



Shedding light on the facts.

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Shining a light
on issues that
matter.

Peter Hourihan

Honesty. Accountability. Transparency.

We hear these words a lot from several different sources, including politicians, the media, police and the business sector.

These are encouraging words and concepts to hear.

They're also very easy words to speak.

Over time, we risk having the meaning of these very fundamental values diluted if they are not adopted and practiced in real and meaningful ways. Part of that is because while they are easy notions to talk about, they're hard to put into practice. It can be easy to dismiss these concepts or be skeptical of them. This is particularly true in the public sector.

Our office is focused on encouraging these values and recommending change when the public sector falls short of upholding them. Call us optimists, or label us glass-is-half-full types, but our core belief is attitudes and culture can change for the better. As Alberta's Public Interest Commissioner, this is what drives my work and the work of our team. We take every allegation of wrongdoing or reprisal seriously. We know honesty, accountability and transparency are the values that can help move the

public sector towards a mindset where shining a light on problems and issues is encouraged and rewarded. In time, our goal is to see negative attitudes around wrongdoing eliminated completely and where reprisals are non-existent.

This is one reason why we've built the design and theme of this annual report around the concept of a flashlight.

Inquiries to our office have increased significantly. Investigations are up as well. In 2013-14, we launched two investigations. Last year, in 2014-15, we began 13 investigations. In our first year there were no reports of reprisal. In our second year, we received two reports. This indicates awareness is growing, and is evidence of some success of the awareness campaign we launched in 2013. I am not convinced these numbers are high enough given the size and scope of our public sector. However, I am not in a position to offer a clear perspective as we are still establishing benchmarks in our young existence.

Awareness and outreach with the more than 200,000 civil servants under jurisdiction of our governing legislation, the *Public Interest Disclosure (Whistleblower Protection) Act*, remains an ongoing effort – and will for some time to come. We’ve made considerable strides in reaching out to public servants across the Government of Alberta. We have more presentations and information sessions scheduled over the coming year.

Certainly, some departments and public entities have proven to be more engaged with the process than others. Considerable commendation should be directed at the department of Seniors, whose leadership helped proactively organize and support four presentations over the course of a couple of months, each with a significant number of attendees. Unfortunately, others have not

been as supportive. We were forced to cancel presentations at one department due to lack of interest. This could be because things are going fine within the department, but it could also be because there was little effort made to promote the sessions.

While we received many informed questions about the government’s safe disclosure process at these employee awareness sessions, we also found, for the second year, employees are still generally uninformed or confused about the Act, our office, and the role of chief and designated officers.

We knew when our office and the government’s safe disclosure process was launched in June 2013, it would take some time for provincial authorities to develop effective awareness campaigns. However, to continue to meet employees who don’t know their rights and obligations in 2015 causes us concern – as it should to all public servants, government leaders and all Albertans.

The Government of Alberta has publicly acknowledged that public interest disclosure is an important part of its efforts to promote honesty, accountability and transparency.

On the operational side of our office we continue to hone and refine policies and processes to ensure we respond and adapt to changing events and needs as they arise. Last year, we implemented a new case management system, which we share with the office of the Alberta Ombudsman (my other role). I’m pleased with the work all staff have put into the development and testing of this system. We have also struck a shared-services agreement with other independent offices of the Legislative Assembly. This helps draw on IT and other available tools, while leveraging the strengths of both our offices in reducing costs, improving efficiencies and benefiting from economies of scale.

We have also been preparing for the Government of Alberta’s legislative review of our Act, to be conducted by the Standing Committee on Legislative Offices. This is a requirement of the Act and calls for such a review

within two years of its passage. Our legal counsel and a law student have already begun significant work to prepare for this. They reviewed several issues including questions surrounding definitions contained in the Act, jurisdictional matters, issues related to the reporting of wrongdoings and investigation outcomes and whether the Act should be amended to apply retrospectively to its June 1, 2013 coming into force date. Given this work, we are ready to engage and support the committee when it begins its work reviewing the Act.

Our office continues to offer a pathway to helping the public sector achieve and sustain these values.



Peter Hourihan
Public Interest Commissioner



Peter Houriban, the Public Interest Commissioner, speaks with CTV's Alberta Prime Time host Michael Higgins on July 16, 2014. Joining the conversation was David Hutton, formerly of the Federal Accountability Initiative for Reform.



How Alberta's Public Interest Disclosure Process Works.

An effective public service depends on the commitment of everyone who works in it to maintain the highest possible standards of honesty, accountability and transparency.

About the Public Interest Commissioner's Office

The *Public Interest Disclosure (Whistleblower Protection) Act* creates a safe avenue for public servants to speak out about wrongdoings or make complaints of reprisal. Employees covered by this legislation can choose whether to report internally or directly to the Public Interest Commissioner.

Our job is to conduct thorough investigations if employees disclose wrongdoing or complaints of reprisal to our office. Our larger aim is to promote a culture within the public sector that encourages employees and management to report wrongdoings in their workplace.

No matter who you report to, you are equally protected from reprisals.

Role of the Commissioner

The Commissioner provides oversight of disclosures and investigations, and investigates complaints of reprisal in the public sector covered by the *Public Interest Disclosure (Whistleblower Protection) Act*, which came into force June 1, 2013.

The legislation applies to the Alberta public service, provincial agencies, boards and commissions, as well as academic institutions, school authorities (including school boards, charter schools, accredited private schools that receive grants, and Early Childhood Services operators), and public sector health organizations (including Alberta Health Services, Carewest, Covenant Health, and the Lamont Health Care Centre). Health care professionals appointed to the medical or professional staff of a public organization, or who hold privileges with one, are also protected under the Act.

The Act also requires public entities to establish an internal process to manage and investigate reports of wrongdoing. Under the legislation, public sector bodies are encouraged to appoint a designated officer within their organization to investigate and resolve: complaints by employees who report violations of provincial or federal law; acts or omissions that create a danger to the public or environment; and gross mismanagement of public funds.

If no designation is made, the responsibility falls to the chief officer. Employees not satisfied with the internal outcome or who believe they were a victim of reprisal can take their complaint to the office of the Public Interest Commissioner. Employees can also report simultaneously to the chief officer and the Public Interest Commissioner.

The *Public Interest Disclosure (Whistleblower Protection) Act*

The Act applies to provincial government departments, Offices of the Legislature and to public entities. Public entities include any agency, board, commission, Crown corporation, or entities within the education and health sectors designated in the regulations.

