt04-e.htm)
4. To see the PSC’s staffing audit report, visit the PSC Web site at [http://www.psc-cfp.gc.ca/centres/opc/index\\_e.htm](http://www.psc-cfp.gc.ca/centres/opc/index_e.htm)



16. The audit recommended that the Commission further investigate possible improprieties concerning individual staffing transactions. Boards of Inquiry were to be established if necessary, to determine whether any appointments should be revoked.
17. The PSC's Recourse Branch also undertook to investigate, on the Commission's behalf, patterns of staffing behaviour at the OPC, as well as certain suspect individual staffing actions. This process began in September 2003 and was completed in March 2004.

## THE INVESTIGATIONS: SEPTEMBER 2003 – MARCH 2004

18. The PSC's Recourse Branch was mandated by the Commission to independently investigate staffing practices at the OPC, on its behalf.
19. The Commission, through its delegates in the Recourse Branch, can investigate individual matters based on complaints filed by public servants and/or members of the public concerning the application of the PSEA and Regulations. It can also investigate matters on its own initiative, based on information brought to its attention.
20. Typical matters investigated under section 7.1 by the Recourse Branch are administration of: open competitions; eligibility lists; priority entitlements for appointment; and reverse order of merit processes that may lead to surplus status.

## THE APPROACH

21. The PSC's Recourse Branch conducted one **systemic** and eight **individual** investigations into nine staffing actions.
22. The systemic investigator examined all of the position and competition files that were made available – about 65 files comprising approximately 100 staffing actions. She then focused on the 39 files that caused her concern, as they appeared to contain anomalies or staffing irregularities.
23. The individual investigations reviewed the files identified by the staffing audit as the most problematic.



24. Individual investigation activities included reviews of files and interviews; the systemic investigator also conducted interviews with and collected statements from former and current employees of the OPC and other individuals who were identified as having relevant information. This included Scott Serson, President of the PSC during the period being examined, and staff of the PSC's National Capital and Eastern Ontario regional office who were knowledgeable about and had had some involvement in the staffing requests originating from the OPC.

## **THE SYSTEMIC INVESTIGATION – CONCLUSIONS**

25. The findings of the systemic investigation confirmed those of the PSC's staffing audit and those of the Auditor General's report.
26. The systemic investigator's conclusion was that there was a pattern of irregularities in recruitment and staffing at the OPC. To varying degrees there were breaches of the OPC's Staffing Delegation and Accountability Agreement (SDAA) with the PSC, and the Public Service staffing values of fairness, equity of access, and transparency.
27. Significant deficiencies identified during the systemic investigation included: deployments improperly resulting in promotions (that is, promotions through appointments without competition occurred simultaneously or almost immediately following a deployment); lack of equitable access to jobs; failure to establish relative merit; pre-selection of successful candidates; questionable selection processes leading to appointments without competition; and lack of appropriate documentation in staffing/position files.
28. The investigator recommended that no further investigations or Boards of Inquiry be conducted, because: while there was insufficient documentation on the files to confirm appointees met all of the qualifications for their position, verbal evidence substantiated those individuals were qualified; the department had been diligent about posting Right to Appeal notices and OPC employees had chosen not to exercise this right; any right to complain about deployments had long since passed; and Treasury Board was already conducting a review of the classification of positions at the OPC and would presumably take corrective action where necessary and appropriate.



## THE INDIVIDUAL INVESTIGATIONS – CONCLUSIONS

*As an easy reference for readers, we have provided definitions of the Public Service Staffing Values that are noted in the text.*

**Competency** – attributes that ensure that public servants are qualified to fulfill their Public Service duty

**Equity of Access** – equal access to employment opportunities; practices are barrier-free and inclusive

**Fairness** – decisions are made objectively, free from political or bureaucratic patronage; practices reflect the just treatment of employees and applicants

**Non-partisanship** – employees are appointed and promoted objectively, free from political or bureaucratic patronage

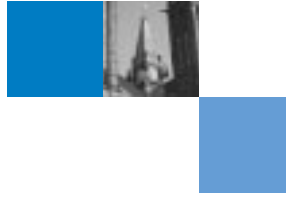
**Representativeness** – the composition of the Public Service reflects that of the Canadian labour market

**Transparency** – open communication with employees and applicants about resourcing practices and decisions

*Regarding the investigations into individual appointments<sup>5</sup>, in several cases the investigators concluded that further intervention was not possible or necessary because, despite some irregularities (for example, violation of the underlying staffing values of fairness, transparency and equity of access), the appointments did not breach the PSEA and Regulations, or the appointees were qualified for their positions, or the appointees had left the Public Service. In one case, the PSEA had been violated; this resulted in a Board of Inquiry and the revocation of the appointment. In several instances the investigators concluded that actions taken in accordance with the PSC's Action Plan addressed the irregularities.*

29. The investigation of the indeterminate appointments of **Arthur Lamarche** to the positions of **Special Advisor to the Commissioner (EX-01)** and **Chief of Staff/Special Advisor (EX-02)** was conducted to determine whether those appointments were made in accordance with the PSEA and the terms of the OPC's SDAA with the Commission.

5. See Appendix B for more details about the individual investigations.



The investigator concluded that the appointment to the EX-01 position was made in accordance with the PSEA. However, the appointment to the EX-02 reclassified position contravened the terms of the SDAA (Mr. Lamarche had not occupied the position for at least six months before his appointment). The OPC therefore had no authority to make the appointment.

No further action was recommended, as Mr. Lamarche had left the Public Service.

30. The investigation into the appointment of **Dona Vallières** to the position of **Director General, Communications and Strategic Analysis (EX-02/03)** was to determine whether the appointments to an EX-02 position and then to the same position following its reclassification to the EX-03 level were made in accordance with the PSEA, and whether the conditions of the SDAA were respected in the appointment to the EX-03.