The purposes of the Act are to:

- Facilitate the disclosure and investigation of significant and serious matters an employee believes may be unlawful, dangerous or injurious to the public interest
- Protect employees who make a disclosure
- Manage, investigate and make recommendations respecting disclosures or wrongdoings and reprisals
- Promote public confidence in the administration of the departments, legislative offices and public entities

The regulations were approved by Cabinet on May 15, 2013.

Timelines

The regulations of the *Public Interest Disclosure (Whistleblower Protection) Act* establish the following timelines for managing disclosures:

- Time to acknowledge receipt of disclosure – five business days from date disclosure received
- Time to conduct preliminary analysis – 10 business days from date disclosure is received
- Time to conduct investigation and reporting of findings – 110 business days from date disclosure is received



Media gathered in Edmonton on July 22, 2014 to report the findings of our investigation into allegations raised about AHS's computer procurement.

Fines

The Act establishes strict penalties of up to \$25,000 for the first offence, and up to \$100,000 for each subsequent offence. Offences include the following:

- Committing a reprisal (section 24 of the Act)
- Withholding information, making a false or misleading statement, or counselling or directing another person to do so (section 46 of the Act)
- Obstructing, counselling or directing another person to obstruct, any individual acting in an official capacity under this Act (section 47 of the Act)
- Destroying, mutilating, altering, falsifying, or concealing any document or thing that may be relevant to an investigation; or directing or counselling another person to do so (section 48 of the Act)

How our office works

The office of the Public Interest Commissioner employs trained investigators to provide advice and conduct investigations as required regarding disclosures and complaints of reprisals for employees of government ministries, agencies, boards and commissions and other jurisdictional public entities.

We are an independent body, examining disclosures on a case-by-case basis.

We share an office with the Alberta Ombudsman, who ensures fairness in how Alberta government departments, agencies, boards or commissions, professional organizations, and the patient concerns resolution process of Alberta Health Services operate.

What is a Wrongdoing?

Wrongdoing is defined as:

- A contravention of an act, a regulation made pursuant to an act, an act of the Parliament of Canada, or a regulation made pursuant to an act of the Parliament of Canada
- An act or omission that creates an imminent risk to the health and safety of individuals, or a specific threat to the environment
- Gross mismanagement of public funds or a public asset
- Knowingly counselling an individual to commit a wrongdoing mentioned above

While wrongdoings can focus on one issue, they are generally more complex, and can involve multiple issues. For example, a March 2012 report by the federal Public Sector Integrity Commissioner found a manager with Human Resources and Skills Development Canada misused public funds and assets, contravened acts of Parliament, misappropriated funds and counselled others to commit wrongdoing.

According to the report, tabled in Parliament, the specifics included:

- Claiming mileage on a personal vehicle while using a government vehicle, and using it for personal matters
- Hiring a friend with inferior qualifications to a position where a qualified candidate was available and ready to work
- Purchasing personal televisions and expensing them to government

The manager also used government-purchased office supplies for a personal business operated out of the manager's government office.

What is a Reprisal?

Reprisals can take many forms, and may include:

- A dismissal, layoff, suspension, demotion or transfer, discontinuation or elimination of a job, change of work location, reduction in wages, changes in hours of work or a reprimand
- Any measure that adversely affects the employee
- A threat to make any of the previously mentioned actions

Protection is provided by the *Public Interest Disclosure (Whistleblower Protection) Act* to employees who make a disclosure of wrongdoing, participate in the investigation of a disclosure, or who refuse to participate in a wrongdoing, and, in doing so, face adverse employment action (or reprisals). The Act also protects employees who seek advice from the Public Interest Commissioner, or their workplace's designated officer.

If employees want to make an allegation of reprisal, or feel they have been the subject of a reprisal, they can choose whether to contact the Public Interest Commissioner's office, or their workplace's designated officer. At any time, employees can contact the Public Interest Commissioner directly if they wish to seek advice or if they choose to report their complaint to the Commissioner.

The Act is not intended to deal with routine operational or human resources matters. Employees should follow their organization's existing procedures to deal with those concerns.

How Do Employees Make a Disclosure?

Employees can disclose an allegation of wrongdoing either through their employer's internal disclosure procedure or through the Public Interest Commissioner.

Internal

Employees are encouraged to follow their organization's internal procedures for reporting a wrongdoing. Each public entity is responsible for establishing these procedures. A chief officer is responsible for a public entity's compliance under the Act. The chief officer is essentially the person at the top of an entity's organization chart, for example, the superintendent of a school district or the CEO of Alberta Health Services.

A chief officer is responsible for:

- Establishing internal disclosure procedures
- Appointing a designated officer
- Communicating with employees about the Act, and how to make a disclosure
- Receiving and implementing recommendations resulting from investigations
- Fulfilling annual reporting obligations

A designated officer is responsible for the day-to-day operation of an organization's wrongdoing disclosure process, including:

- Receiving disclosures of wrongdoing and assessing whether or not they can investigate
- Conducting investigations into allegations
- Ensuring appropriate protection of information and writing a summary report of their findings
- Ensuring the chief officer is aware of investigations

Public Interest Commissioner

There are circumstances when an employee may wish to report an allegation of wrongdoing directly to the Public Interest Commissioner. These are:

- If an employee is considering reporting a wrongdoing to their designated officer, they may seek advice or information from the Public Interest Commissioner

- If an employee has disclosed an allegation of wrongdoing to their designated officer, and they are unhappy with the outcome or feel the matter is unresolved, employees may disclose those allegations to the Commissioner
- If there are no internal procedures at an employee's workplace
- If employees feel there will be a reprisal against them if they disclose an allegation
- If the Commissioner has determined an entity's procedures do not meet the necessary criteria
- If the employee's designated or chief officer is involved in the wrongdoing
- If employees believe the matter constitutes an imminent risk

Chief and designated officers

Many public servants choose to report wrongdoings internally to their employer or organization. Chief or designated officers will often be the first point of contact for an employee who wishes to speak out.

Their role is to support and provide advice to the employee considering making a disclosure, and also to assess, investigate as required, and manage reports of wrongdoings.

Developing Procedural Guidelines

Some overall responsibilities to be considered by public entities include:

- Identifying their chief officer
- Designating a senior officer (designated officer) to administer the internal process
- Developing an internal disclosure process that meets the minimum requirements of the Act
- Training managers and staff so they're familiar with the internal disclosure process and legislation
- Ensuring performance management criteria are tracked for inclusion in the public entity's annual report

A blue background with a flashlight beam shining from the top right, illuminating the text 'Strategic Plan' in the center. The flashlight is black and silver, and the beam is bright white.

Strategic Plan

Our office has just completed our second year of operations. Having grown in both work levels and experience over the previous 12 months, the office of the Public Interest Commissioner continues to refine and enhance our strategic plan. The focus and mandates of both the Public Interest Commissioner and the Alberta Ombudsman are aligned and share the foundation of ensuring administrative and procedural fairness.

Introduction

The office of the Public Interest Commissioner continues to adapt its practices and procedures to meet new challenges and implement best practices as identified. Although our approach and responses remain fluid in these early years, some areas of significant importance have been identified. These areas require a dedicated focus to ensure we provide an effective service and uphold the public interest.

Expanding awareness and understanding of the Act remains a priority. While some public entities have embraced the Act and the required legislated whistleblower disclosure process, far too many have not fully complied.

Given this, and the importance of ensuring employees and managers understand their rights and responsibilities under the Act, we view awareness-building as not only a priority for the Public Interest Commissioner, but also for public entities under the Act.

A review of our governing legislation, the *Public Interest Disclosure (Whistleblower Protection) Act*, is slated to begin later this year.

On all fronts, we continue to engage with employees, accept and manage disclosures, and refine and hone policies and procedures – all with an aim to establish the office as an independent and trusted source for public sector employees. Our strategic planning process outlines the best ways forward to achieve this in both the short- and long-term.



Peter Hourihan
Public Interest Commissioner



As part of our outreach and awareness efforts, Peter Hourihan presented to the Southern Alberta Council on Public Affairs in September 2014. The group, based in Lethbridge, invited Peter to discuss his joint roles as Commissioner and Alberta Ombudsman.

Strategic Priorities

We identified three strategic priorities for inclusion in our Strategic Business Plan. These areas are of significant importance and require a dedicated focus to ensure we are effective and add value for Albertans:

- Enhanced awareness of the Public Interest Commissioner
- Provide excellent service
- Facilitate the legislative review

From our strategic priorities, we developed various goals, initiatives and targets.

The following outlines our priorities, goals and initiatives for our first year of operation.



Enhanced Awareness of the Public Interest Commissioner

Goals:

Employees understand the rights and protections afforded them by the Act.

Supervisors and management understand their responsibilities pursuant to the Act.

All entities included in the Act have implemented compliant internal procedures and processes.

A public sector culture exists where employees are encouraged to disclose wrongdoings and management effectively and appropriately addresses the wrongdoing.

Initiatives:

- Work collaboratively with chief and designated officers to ensure compliant processes and procedures are developed and implemented
- Conduct scan of entities covered by the Act to determine level of procedural compliance
- Encourage and ensure chief officers are “widely communicating” to their employees proper information about the Act
- Promote the rights and protections afforded employees by the Act through presentations, information sessions and targeted communication strategies
- Continued enhancement of the Public Interest Commissioner’s website and the leverage of Alberta Ombudsman social media opportunities to increase awareness and engage employees and supervisors
- In 2014-15, our office embarked on several employee outreach presentations and information sessions. Provincial departments of Health, Seniors and Justice and Solicitor General received presentations in Edmonton, as did government offices housing a variety of departments in Fort McMurray, St. Paul and Lethbridge. Other outreach visits included presentations to employees at the University of Alberta and the Grande Prairie Public School District. As well, a second round of awareness posters and brochures were distributed to public entities, following up on the initial distribution of these materials in 2013-14
- A social media policy was drafted and approved in July 2014. That same month, a Twitter account was launched for the Alberta Ombudsman. When possible and appropriate, various messages specific to the Public Interest Commissioner have been disseminated through this medium. Ongoing review and assessment of Twitter, as well as new and emerging social media tools, continues. The Commissioner’s website continues to be a platform used to share and disseminate information to employees, while new innovations (including safe and secure online complaint forms, linked to an encrypted database) are also examined and implemented where possible

Results:

- We continue to assist chief and designated officers when called upon to help meet their requirements under the Act within their work environment
- A scan of entities is ongoing and is largely contingent on a number of factors including a moveable number of private schools recognized and covered by various provincial authorities
- The Act places responsibility on chief and designated officers to widely communicate to their respective employees. Through the course of outreach efforts (see following) our office has determined awareness levels remain minimal

Provide Excellent Service

Goals:

Investigations are timely and demonstrate the highest level of professionalism, competence and confidentiality.

Employees of the office of the Public Interest Commissioner are skilled, engaged and able to deliver on goals.

Annual reporting to the Legislative Assembly on the exercise and performance of the Commissioner's functions and duties, in accordance with the Act, is achieved.

Initiatives:

- Providing appropriate support to employees and supervisors to facilitate effective and efficient management of disclosures of wrongdoing and complaints of reprisal
- Ensure all investigative timelines are achieved and in compliance with the Act
- Ensure any and all client satisfaction concerns or complaints are addressed expediently and thoroughly
- Ensure all employees of the Public Interest Commissioner's office have a learning plan
- Encourage and support a wide range of career, learning and leadership opportunities that support our employees in achieving their full potential
- Improve service outcomes to entities and their employees through an office of the Public Interest Commissioner that is knowledgeable and responsive

all cases where timelines were not met or extensions were required; track the number of disclosures of wrongdoing reported to the Commissioner; track the number of disclosures of wrongdoing reported back to the employee's public entity; and track the number of complaints of reprisal reported to the Commissioner

- Our office continues to collect and analyze data, including client satisfaction concerns or complaints, to effectively allocate internal resources, support and feedback. We also seek to evolve methods and tactics to better serve employees and chief and designated officers
- A new case management system, implemented in summer 2014 by both offices, is a key part of managing disclosures and reprisals on the investigative and reporting side of our operations
- New online complaint forms, modeled on the Alberta Ombudsman's secure and encrypted online database, will provide clients, stakeholders and employees another tool to track and collate disclosures and other information. These complaint forms replace the former PDF documents previously available online to download
- Our analysts continue to track the necessary statistical data in compliance with the Act

Results:

- In cooperation with the shared services of the Alberta Ombudsman's office, the Public Interest Commissioner leverages resources to ensure employees and supervisors have the tools to effectively and efficiently manage disclosures of wrongdoing and complaints of reprisal
- Internal managerial oversight continues to: track timelines for all investigations conducted by the Commissioner, per the Act's regulations, and report

Facilitate the Legislative Review

Goal:

A legislative review of the *Public Interest Disclosure (Whistleblower Protection) Act* is conducted, recommendations are approved and clarity is achieved where necessary for public sector employees and management.