The investigator concluded that, despite some irregularities in the processes, both appointments were made in accordance with the Act. Ms. Vallières was qualified for the position, and so no further action was necessary. The investigator did not have jurisdiction to challenge the appropriateness of the classification level of the position; this is a Treasury Board matter.

31. The investigation into the appointments of **Danielle Bondar** and **Kimberly Ann Nadon** to the positions of **Administrative Assistants (ST-SCY- 04)** were conducted to determine whether Ms. Bondar had participated in a fraudulent practice, and whether the appointment of Kimberly Ann Nadon should be revoked for lack of qualifications.

A Board of Inquiry concluded that Ms. Bondar had participated with then Executive Director Julien Delisle in a fraudulent practice (that is, he provided her with the questions and expected answers for a written test), that her appointment should be revoked pursuant to section 42 of the PSEA, and that she should not be appointed to another position in the federal Public Service.

During his testimony at the investigation hearing, Mr. Delisle indicated that Mr. Radwanski told him some time in 2001 to find employment for Ms. Bondar as he owed a favour to Ms. Bondar's mother, Monique Bondar, a former secretary in the Prime Minister's Office, for allowing him to have access to the Prime Minister. According to Mr. Delisle, Mr. Radwanski told him that there would be serious consequences for him if Mr. Delisle could not find a way to appoint Ms. Bondar. Upon receiving a copy of the relevant excerpts of the PSC investigation report, Mr. Radwanski wrote back to the PSC to categorically deny the veracity of the statements about him attributed to Mr. Delisle in the investigation report.



The Board of Inquiry concluded that no further action was necessary with regard to the appointment of Kimberly Ann Nadon, as she was fully qualified for the position.

32. The investigation into the appointment of **Lindsay Scotton** to the position of **Chief, Research Support (SI-06)** was to determine whether the appointment was made in accordance with the PSEA and the staffing values.

The investigator concluded that no corrective action was necessary, as Ms. Scotton was fully qualified. It was pointed out, however, that the staffing values of fairness and transparency had not been taken into consideration in making the appointment.

33. The investigation of the appointment of **Manon Mutchmore** to the position of **Executive Assistant (AS-05)** was to determine whether appointments to a term position (AS-05), an indeterminate position (AS-05), and the reclassified position (AS-06) were made in accordance with the PSEA and Regulations.

The investigator concluded that further intervention was not warranted. A careful review of the staffing actions revealed that each was sustainable (although there were some irregularities), and that Ms. Muchmore was qualified for the current position.

34. The investigation into the appointment of **Carole Proulx-Lafrance** to the position of **Administrative Assistant (CR-04)** was conducted to determine whether three successive appointments to a CR-04 position (one casual, one term as the result of an open competition, and a further term extension) were made in accordance with the PSEA and Regulations.

The investigator concluded that all three appointments were made in accordance with the Act and Regulations, and that no further intervention was necessary.

35. The investigation into the appointment of **Inayat Dhanani** to the position of **Information Technologist (CS-02)** was conducted to determine whether the appointment contravened the PSEA and Regulations.

The investigator concluded that, although there were some irregularities surrounding the staffing process (violation of the values of fairness and transparency), the appointment did not violate the PSEA. Mr. Dhanani was qualified for the position, and the PSC had approved a named referral; no further intervention was necessary.





36. The investigation into the appointment of **Patrick Hendricks** to the position of **Information Technologist (CS-02)** was to determine whether his appointment for a specified period to the position of Information Technologist was made in accordance with the requirements of the PSEA and Regulations.

The investigator concluded that intervention was not required, as the PSC's National Capital and Eastern Ontario regional office had approved the named referral, and there was no evidence that Mr. Hendricks was not qualified for the job. However, the staffing values of fairness and equity of access were not applied in making the appointment.

## THE FOLLOW-UP TO THE AUDIT: MARCH 2004

### THE APPROACH

37. The intent of the follow-up to the audit was to ascertain whether the following staffing management controls had been put in place:
- recruitment and staffing strategies, as well as plans and policies that are linked to the OPC's mission;
  - staffing specialists and managers are knowledgeable and organized;
  - communication to managers and employees regarding staffing matters is timely; and
  - performance reports on staffing enable appropriate modifications to be made to the staffing regime.
38. Subsequent to this follow-up, the PSC would review the conditions placed on delegation of staffing to the OPC.
39. Adequate staffing management controls are one prerequisite to lifting the current controls on staffing delegation. The audit focused on determining the OPC's status with respect to implementing the original audit recommendations that would result in the appropriate controls. Individual staffing transactions were not examined.
40. The team obtained information on staffing-related matters by interviewing the OPC's Director of Human Resources, by obtaining documentary evidence in support of interview findings, and by consulting with relevant PSC staff.



## THE FINDINGS

41. The Commission concluded that, although by the end of the fiscal year the OPC had made some progress in addressing the findings and recommendations of the audit, indications were that in spite of significant effort, the OPC had not yet finalized, implemented and communicated its staffing strategy; nor had it put in place the required reporting and control system. The PSC is maintaining the conditions on OPC staffing until it is confident that the OPC has the necessary management capacity and human resources function in place.
42. The interim OPC Director of Human Resources and her staff have worked hard on a number of fronts to respond to the audit recommendations.
43. The OPC drafted a preliminary human resources strategy linked to the organization's mission and Human Resources Strategy Action Plan. The strategy specifically noted the plan to develop a full staffing strategy by summer 2004. To date, the strategy has not been fully implemented.
44. The OPC implemented various initiatives to improve communications, including communication of staffing opportunities, outcomes of management discussions about staffing matters, and minutes of union/management meetings. "Question boxes" address employees' questions or concerns about staffing and other matters.
45. A staffing activity report was used by management to provide an overview of the limited staffing conducted in recent months.
46. All staffing files and related management practices referred to the Privacy Commissioner for review were followed up. It should be noted that two senior managers have resigned (D. Vallières, Director General of Communications and Strategic Analysis, and A. Lamarche, Chief of Staff), another has taken retirement (J. Delisle, Executive Director), and the Head of Human Resources (G. Gauthier) has deployed outside the OPC.
47. The OPC has indicated in writing that the employees remaining on staff perform their duties in a highly satisfactory manner, and that further corrective action would not be constructive.