In accordance with section 37 of the *Public Interest Disclosure (Whistleblower Protection) Act*, a special committee must be established by the Legislative Assembly of Alberta by June 2015 to initiate a comprehensive review of the Act. Within one year of the establishment of this committee, a report, including any recommended amendments, must be submitted to the Legislative Assembly.

Initiatives:

- Host a meeting of key stakeholders to surface issues or concerns to be considered for inclusion in a legislative review
- Collect, document and collate identified issues and prepare an overview for consideration
- Provide Justice and Solicitor General with necessary assistance to facilitate and advance the required report to the Legislative Assembly committee

Results:

- We continue to reach out to key stakeholders to identify any legislative concerns. This process has been ongoing since late 2014
- Alberta Ombudsman/Public Interest Commissioner legal counsel has collected and documented recommendations relevant to the Act's review, highlighting a number of issues and questions. This document is largely complete, though any further observations and feedback will be incorporated into the final document, which will be provided to Justice and Solicitor General as the review begins



Wrong Vs. Wrongdoing

The *Public Interest Disclosure (Whistleblower Protection) Act* focuses on wrongdoings.

What's Wrong? And What's Wrongdoing?

Employees can generally recognize something that's wrong. Wrongdoing, on the other hand, is a challenging concept to define and there is no clear distinction between *wrongdoing* and *wrong*.

The Act sets out a definition in section 3(1) (see page 8 for the full definition). It differentiates a wrongdoing from a wrong by using words such as *contravention*, *substantial and specific danger*, and *gross mismanagement*. These terms are all significantly outside what would be considered reasonable or merely something that's wrong.

Despite this, the Act provides no distinction between a wrongdoing and something wrong. So where does that leave our office, the chief and designated officers who receive disclosures of wrongdoing and employees who don't understand the distinction?

That question is left to the set of facts in any given situation.

Employees who observe or experience inappropriate behaviour or activities are left to decide if it is something that ought to be reported. Employees often ask us whether they should disclose a wrongdoing if they're not sure their complaint meets the threshold set out in the Act.

Our perspective is this: someone who observes or experiences activities that are wrong and ought not to occur (or be allowed to continue) should report the matter to their supervisor. If the activity involves their

supervisor, they should report the matter to the next appropriate level. If there's reluctance, or an outright refusal to listen and take some action, then the matter ought to be taken to the next level. If the matter cannot be managed internally by the organization, the employee can report the matter to the office of the Public Interest Commissioner. Our analysis will determine whether the case involves something wrong or is actually a wrongdoing.

A workplace's internal mechanisms are expected to skillfully and properly manage the situation. If the issue involves something wrong, potential damage is likely minimal and the fix should be straightforward. For example, a complaint of workplace bullying would be ideally dealt with through a complaint to an organization's human resources department, and investigations and possible sanctions handled by a harassment or code of conduct policy. We all know bullying is wrong, but in a more straightforward case, such a case is not likely to encompass wrongdoing.

If the wrong is more significant, more demanding action should be taken. Building on the last example, repeated or increasingly aggressive cases of bullying should be elevated as necessary. Realistically, the distinction between wrong and wrongdoing should not matter if the situation is handled properly. If part of a workplace is not functioning well, it should be identified and corrected, allowing the organization to move on.

Of course, this will not always occur.

When it doesn't, the employee (and possibly the organization) is left to determine whether a wrongdoing was committed. One significant problem occurs when a situation is found to not be a wrongdoing and yet is not addressed by an organization. While it may not be a wrongdoing, the organization misses an opportunity to fix that wrong.

The Public Interest Commissioner's office will investigate matters of wrongdoing. Our first step is to determine whether a disclosure is indeed a wrongdoing. Here, we must make that assessment between wrong and wrongdoing or, for example, whether there is simply a disagreement in policy.

If it is a wrongdoing, it falls within the Act. If not, and it is still something that is wrong, an observation will be made to the organization with the expectation the matter will be reviewed and corrected internally. And certainly, if it is neither, a comment indicating so will be made.

We find, as do other jurisdictions with more experience, an employee who discloses a wrong or a wrongdoing merely wants the matter investigated and action taken to fix what's not right. The distinction is often not at issue. Now, some might say matters that are not wrongdoing do not offer the protection offered by the Act. This is not entirely correct.

In fact, an employee need only disclose their complaint through the public interest disclosure process in

good faith. Certainly, it's more ideal for matters to be handled internally by an organization. The more serious the matter, the more likely the Public Interest Commissioner's office will become involved. But whether it's a wrong or a wrongdoing disclosed through the public interest disclosure process, protection will be extended to the employee.

So, what's the bottom line? Employees should be comfortable reporting issues they feel are wrong to their supervisors and managers. Those supervisors and managers should embrace those disclosures positively and focus on ensuring those complaints are well managed. When it doesn't work the way it should, there must be a mechanism to report the matter to a designated officer (per the Act) and/or to the Public Interest Commissioner.

"Employees shouldn't worry whether they should complain about something and whether it meets the threshold of wrongdoing under the Act," explains Peter Hourihan, the Public Interest Commissioner. "Simply put, if we find there is no wrongdoing, it doesn't mean something else isn't wrong in the organization that could be an issue best dealt with by management or the human resources process."

If employees are fearful of a reprisal, or threat of a reprisal, they should report that directly to our office.

"In either type of case, employees still have the protection of the Act and they still cannot be reprisal against," says Hourihan. "Employees should be confident they will still be protected."

At the end of the day, he adds, the goal and spirit of the Act is to address and fix problems in the workplace, without reprisals being taken against an employee who has blown the whistle.

"If the organization can fix or effectively deal with the issue, we're helping deliver what Albertans need," says Hourihan. "Don't worry about whether it's called a wrongdoing or not. We are going to work with organizations so they address complaints that come into our office."

Ted Miles, director of the Public Interest Commissioner's office, agrees.