## THE ACTION PLAN

48. The PSC developed an Action Plan<sup>6</sup> consequent to its staffing audit of the OPC. The Plan included, among other items: maintaining the conditions imposed on delegated hiring and promotion; referring problematic files to the interim Privacy Commissioner for possible disciplinary action; conducting, through the PSC's Recourse Branch, investigations into individual appointments and into staffing patterns at the OPC; establishing Boards of Inquiry where necessary; providing guidance on establishing adequate management controls; and beginning to conduct follow-up audit activities no later than April 2004 to ensure that those staffing management controls had been put in place.
49. The Action Plan also delineated broader actions to be taken by the PSC itself to avoid the recurrence of situations like that at the OPC. These included:
- Initiate a study on bureaucratic favouritism in the Public Service.
  - In relation to executive resourcing:
    - independently choose selection board members for OPC staffing processes, and review its general practices regarding the composition of selection boards;
    - endorse the use of three mandatory assessment tools (assessment centre, interviews, structured reference checks) in instances where the initial appointment to an executive level is via a reclassification or a without competition process;
    - review the authorities delegated to Deputy Heads in relation to acting appointments at the EX level, and put conditions in place to ensure meritorious acting appointments and to limit their duration; and
    - review terms, conditions and reporting requirements related to delegated EX staffing, and adjust the process for departmental attestations for delegated appointments, as appropriate, to ensure full compliance.
  - Reinforce the PSC's expectations with regard to internal management controls for staffing with departments and agencies.

6. To see the full text of the PSC's Action Plan, see Appendix C or visit [www.psc-cfp.gc.ca/centres/opc/action\\_plan\\_e.htm](http://www.psc-cfp.gc.ca/centres/opc/action_plan_e.htm)



50. On April 19, 2004 the Standing Committee on Public Accounts (PAC) issued its Fourth Report on the role of parliamentary agencies in “strengthening the deepest values of public service”. The Report spoke directly to the situation at the OPC, and recommended actions to be taken by the PSC, the Treasury Board Secretariat, and the Privy Council Office, to ensure they carry out their responsibilities appropriately.
51. In the PSC’s response to PAC (to be provided to the Committee in October), the PSC’s Action Plan has been updated.

## THE OPC ONE YEAR LATER – JUNE 2004

52. The conditions imposed on staffing at the OPC remain in place. A further follow-up audit will determine whether progress is continuing towards implementation of the PSC’s recommendations.
53. Ongoing interaction on staffing transactions between the PSC and the OPC staffing specialists indicates that more work is required to demonstrate that staffing values are being respected and that efforts to change the management culture continue. The recent hiring of a permanent director of human resources will enable the organization to put the necessary internal policies and procedures in place.
54. The PSC’s National Capital and Eastern Ontario regional office started processing OPC staffing actions in July 2003. A representative of that office joined the Treasury Board Secretariat OPC Classification Working Group in November 2003; this group discusses all classification actions or challenges, as well as the staffing actions that have been or will be received from the OPC. The group held its last meeting on March 29, 2004, and will be reconvened as necessary. No staffing action is approved without consultation with Recourse and the Audit Operations Division, as well as the Manager of Interpretation and Advice, Organization and Classification, at the Public Service Human Resources Management Agency of Canada.
55. In November/December 2003, the PSC conducted four workshops on values-based staffing for OPC staff. Forty-seven of the 105 employees on staff at that time, including all managers and supervisors and others from all levels, attended the training. Evaluations by the participants indicated that the objectives of the training were met.



## A SUMMARY OF THE PSC'S RECOMMENDATIONS FOR THE OPC AND THEIR STATUS

*Note: Recommendations in regular typeface are those arising from the staffing audit; items in italics are recommendations of the Recourse Branch following its investigations.*

56. That the Privacy Commissioner develop and put in place a staffing strategy, with supporting plans and policies, which demonstrate how staffing values are applied, by March 31, 2004. *Such policies should include a deployment policy, an area of selection policy, a casual or personal services contract basis policy, and a reclassification policy, to meet all Treasury Board and PSEA requirements.*

### **PSC Assessment of Status:**

The OPC provided a draft strategic planning document dated February 4, 2004 . It notes:

- the need to ensure the OPC has certain kinds of expertise;
- the intent to report periodically to the PSC (and others) on corrective measures taken;
- the intent to develop and implement a human resources management strategy; and
- the intent to create a healthy and respectful environment.

The OPC has also provided a preliminary draft of a Human Resources Strategy and a Human Resources Strategy Action Plan. These documents were discussed at OPC's Senior Management Committee (SMC) in March. The strategy specifically notes the OPC's intention to develop a staffing strategy by summer 2004 and conduct a demographics study by fall 2004.

Copies of e-mail messages confirm that SMC minutes are shared with all employees throughout the OPC.

An active effort is being made to follow the PSC recommendation.

The OPC has started to implement its staffing strategy; work should continue.