"Our goal is to make sure things are right," he says. "So if we do notice there's something wrong, make no mistake: we will make comment back to the public entity. Furthermore, the law is clear no reprisals can be taken, even if someone calls our office for advice, or to make a disclosure."



A Whistleblower Shares Her Story

It wasn't easy coming forward. It wasn't easy risking exposure, or possibly drawing attention to family members employed within Alberta's public sector. But, in the end, the whistleblower who contacted our office with concerns about an Alberta Health Services (AHS) contract was glad she did.



The whistleblower was worried about a seemingly problematic relationship between an international company that focuses on personal coaching and development, and AHS.

The whistleblower heard stories from employees who attended the workshops, and given some of the confusing and troubling reports she heard about their treatment at the workshops, she picked up the phone and called our office. There were also allegations raised through the media that AHS employees were pressuring their colleagues to join these sessions.

“Initially, I was worried,” the whistleblower told us. “I was pretty sure that my complaint could remain anonymous. I was dealing with people of the highest integrity at the Commissioner’s office. It was not intimidating at all, and I was absolutely assured my name would remain out of it.”

As we began to review the whistleblower’s disclosure, we learned AHS already looked into complaints related to these educational sessions. It made sense to determine whether the AHS investigation addressed the concerns of the whistleblower. Our role was to act as an intermediary between the whistleblower and AHS, thereby ensuring her anonymity.

AHS reviewed the matter and provided us with a report that demonstrated no wrongdoing was found. At the

same time, AHS had taken steps internally to mitigate the likelihood of such occurrences happening again. As well, AHS spoke publicly on the matter and apologized to its employees.

While it wasn’t easy coming forward, our office made the process relatively pain free, said the whistleblower. More important, though, was how communication channels were kept open through the entire process.

“As far as the process went, I was actually pleasantly surprised by how open it was to me,” she said. “You know how when you make a complaint or bring something up, often times the wheels get put into motion and you never know what’s happening as a result. So I was really happy I was kept in the loop as much as I was. I was provided a copy of the (AHS) investigation, and given the opportunity to take it further if I wasn’t satisfied. It was an amazing process. I felt very valued.”

Ultimately, she recommends anyone with a concern about wrongdoing, or potential wrongdoing, contact our office. But whistleblowers should make sure it’s a step they’re comfortable taking, she added.

“I believe people should do what is best for themselves if they feel very strongly about something,” she explained. “My advice certainly would be it was a really positive experience for me. I felt satisfied, I felt valued and I felt I was taken seriously. It was handled well.”

“I felt satisfied, I felt valued and I felt I was taken seriously. It was handled well.”

“I really felt satisfied that what had been done was sufficient and hopefully wouldn’t happen again. Hopefully AHS will be more cautious of where they’re spending their dollars when it comes to self-improvement for their employees.

“I would recommend your office to anybody. For me the process was great. I don’t want people running to you every time they are mad about something. But, as far as

something that is an important issue and certainly where it’s using taxpayer’s money in ways that are questionable, I would recommend it highly.”



Reaching Out to Employees

Ted Miles, director of the office of the Public Interest Commissioner (left), speaks with the University of Alberta's Mary Persson, Associated Vice President (Audit and Analysis), and Wade King, Advisor with the university's Office of Safe Disclosure and Human Rights, prior to a joint presentation to employees in September 2014.

Helping Employees Shine a Light on Wrongdoing

Posters, emails, brochures and Tweets are all effective tools we use to reach employees to help spread an understanding of what our office does – and how public servants can blow the whistle.

But sometimes, nothing beats the personal touch.

And that's why the Public Interest Commissioner's office has met with hundreds of public sector employees across Alberta.

From presentations to staff at a variety of provincial ministries in Fort McMurray and St. Paul, to sessions with University of Alberta employees, to meetings with employees in Alberta government departments in Edmonton as varied as Seniors, Health and Energy, we're finding a growing number of employees are seeking out information on Alberta's safe disclosure process.

"Our ongoing goal is to meet with employees to ensure they understand how the office works," said Peter Hourihan. "Whether it's understanding how the province's whistleblower act and procedures work, or an explanation about how and why we conduct investigations, we find these presentations offer a good opportunity for public sector employees to learn about what we do."

For example, Hourihan and Ted Miles, the director of the Public Interest Commissioner's office, presented to 36 employees in Lethbridge in September 2014 from a variety of ministries. A significant component was made up of Justice and Solicitor General employees.



"It was encouraging to see so many employees take an active interest in the tools they have available to them," said Miles. "We understand that a high turnout of employees from a certain unit or department does not mean things are going particularly wrong in their offices. But it's always good to see a high level of engagement and interest in making their workplaces run better."

They also met with the Southern Alberta Council on Public Affairs while in Lethbridge – and it's safe to say residents in the area have a number of concerns about both how the province's whistleblower process works, as well as concepts of fair treatment.

"I was very happy to meet with such an informed and engaged group of citizens," said Hourihan. "I was pleased to answer questions from members of an organization that understand the importance of public policy issues."

Other presentations have been directed to other entities such as the Alberta School Board Association Zone 1 in Grande Prairie last November. One investigator was asked to present to the Risk and Insurance Management Society, a not-for-profit professional society with membership consisting of risk and insurance experts across various industries (and whose membership is partly comprised of by public sector employees that fall under the Act).

As 2015-16 progresses, the Public Interest Commissioner will continue to directly reach out to employees, while relying on the tried and tested methods of distributing posters and brochures across a varied cross section of ministries, post-secondary institutions and the health and education sectors.

From face-to-face meetings to brochures and posters, the Public Interest Commissioner continues to build on our efforts to engage with employees of Alberta's public sector entities.

Q&A

A View From Inside

We asked three large public sector organizations (Alberta Health Services, the Government of Alberta and the University of Alberta) to answer some questions about the work they've done over the past year related to the *Public Interest Disclosure (Whistleblower Protection) Act*.

Not only are these public entities three of the largest in terms of employees, but they are also representative of three key areas (health, government and the post-secondary realm) and thus provide a unique yet potentially representative view of the work, and issues, faced by public sector organizations under the Act.

We distributed the questions to each organization's designated officer on April 27, 2014, and have reprinted their answers below.

Noela Inions Alberta Health Services

How has your first full year been? Have you noticed any changes in attitude or acceptance regarding the whistleblower disclosure process?

When AHS began in April 2009, a policy was already in place to provide safe disclosure for whistleblowers. The Safe Disclosure/Whistleblower policy at AHS provided a reporting avenue for everyone including the public and created a mandatory reporting duty for AHS personnel. The AHS policy applies to a broad range of 'improper activities' and prohibits 'retaliation' as a result of good faith reporting of the improper activity. The *Public Interest Disclosure (Whistleblower Protection) Act* (the Act) provides an additional source of awareness and an external avenue for redress, for 'wrongdoing' and 'reprisal.' It is my impression that there is growing awareness of whistleblower protection in general and that the Public Interest Commissioner has enhanced the awareness.

Were there any specific challenges you faced in carrying out your duties?

There are always challenges in interpreting and implementing a new piece of legislation and in developing practical solutions to specific issues. Although it is my understanding that the Act was intended to apply only to serious matters, a literal interpretation of the actual wording of the legislation is that it could be read to involve even minor offences, for example any traffic violation and theft regardless of value.

For an example of a practical challenge, there are significant differences in time lines for completion of investigations under the Act (110 days) in contrast to investigations that are impacted by AHS collective agreement provisions (10 days).

Examples of other challenges include coordinating internal and external safe disclosure regimes, as well as coordinating complex situations that involve multiple allegations, complainants, investigations and proceedings arising from the same general fact situation.

How many disclosures of wrongdoing and reports of reprisal has your office received in 2014-15? Did any of these disclosures and reports result in investigations?

All of the disclosures of wrongdoing and reports of reprisal under the Act that AHS received in 2014-15 came to AHS through the Public Interest Commissioner, although AHS has consulted with the Commissioner's

office about numerous fact situations. Where the disclosure is an allegation of an improper activity under AHS policy, but not a wrongdoing under the Act, AHS addresses the situation through our normal internal processes. For example, the majority of complaints pertain to human resources issues and are addressed internally. All disclosures that were allegations of wrongdoing under the Act were investigated by Public Interest Commissioner investigators with the exception of two cases where AHS was authorized to conduct the investigation. AHS has provided our full cooperation for all Public Interest Commissioner investigations.

How does that compare to last year?

The numbers are the same as last year (noted in the AHS annual report).

Education and awareness is a key responsibility of chief and designated officers. What steps has your office taken to improve awareness of the Act and the safe disclosure policy among employees and managers? What kind of efforts do you plan to take over the coming year?

AHS has sent communications about the Act that includes an all-staff email, and posted materials for staff on our intranet. AHS is implementing an ethical conduct governance documents policy suite, which includes new policies on investigations and fraud and theft as well as the PIDA procedures. When the policy suite is in place, AHS will communicate through a variety of internal communication tools. Additionally, training is being developed for the policy suite.

Tom Thackeray Government of Alberta

How has your first full year been?

The first full year of the *Public Interest Disclosure (Whistleblower Protection) Act* continued to be a learning experience for both employees of the Government of Alberta as well as the Public Interest Disclosure Office. The process of disclosure of wrongdoings appears

to be working quite well and employees seem to be comfortable approaching my office for advice about the Act and whether or not their specific concerns are subject to the legislation.

Have you noticed any changes in attitude or acceptance regarding the whistleblower disclosure process?

I believe that employees are becoming more knowledgeable about the legislation and are more willing to have discussions to become more aware of their rights as well as their responsibilities.

Were there any specific challenges you faced in carrying out your duties?

As with most new programs and legislation, the greatest challenge is that of educating and awareness for staff about what the Act is all about, explaining the process for filing a disclosure of wrongdoing and then understanding what happens during the investigation process. The other challenge is to develop the trust relationship between potential disclosers and my office. This can only occur after successful completion of investigations and submitting final reports.

How many disclosures of wrongdoing and reports of reprisal has your office received in 2014-15?

- **Did any of these disclosures and reports result in investigations?**
- **How does that compare to last year?**

In 2014-15 I received two disclosures of wrongdoing that resulted in files being opened. One of the files was closed after further review as the wrongdoing did not fit the definition of wrongdoing in the Act. It was a human resources matter.

The second disclosure is still active and an investigation is underway. The final report is due by mid-July.

For the first year of the operation of the Act (approximately 10 months), there was one disclosure which did not result in an investigation nor a report but was closed as not a wrongdoing.

Education and awareness is a key responsibility of chief and designated officers. What steps has your office taken to improve awareness of the Act and the safe disclosure policy among employees and managers? What kind of efforts do you plan to take over the coming year?

During 2014-15, meetings sessions were held with the majority of the Executive Teams across the GoA to acquaint them with the Act as well as the role of the designated officer. Members were asked to provide copies of the fact sheet, developed in late 2013, to all of the employees in their work area. The remainder of the Executive Teams will be scheduled in the next few months.

Currently I am working with the Communications staff in Corporate Human Resources to develop additional materials for staff to be released later this year.

Mary Persson University of Alberta

How has your first full year been?

The first year working with the *Public Interest Disclosure (Whistleblower Protection) Act* (the Act) has provided a means to reinforce the importance of fair and confidential disclosure services. The University of Alberta has had a formal Safe Disclosure program since 2009 and the introduction of the Act has demonstrated to the university community that there is support for those brave individuals who come forward in good faith with concerns.

Have you noticed any changes in attitude or acceptance regarding the whistleblower disclosure process?

Though I hope people will come forward to the University of Alberta's Safe Disclosure office with concerns, the Act affords staff members the option of reporting concerns to a third-party – a party that understands the public service environment in Alberta. This added reporting mechanism is valuable in providing employees confidence that issues will be taken seriously.

Were there any specific challenges you faced in carrying out your duties?

The first year has been one of learning regarding the Act. Because the university has a broad Safe Disclosure program where any stakeholder (e.g., employees, students, contractors, volunteers) can come forward with any concerns of policy and/or ethical breaches, it has been challenging to determine which concerns may be considered complaints under the Act. This challenge is augmented by the ambiguity in the Act such as the definition of 'gross mismanagement.' The University of Alberta program has addressed this issue by introducing new processes, in consultation with our university community, that encourage people to come forward regardless of whether concerns meet the definition or intent of wrongdoings as outlined in the Act. Our view is that people can come forward with any concerns and we will provide the reporter the option of disclosing under the Act. If they decide not to proceed under the Act, we may have other processes under which their concerns can be addressed.