57. That the Privacy Commissioner sub-delegate, in a formal manner, staffing authority only to individuals who are knowledgeable about values-based staffing within the PSEA framework and who will be accountable for its implementation, by March 31, 2004. *Training to all managers should include the legal requirements of staffing, so that managers can ensure that all staff hear the same message.*



### **PSC Assessment of Status:**

Training on values-based staffing was provided to 47 of 125 of OPC staff, including all managers.

The Director of Human Resources confirmed the phased approach to reinstating staffing delegation, and noted that the Human Resources Strategy Action Plan indicates the intention to develop a delegation instrument by winter 2004.

We asserted the need for the sub-delegation of staffing authority to be confirmed in writing, as per the Terms and Conditions of Staffing Sub-delegation, and the Director of Human Resources concurred. She has provided the OPC's approved plan for reinstating staffing delegation with the following extended timelines:

- Phase 1, May 2004: sub-delegation to Deputy Head and Certified Staffing Specialists;
- Phase 2, January 2005: sub-delegation to two Assistant Privacy Commissioners; and
- Phase 3, September 2005: sub-delegation to three Senior Responsibility Centre Managers.

The plan notes that a detailed sub-delegation policy and guidelines will be completed prior to the Phase 3 delegation process. The timing of the recommendation has therefore not been met.

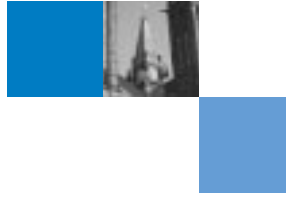
The OPC should continue toward the development of a formal sub-delegation agreement as per the original audit recommendation.

58. That the Privacy Commissioner develop, implement and maintain a communications plan regarding staffing strategies and individual processes for all employees, initially by March 31, 2004. When the established staffing strategies are not followed, OPC management should inform staff and/or their representatives, in advance, why a different approach is being taken. *A good example of this practice is the communication of a long-term strategy for filling positions on a casual or personal services contract basis.*

### **PSC Assessment of Status:**

As noted under the notes related to recommendation 1, the OPC has provided a draft Human Resources Strategy and Human Resources Strategy Action Plan. They specifically note the intention to develop a staffing strategy by summer 2004.

Additionally, minutes were requested of meetings between Assistant Commissioners and staff. The Director of Human Resources indicated that some meetings may not be very formal and did not produce minutes.



Minutes of union/management meetings were provided; they show discussions took place concerning, *inter alia*, communication of the strategic plan, anti-harassment training and communication of grievance procedures.

A copy of the human resources request form was requested by the PSC and received.

Copies of e-mails from human resources staff to all employees verify the widespread notification of opportunities. However, information from PSC staff indicates that a number of staffing actions involved the use of ongoing term extensions resulting in term conversions in accordance with the Treasury Board's Term Employment Policy ("three-year rule"). These actions reduced the number of competitive processes and did not demonstrate support for the staffing values of Fairness, Equity and Transparency.

Continuing effort, including a staffing strategy as per audit recommendation 1, needs to be made and information communicated to employees.


59. That the Privacy Commissioner put in place and maintain a reporting and control system to support, on at least a semi-annual basis, discussion with senior management and union-management meetings of staffing results and outcomes and the appropriate revision of staffing strategies, initially by March 31, 2004. *These discussions and reviews should also include best practices, regular staffing file updates, and analysis against objectives and performance indicators.*

### **PSC Assessment of Status:**

A copy was obtained of the human resources services activity report. It does provide the "date completed" of a staffing action, but does not provide a tally or analysis against objectives. There are plans to improve reporting on staffing, as indicated in the action plan under human resources information system/human resources reporting. The timing of this development, however, extends beyond the date stated in our recommendation.

Analysis regarding Official Languages is still in progress, so no reports are available yet. Reporting on Employment Equity is performed yearly. There have been positive developments, including the Senior Management Committee's regular discussions of human resources issues.

To date, staffing actions have been limited, so maintenance has not been a concern; however, the need still exists to put in place an adequate reporting and control system.

- 
60. That the Privacy Commissioner ensure that the OPC's staffing strategy addresses in explicit fashion what mix of staffing processes and sources of candidates is most appropriate to its mandate and mission, by March 31, 2004. *For example, the area of selection policy should be based on the view that it should be broad enough that an appropriate pool of candidates can be identified for both selection and recourse purposes.*

**PSC Assessment of Status:**

As noted, the draft Human Resources Strategy and Human Resources Strategy Action Plan include a reference to developing a staffing strategy by summer 2004. It is specifically noted that it will address, inter alia: "recruitment requirements and sources...". Additionally, the sub-delegation document provided by the OPC notes that certain conditions will be implemented, including monitoring of staffing activities by the Director of Human Resources, to ensure the appropriate mix and balance of staffing actions have occurred; however, this monitoring framework is still outstanding.

Although the OPC recognizes the need to address these areas, timely progress is an issue. Additional work is required to develop an adequate staffing strategy.

61. That the Privacy Commissioner review the files and related management practices which will be brought to his attention and take appropriate remedial measures with respect to the managers responsible, including disciplinary action up to and including discharge.

**PSC Assessment of Status:**

A written indication of the status of 12 employees was requested and received.

Those employees having a direct involvement with certain management irregularities are no longer employed at the OPC and/or appropriate corrective action has been taken.

For those employees remaining on staff, the OPC has drafted a response indicating that these employees perform their duties in a highly satisfactory manner and that further corrective action at this time would not be constructive.

The response further states that the OPC will be issuing a formal statement to all staff concerning those staffing practices that will no longer be accepted, and that this will be raised at a Senior Management meeting.

The action taken is adequate.





62. That the Privacy Commissioner instill a climate in the organization such that senior departmental staff will provide information, support and advice to the Privacy Commissioner to ensure understanding and respect for Public Service values (including staffing) so that employee careers are not jeopardized.

**PSC Assessment of Status:**

The Director of Human Resources helps the communications group respond to employees' questions. The auditor requested and received information on the concerns raised. The example provided was of an e-mail sent to all OPC staff in November 2003 regarding the launching of "question boxes" and including nine questions and answers pertaining to staffing and other issues.

The Human Resources Strategy Action Plan notes the intention to develop the capacity to seek feedback (survey) from employees and managers in order to more effectively target our human resources strategies – (year 2).

Statistics on the number of employees taking anti-harassment training were requested and received. Additional sessions are planned as well.

63. *That the HR unit at the OPC establish a close working relationship with their PSC staffing consultant, to ensure the availability of advice and guidance on staffing practices and a supportive relationship (no further action is required on this recommendation, as such a relationship will be a natural outcome of the corrective measures implemented by the OPC); and that all OPC staff receive the necessary HR-related training appropriate to their responsibilities (this training should continue and should include the methodology on how to assess qualifications of employees or candidates in competitions).*

**PSC Assessment of Status:**

Training should continue as required.



## CONCLUSION

64. As this report illustrates, numerous stakeholders have been involved in uncovering the improprieties at the OPC, and in the subsequent examinations and recommendations.
65. The OPC's story is not yet concluded; it is a work in progress. Participants in the story – the AG, PAC, the Standing Committee on Government Operations and Estimates, the PSC, and the public – all point to the importance of strong, effective stewardship of the values on which the Public Service of Canada is founded.
66. The OPC is making steady progress towards fulfilling the recommendations that will restore the integrity of its staffing procedures, but has not yet reached the point where its delegated authority for staffing can be restored. The PSC will continue its follow-up audit activities to determine when that time has come.



## RESPONSE OF THE PRIVACY COMMISSIONER

---

Thank you for providing the Office of the Privacy Commissioner (OPC) with the opportunity to provide feedback on the Public Service Commission's (PSC) report, "One Year Later: Report by the Public Service Commission of Canada on the Office of the Privacy Commissioner of Canada".

This has been a difficult year for staff of the OPC, but we have made a number of changes to improve how the office is run and the quality of the workplace. One of the most noted initiatives included engaging over 30 OPC employees in a strategic planning workshop, which was held in January 2004. Subsequently, a planning working group, made up of 10 employees from different branches was established to help refine strategic outcomes, develop strategies for OPC and propose action plans. As part of this process we also identified staffing requirements in support of the achievement of our strategic outcomes and the basic competencies for new positions to be created.

One of the outcomes that resulted from this exercise is the development of an human resources strategy/action plan which was communicated to all staff in April of this year.

The strategic planning exercise also included a preliminary discussion on the recruitment and development needs of the organization. This information will be validated with a workforce analysis scheduled for this fall to determine the existing and future needs of the organization and to position the development of OPC's recruitment/staffing strategy to assist the organization in meeting its operational business goals.

We are also at the consultation phase of a proposed Area of selection policy as well as a deployment policy, which will be used to address issues outlined in the original report. As well, a draft Instrument of human resources delegation has been presented to the OPC's Senior Management Committee to further outline and clarify Managers' accountabilities in the area of human resources management.



In an effort to enhance communication to staff regarding staffing issues, we have initiated a monthly “People in Transition” communiqué to all staff on employee movement within the organization. This initiative will support greater transparency in human resources management. When the *Values and Ethics Code for the Public Service* was announced last fall, we organized an information session with all OPC staff. We subsequently designed and delivered a set of seminars on values-based staffing and performance management. We will offer additional information sessions in fall 2004 to ensure full coverage of all OPC staff (executives, managers and staff).

We continue to work with the Public Service Human Resources Management Agency of Canada representatives on the on-going classification reviews and are nearing completion of the second phase of this exercise. It is important to note that we could not move forward with staffing until the outcomes of these classification reviews was known. This had an impact on the organization’s ability to resolve outstanding “legacy issues” such as the use of a contingent workforce, most notably, extending terms. However, in light of the current situation, the term extensions were deemed necessary to help the organization achieve its primary business lines and to ensure that the service to the public continued.

We have also created a Union Management Consultative Committee and a Health and Safety Committee that periodically meet to jointly resolve issues of shared concerns. The proceedings of these committees are shared with all OPC staff.

We have also made some significant strides in supporting individual and organizational learning. In November 2003, an Memorandum of Understanding was ratified with Canadian Centre for Management Development now the Canada School of the Public Service to design and deliver a learning aspirations and needs of OPC staff while ensuring full alignment with OPC business lines. A needs assessment was carried by the School in 2003/04. We are now moving forward with a series of learning initiatives ranging from an open house discussion on September 8, 2004 to determine and prioritize key organizational learning need to a series of workshops on individual learning plans.

We continue to work closely with our managers as well as colleagues at the PSC to bring the outstanding staffing actions to completion and stabilize the organization. We thank you for your continued support in this endeavour.



# APPENDICES





## APPENDIX A: CHRONOLOGY OF EVENTS/ACTIVITIES

### March and May 2003

Standing Committee on Government Operations and Estimates holds hearings to scrutinize Estimates of OPC; requests that Auditor General perform audit, PSC examine management of staffing at OPC.

### July 2003

PSC imposes conditions on delegated non-executive hiring and promotion, withdraws delegation for executive appointments.

### June-September 2003

AG, PSC conduct audits.

### September 2003

PSC's Recourse Branch initiates systemic investigation, eight investigations into nine individual staffing actions at OPC.

### September 29, 2003

PSC tables audit report; Action Plan developed.

### September 30, 2003

AG tables audit report.