How many disclosures of wrongdoing and reports of reprisal has your office received in 2014-15?

- **Did any of these disclosures and reports result in investigations?**
- **How does that compare to last year?**

We received no formal complaints under the Act. That said, the Safe Disclosure office at the university received 51 formal complaints in the past fiscal year (approximately 80 the year before). The university has set up the office as a safe, neutral and confidential space for the University of Alberta community to disclose concerns about how the University of Alberta policies, procedures or ethical standards are being applied. The complaints received can include safety violations, financial mismanagement, ethical concerns, discrimination or harassment. All concerns are investigated through appropriate internal mechanisms.

We received no disclosures of reprisal. During our intake process for complaints we are very clear that we want people to return to speak to us if there are any concerns of reprisal for speaking with the Safe Disclosure office. The protection under the Act supports one of our key philosophies - that those who come forward in good faith should be protected. We appreciate the work of the Commission in that respect.

Education and awareness is a key responsibility of chief and designated officers. What steps has your office taken to improve awareness of the Act and the safe disclosure policy among employees and managers? What kind of efforts do you plan to take over the coming year?

There are several steps the University of Alberta has taken to promote disclosure under the Act as well as disclosure more broadly. The University of Alberta:

- Developed the appropriate policies and procedures for disclosure under the Act and the President reinforced the importance of the program through email to all employees
- Introduced the Act to the staff orientation sessions as part of the importance of Safe Disclosure services
- Refined the disclosure website (<http://www.disclosure.ualberta.ca/>) to outline the university's disclosure services including those under the Act
- Displayed the Commissioner's posters in 26 buildings across our campuses
- Hosted an information session with key university staff (Human Resources, Governance and the Leadership team), in conjunction with the Commission staff

In the upcoming year, we plan to continue education and awareness by hosting several learning sessions for staff. The Safe Disclosure office, and the designated officer, are also developing further web and social media communications related to the disclosure program. Protected Disclosure, particularly disclosure services under the Act, is deemed to be a key initiative in the promotion of an ethical and safe work environment. We expect to continue our work with the Public Interest Commissioner's staff, and our executive, to further enhance the awareness of the Act at the University of Alberta.



PIC National Conference

Our office hosted a meeting with whistleblower commissioners and other independent offices with similar authority in September 2014 in Calgary. Representatives from the Public Sector Integrity Commissioner of Canada, the office of the Manitoba Ombudsman, the office of the Nova Scotia Ombudsman, the office of the New Brunswick Ombudsman, the Citizens' Representative of Newfoundland and Labrador, the Office of the Integrity Commissioner of Ontario, Quebec's Protecteur Du Citoyen, and Yukon's Ombudsman and Information and Privacy Commissioner met to discuss common issues and concerns.

The Challenges of Whistleblower Oversight

By Peter Hourihan
Public Interest Commissioner

The *Public Interest Disclosure (Whistleblower Protection) Act* came into effect on June 1, 2013, making Alberta the seventh provincial jurisdiction in Canada to enact such legislation.^[1] The enactment brought with it a number of challenges. Some will require a shift in perspective while others will take time to meet.

When the Alberta government introduced the Act in the Alberta Legislative Assembly, it indicated it was progressive legislation. Former Premier Alison Redford stated, “[w]e promised a fundamental change in the way government works and this new Act is a critical part of that pledge to Albertans...[b]y putting whistleblower protection in place we will continue to lead the way in open, accountable government.”^[2] It did so under criticism by the opposition to government. They were concerned the legislation did little to protect whistleblowers. During the debates in the Legislative Assembly,^[3] there was significant concern the Bill was too restrictive and the commissioner’s powers too broad. The opposition parties argued a whistleblower should be able to disclose anywhere to anyone, that the definition of wrongdoing should be broadened to include breaches of a code of conduct, and that policies or directives and harassment ought to be included. There was also concern the Bill did not include the private sector nor did it include compensation as a remedy. Ultimately, the Bill was passed without amendments.

Significant concern was voiced by David Hutton, formerly Executive Director of the Federal Accountability Initiative for Reform (FAIR). In his paper, *Shooting the Messenger: The Need for Effective Whistleblowing Protection in Alberta*, Hutton criticized the Government of Alberta for its lack of attention to real whistleblower protection, stating “the government introduced a bill that, far from representing best examples from around the world, sets a new low, even within Canada.”^[4]

Hutton identified what he referred to as “serious shortcomings.”^[5] The most serious for him was the Commissioner’s exemption powers in Section 31 of the Bill to exempt anyone or anything. This was followed by his concerns the legislation contained no remedies or ability to challenge the Commissioner’s findings.^[6]

Understanding and Managing Whistleblower Oversight

As the Public Interest Commissioner, I appreciate the perspectives; however, my responsibilities are encompassed within the Act proclaimed. My role is to work with and within the Act to fulfill the stated purposes of facilitating disclosures and investigations of significant and serious matters, to protect employees who disclose, to make pertinent recommendations and to promote public confidence in the public sector.^[7] The Act includes a requirement to commence a

legislative review within two years of the coming into force date, per Section 37.^[8] This is the responsibility of the Standing Committee on Legislative Offices. In 2015, I will offer an opinion to the review committee based on the experience of our first two years.

There are a number of challenges in whistleblower oversight. They can present as hurdles when getting established as a new oversight office. This paper

discusses some of the challenges and offers some suggestions on overcoming them.

The Government of the United Kingdom defines whistleblowing as a matter “when a worker reports suspected wrongdoing at work. Officially this is called making a disclosure in the public interest. A worker can report things that aren’t right, are illegal, or if anyone at work is neglecting their duties ...”^[9]

One definition of whistleblower is “an organizational or institutional ‘insider’ who reveals wrongdoing within or by that organization or institution, with the intention or effect that action should be taken to address it.”^[10]

Alberta’s *Public Interest Disclosure (Whistleblower Protection) Act* does not define either whistleblowing or whistleblower. In fact, the term is used only once, in the title. What then does whistleblowing include in Alberta? To determine this, a quick review of the Act is required. The term ‘disclosure’ is defined to be a disclosure of a ‘wrongdoing’ made in good faith by an employee. A ‘wrongdoing’ is explained in section 3 as: a contravention of an Act or Regulation; an act or omission creating a “substantial and specific danger” to the life, health or safety of individuals or to the environment; gross mismanagement of public funds or public assets; or directing or counselling someone to commit a wrongdoing. And, ‘employee’ is defined as an individual employed by a department, public entity or Office of the Legislature, or someone who suffers a reprisal and has been terminated. It would appear then, a whistleblower is someone who discloses a significantly wrong act or omission.