### March 2004

Recourse Branch completes investigation reports, recommendations.

### March 2004

PSC initiates follow-up to the staffing audit of the OPC.

### April 19, 2004

Standing Committee on Public Accounts issues Fourth Report; requests that PSC revise the Action Plan developed after the staffing audit.



## September 2004

PSC prepares response to Fourth Report of the Standing Committee on Public Accounts.

## October 2004

PSC produces summary report on its interventions at the OPC (as of June 2004).

# APPENDIX B: THE INDIVIDUAL INVESTIGATIONS IN MORE DETAIL

## Investigation into the appointments of Arthur Lamarche<sup>7</sup> to the positions of Special Advisor to the Commissioner (EX-01) and Chief of Staff/Special Advisor (EX-02)

**Issue:** Whether the indeterminate appointments to the positions were made in accordance with the PSEA and the terms of the Staffing Delegation and Accountability Agreement (SDAA).

**Analysis:** Concerning the EX-01 appointment, it was determined that, considering the information gathered through the selection process, the selection board had no reason to doubt that the results of its assessment reflected the qualifications of the appointee.

Concerning the appointment to the EX-02 reclassified position, the condition of the SDAA that the incumbent must have occupied the position for a period of six months prior to his appointment was not respected. Therefore, the OPC had no authority to appoint Mr. Lamarche. This was a significant and major contravention of the SDAA, aggravated by the OPC's failure to forward a departmental attestation document to the PSC's Executive Programs. This document is a mechanism by which the Commission is informed of appointments made following reclassification of executive positions and ensures that the conditions of the SDAA are being met. Had the Commission received this information, it could have intervened.

**Conclusions:** The appointment to the EX-01 position was made in accordance with the PSEA.

The appointment to the EX-02 reclassified position was made without authority. Since Mr. Lamarche was no longer in the position at the time of the investigation, it was not considered appropriate to initiate a Board of Inquiry to revoke the appointment to the EX-02 position.

7. Mr. Lamarche was known to the Privacy Commissioner, having worked with him on a contract basis on the Canada Post Mandate Review in 1996-97. This case is one of several that together create a pattern of very limited areas of selection (that is, only candidates from within the OPC received consideration), thus violating the staffing value of equity of access to jobs.



Given the nature and seriousness of the irregularities in this case, other corrective measures were required. However, the measures already taken as a result of the PSC audit were sufficient to prevent the recurrence of such irregularities.

### **Investigation into the appointment of Dona Vallières<sup>8</sup> to the position of Director General, Communications and Strategic Analysis (EX-02/03)**

**Issue:** Whether the appointments into an EX-02 position and then into the same position following its reclassification to the EX-03 level were made in accordance with the PSEA, including merit; and whether the conditions of the SDAA were respected in the appointment to the EX-03.

**Analysis:** The appointment following the reclassification of the position to the EX-03 level raises concerns about staffing practices at the OPC at the time. The absence of a duly completed attestation, as well as the absence of a written assessment in the file, showed a lack of rigour, carelessness and incautiousness with regard to established rules of Public Service staffing, and a clear violation of the staffing value of transparency, as the Commission was not informed of the appointment.

While this would normally require corrective action, the measures already taken by the PSC (such as withdrawal of the OPC's staffing delegation and the development of an action plan following the PSC's audit report) were appropriate to prevent the recurrence of such irregularities.


**Conclusion:** Both appointments were made in accordance with the Act. The SDAA was respected, although the staffing value of transparency was violated in the selection process. No further action was required. Furthermore, the individual was no longer an employee of the federal Public Service.

### **Investigation and Board of Inquiry into the appointments of Danielle Bondar and Kimberly Ann Nadon to the positions of Administrative Assistants (ST-SCY- 04)**

**Issue:** Whether Ms. Bondar had participated in a fraudulent practice; and whether the appointment of the Kimberly Ann Nadon should be revoked for lack of qualifications.

8. Ms. Vallières had worked previously with Mr. Radwanski on the Canada Post Mandate Review in 1996-97. She was subsequently deployed to the OPC from the Treasury Board Secretariat at the EX-01 level. She was selected for the indeterminate appointment to the EX-02 position following a closed competition in the summer of 2001.





**Analysis:** Ms. Bondar participated with then Executive Director Julien Delisle in a fraudulent practice. He gave her, in advance, the questions and expected answers to a written test. Subsequently he gave her the interview questions, prior to the interview. He did this, he said, because Mr. Radwanski had told him to find a job for Ms. Bondar, as her mother, Monique Bondar, had done him an important political favour.<sup>9</sup>

The appointment of Kimberly Ann Nadon was investigated under subsection 6(3) of the PSEA; she was found to be fully qualified for the position.

**Conclusions:** A Board of Inquiry concluded that Ms. Bondar's appointment should be revoked pursuant to section 43 of the PSEA, and she should not be appointed to another position in the federal Public Service.

The Board of Inquiry concluded that no further action was necessary with regard to the appointment of Kimberly Ann Nadon.

### Investigation into the appointment of Lindsay Scotton<sup>10</sup> to the position of Chief, Research Support (SI-06)

**Issue:** Whether the appointment was made in accordance with the PSEA and the staffing values.

**Analysis:** The appointment was contrary to the staffing values of fairness and transparency. The evidence demonstrated that the OPC had Ms. Scotton in mind when it classified the position and drafted the statement of qualifications. In addition, she was told that she would not be responsible for her relocation expenses, an exemption not offered to other candidates. She also had assistance from the then Director of Human Resources in preparing her application. This implies an element of pre-selection, which is neither fair nor transparent. However, no corrective action was recommended with regard to the appointment itself, as the appointee was found by all the selection board members to be qualified, and there was nothing on file to cause doubt about their testimonies. The appointee had no hand in the pre-selection.

**Conclusion:** Appropriate remedial action had already been taken, in that the department's staffing delegation agreement had been revoked.

9. For more details on this case, see paragraph 31 of the main report.

10. Ms. Scotton had worked previously for the OPC on a contract basis. Mr. Radwanski and Ms. Vallières knew her work, and wanted her hired indeterminately.



### Investigation into the appointment of Manon Mutchmore<sup>11</sup> to the position of Executive Assistant (AS-05)

**Issue:** Whether appointments to a term position (AS-05), an indeterminate position (AS-05), and the reclassified position (AS-06) were made in accordance with the PSEA and Regulations.

**Analysis:** While the pattern of successive appointments might suggest that the appointee was favoured, a careful review of each staffing action individually revealed that each was sustainable, based on the evidence provided.

The closed competition that resulted in the candidate's being appointed to the indeterminate AS-05 position was conducted in accordance with the merit principle. There was no evidence that the appointee was not qualified for the job.

The investigator determined that she had no authority concerning the effective date of the reclassification within a week of the indeterminate AS-05 appointment to AS-06. Her authority was restricted to whether the candidate was qualified for the position and whether the appointment following the reclassification was made in accordance with the PSEA and its Regulations. This was the case, even though the statements of qualifications for the AS-05 and AS-06 were identical.

The investigator identified two irregularities. First, no statement of qualifications or assessment of the appointee apparently existed for the initial term appointment; therefore there was no evidence that the candidate was qualified at the time of that appointment. However, given that she was found qualified for the subsequent two appointments, it was decided not to intervene further concerning the term.

The second irregularity was the fact that the appointee participated inappropriately in the assessment of her own qualifications against the requirements of the AS-06 position, in that she prepared an initial draft of the document. This was done at the request of OPC Human Resources, and no evidence of bad faith was found on the part of the appointee. The assessment document was appropriately approved by a manager, on behalf of the Commissioner, who had knowledge of the appointee's work and qualifications. There was no evidence that the assessment did not accurately reflect her qualifications.

**Conclusion:** An intervention was not warranted in this case.

11. Ms. Mutchmore was known to Mr. Radwanski.



### Investigation into the appointment of Carole Proulx-Lafrance to the position of Administrative Assistant (CR-04)

**Issue:** Whether three successive appointments to a CR-04 position (one casual, one term as a result of an open competition, and a further term extension) were made in accordance with the PSEA and Regulations.

**Analysis:** The OPC adhered to the specific restrictions concerning the duration of casual employment. While a review of the qualifications was beyond the investigator's jurisdiction, her examination of the experience requirements found that they corresponded to the duties of the position. The screening of the applications was conducted in a detailed and thorough manner.

The subsequent extension to the term appointment was properly conducted, in accordance with the Act and Regulations.

The fact that no written assessment of the appointee against qualifications other than experience appeared in the staffing file is an irregularity; however, since the manager testified that the individual met all the qualifications of the position, the investigator concluded that she had no cause to intervene.

**Conclusion:** All three appointments were made in accordance with the Act and Regulations and no further action needed to be taken. However, the irregularity pointed to the need for greater diligence and rigour in OPC staffing practices.

### Investigation into the appointment of Inayat Dhanani to the position of Information Technologist (CS-02)

**Issue:** Whether there were staffing irregularities pertaining to the advertised language requirements, as well as the establishment and use of the eligibility list.

**Analysis:** While the OPC's actions were not technically illegal, they contravened the staffing values of fairness and transparency. First, Mr. Dhanani was identified through an open competition advertised as bilingual, but was appointed to an English Essential position, through a named referral. Unilingual English candidates might have been discouraged from applying to the competition based on the advertised language requirements, resulting in a smaller pool of candidates for the named referral. Secondly, candidates applied to the open competition in good faith and some went through the assessment process to no avail, since the OPC proceeded to staff the position through a named referral.



The investigator also found that it was not transparent for the OPC to have started a selection process and basically abandon that process without informing the candidates; there was no open communication regarding that resourcing decision.

**Conclusion:** Although there were some irregularities surrounding the open competition, the appointment did not violate the PSEA. The PSC approved the named referral; the candidate was qualified for the position; no further action was necessary in this matter.

### Investigation into the appointment of Patrick Hendricks to the position of Information Technologist (CS-02)

**Issue:** Whether an appointment for a specified period to the position of Information Technologist was made in accordance with the requirements of the PSEA and Regulations.

**Analysis:** The evidence indicated that the OPC conducted an open competition and abandoned it once potential successful candidates had been identified, but before language testing for the bilingual position had been completed.

The OPC then, as a separate staffing action, requested the name referral of the appointee and another candidate from the PSC, based on their performance in the competition. This request was approved.

The candidate was appointed to the originally advertised position, except that the language requirements had been changed to English Essential.

Fairness and equity of access were not respected. This case concerned an appointment to an English Essential position, although the appointee had originally been identified as a successful candidate in a competition for only bilingual applicants.

**Conclusion:** Intervention was not required, as the PSC had approved the name referral, and there was no evidence that the candidate was not qualified for the job. However, the staffing values of fairness and equity of access were violated.



## APPENDIX C: PUBLIC SERVICE COMMISSION (PSC) ACTION PLAN IN RESPONSE TO THE STAFFING AUDIT OF THE OFFICE OF THE PRIVACY COMMISSIONER (OPC) – SEPTEMBER 2003

*Note: The PSC has addressed all commitments made in the following Action Plan.*

As OPC-targeted action, the PSC will:

1. Maintain the conditions imposed on delegated non-executive hiring and promotion, as well as the withdrawal of delegation for executive (EX) appointments, until the recommendations are addressed and their implementation confirmed by the follow-up audit.
2. Refer staffing files that were identified by the PSC audit as problematic to the interim Privacy Commissioner for possible disciplinary action.
3. Through its Recourse Branch, conduct:
  - eight investigations into the appointments of specific individuals;
  - one investigation into the staffing patterns of senior OPC managers and HR specialists;
  - possibly, more investigations; and
  - possibly, boards of enquiry.
4. Ensure that corrective actions are taken immediately upon receiving the results of the investigations and boards of inquiry.
5. Work with the OPC and the Treasury Board Secretariat to address the staffing consequences of the correction of confirmed over-classification of OPC positions.
6. Provide guidance to the Interim Privacy Commissioner with regard to establishing adequate management controls (for example, provide the OPC's HR specialists with training on values-based staffing).
7. Conduct a follow-up audit in April 2004, to ascertain whether the following staffing management controls are in place:
  - recruitment and staffing strategies, plans and policies are linked to the OPC's mission;
  - staffing specialists and managers are knowledgeable and organized;
  - communication to managers and employees regarding staffing matters is timely; and
  - performance reports on staffing enable appropriate modifications to be made to the staffing regime.



## GLOSSARY

---

**Area of Selection** – the geographical/occupational/organizational parameters that define eligibility for appointment

**Board of Inquiry** – established pursuant to section 6(3) of the PSEA when the facts or allegations cast doubt on the qualifications of the person appointed or on compliance with the terms and conditions of the department's delegated staffing authority. An appointment cannot be revoked without a Board of Inquiry.

**Casual Employment** – an appointment for not more than 90 calendar days. The person cannot work in one department more than 125 days in any year; nor may he/she enter closed competitions.

**Closed Competition** – a competition open only to persons employed in the Public Service

**Competency** – attributes that ensure that public servants are qualified to fulfill their Public Service duty

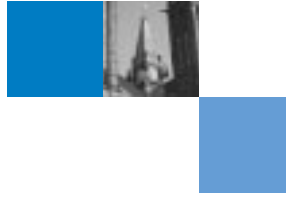
**Deployment** – the voluntary movement of an employee to a new job that does not constitute a promotion or change of tenure and cuts ties to his/her former position

**Eligibility List** – a list of qualified candidates created as a result of a competition

**Equity of Access** – equal access to employment opportunities; practices are barrier-free and inclusive

**Fairness** – decisions are made objectively, free from political or bureaucratic patronage; practices reflect the just treatment of employees and applicants

**Indeterminate Employment** – permanent part-time or full-time employment



**Investigation** – an inquiry into whether the process of selection has been conducted according to merit, thus protecting the public interest. The PSC conducts investigations through its delegates in the Recourse Branch, under section 7.1 of the *Public Service Employment Act*. The PSC may investigate individual matters based on complaints of public servants or members of the public concerning the defective application of the Act and Regulations. It may also investigate systemic issues based on requests from a department or union, or it may investigate matters based on information brought to its attention. The PSC may take, or order a Deputy Head to take, corrective measures.

**Investigator** – the officer appointed by the Commission to conduct an investigation on its behalf on matters within its jurisdiction

**Merit** – The merit principle is the cornerstone of staffing in the Public Service. Merit is defined in two ways: relative merit, which means that the individual is assessed along with other candidates, found qualified for a position, and ranked in order of merit; and individual merit, which means that the appointee may be assessed against a standard of competence rather than in relation to the competence of other individuals. In either case, the position is filled by a qualified candidate.

**Named Referral** – the common expression used to obtain PSC authority to hire a specific individual from outside the Public Service without the formal consideration of other candidates

**Non-partisanship** – Employees are appointed and promoted objectively, free from political or bureaucratic patronage.

**Open Competition** – a selection process by competition in which members of the general public as well as Public Service employees are eligible to compete

**Representativeness** – The composition of the Public Service reflects that of the Canadian labour market.

**Section 7.1 of the PSEA** – The section of the Act under which the Commission may conduct investigations and audits on any matter within its jurisdiction. The PSC's Recourse Branch is delegated by the Commission to investigate matters including, but not limited to, alleged systemic unfair or inequitable staffing practices, alleged political interference in a staffing process, or alleged bureaucratic patronage.



**Section 12.1 of the PSEA** – Upon request, the Recourse Branch of the PSC may review the qualifications established by a Deputy Head for a position for the purpose of ensuring that they afford a basis of selection according to merit. In doing so, however, the Commission is not authorized to substitute its opinion for that of the Deputy Head and will only intervene where the qualifications established are clearly unreasonable. Furthermore, the Commission cannot add new qualifications.

**Section 43 of the PSEA** – Where a person who is being considered for appointment, or who has been appointed, under the PSEA, to or from within the Public Service is proved on an inquiry to have been concerned in any fraudulent practice, or to have been guilty of any breach of the regulations with respect to any selection process for appointment held under the Act, the Commission may refuse to consider the person for the appointment or, if the person has been appointed, may revoke the appointment of the person retroactively to the date of the appointment.

**Specified Period Employment (Term employment)** – part-time or full-time employment for a fixed, predetermined duration

**Staffing Delegation and Accountability Agreement (SDAA)** – The instrument that allows the PSC to delegate many of its staffing authorities PSC to Deputy Heads. In accepting delegation, Deputy Heads become responsible to the PSC for ensuring that staffing respects all legislative requirements as well as the values and principles underlying selection based on merit.

**Statement of Qualifications** – a list of qualifications that a candidate must possess to qualify for an appointment

**Transparency** – open communication with employees and applicants about resourcing practices and decisions

**Without Competition Appointment** – An appointment based on individual or relative merit made without holding a competition.