The definitions contemplate whistleblowing as being the disclosure itself. Reprisal or subsequent action or reaction to a disclosure is not considered as part of the definition. It is my opinion, however, most people generally recognize something as whistleblowing only when the disclosure is met by a response not favourable to the whistleblowing or to the whistleblower personally. It is when there is a negative reaction toward the

whistleblower that people take particular notice or at the point where there is a demonstration by the organization it is not addressing the matter correctly. This, I contend, is when it truly becomes whistleblowing. This is where a challenge arises for an external agency such as the Public Interest Commissioner’s office, particularly in terms of education and awareness.

Clearing the Hurdles

The goal for a new oversight agency is to encourage organizations and individuals to embrace whistleblowing as a favourable way to move forward and to improve efficiencies and effectiveness. There are a few hurdles to overcome in any quest to invite people to join in a movement to embrace whistleblowing and change the culture from one of ignorance, apathy, willful blindness, outright deceit or corruption, where present, to one where deficiencies and manipulations are eliminated and positive recognition is directed to the whistleblower.

The first hurdle is helping others recognize that a disclosure acted upon effectively is a whistleblowing event. As noted earlier, it is my proposition most people only consider something to be worthy of whistleblowing when a disclosure is followed by inadequate or no action and/or where the discloser suffers some form of reprisal. Incidents that are reported, acted upon and no reprisal follows or the discloser is celebrated

positively fly under the radar as a mere activity of improvement; one that ought to take place. There are examples in organizations where improper activity is noticed, such as fraudulent claims, theft of equipment, or sexual harassment, is reported to a supervisor or about a supervisor and where the matter is reviewed or investigated effectively and dealt with no repercussions toward the discloser or whistleblower. It is unfortunate these examples are not viewed as positive whistleblowing events; ones that demonstrate the positive attributes of surfacing deficiencies, offences, corruption, etc. Positive examples can have positive results in changing a culture. And changing the culture is the larger purpose of the legislation.

The second hurdle is discerning the parameters of what constitutes a wrongdoing and the difference between mismanagement and gross mismanagement. Many people believe any wrong is a wrongdoing and the words are interchangeable. The Act does not define wrongdoing *per se*. It describes it as applying to some wrongdoings such as offences, substantial and specific dangers and

gross mismanagement.^[11] This causes some interpretation issues because neither “substantial and specific” or “gross” are defined. These terms are defined in Black’s Law Dictionary.^[12]

Gross: great; culpable; general; absolute

Specific: precisely formulated or restricted; definite; of an exact or particular nature

Substantial: of real worth and importance; of considerable value; valuable

From here it is relatively easy to discern a wrongdoing under the Act is more than mismanagement and is serious in nature. Organizations, by nature, mismanage regularly. One needs only look at the literature and practice around quality control, quality assurance, best practice, auditing, etc., to see how mismanagement is used continually to improve. Those activities involving offences, substantial and specific dangers and gross mismanagement are at the other end of the spectrum. This type of mismanagement requires diligence to ensure the right focus is placed on correcting the behaviour and not shooting the messenger.

The difference between what is mismanagement and gross mismanagement is not clear and significant debate can result. Each situation needs to be evaluated on the complete set of facts in the specific situation. This is one of those areas where something is hard to define; however, a set of facts will provide a determination or categorization.

Fortunately, the consequences of making a determination are not particularly problematic no matter what the determination is. If an act or an omission is wrong it ought to be corrected. The same holds true for a deemed wrongdoing. The nature of the corrective action will likely be more serious as the breach is likely more serious. Either way, action is expected to the degree required to remedy the wrong or the wrongdoing.

In Alberta, my practice as the Public Interest Commissioner, albeit limited, is to make recommendations to the department or public entity about doing what is required to remedy the matter when a wrongdoing was found. I track my recommendations and follow-up with the entity. If the matter falls short of a wrongdoing but is still considered to have been wrong, I make an observation to the department or public entity that this is the case and remind them they ought to

remedy the wrong. Whether I deliver a recommendation or an observation, it is important for entities to implement suggested corrections to resolve or mitigate concerns and risks.

A third hurdle is the presumption the Act provides no real protection to the whistleblower. There is a significant concern facing whistleblowers who come forward there will be reprisals against them when they disclose a wrongdoing. Many contrarians note there is nothing in the Act or in practice to ensure there are no reprisals for whistleblowers. This is partially true. There is nothing that can defend someone from being reprisal against. The protection comes in the form of penalties if a reprisal is imposed. In Alberta, the fines are substantial (\$25,000 for a first offence and \$100,000 for a subsequent offence).^[13]

There can always be a debate as to whether this is a deterrent; however, for purposes here, the protection is limited to after the fact protection. This is not unlike other societal protections found in criminal law, or insurance, for example. People are protected against personal violence after the fact or protection from fire or life insurance once an event takes place. Little can be done prior to the event, save good planning and preparation. And, in the spirit of the larger purpose of the legislation, changing the culture.

There is some protection for whistleblowers who conform to the Act. Perhaps the strongest protection comes through the ability of employees to share confidential information with the Public Interest Commissioner – information that would normally be subject to confidentiality or other employment agreements. This confidential information can be revealed to the Public Interest Commissioner without issue and the whistleblower remains protected. The same is not the case if the whistleblower takes the matter public or approaches the media, etc. There is no protection there. Current case law suggests the threshold for revealing information publicly is receiving more tolerance by the courts; however, it is still seen as a breach of employment agreements in many cases.

Moving Forward

Whistleblowing is an important tool for public sector organizations. Dedicated and conscientious employees are best positioned to advise supervisors or others when action ought to be taken to fix wrong behaviour or a wrongdoing. Unfortunately, too often, employees involved in nebulous, nefarious or criminal activity are not often going to want the information to come out. They will do whatever they can to deflect the attention away from themselves or their friends, while doing all they can to discredit the discloser.

Our goal at the Public Interest Commissioner's office is to take the best advantage of the provisions of the *Public Interest Disclosure (Whistleblower Protection) Act* and fulfill the purposes of the Act, namely, to facilitate and investigate disclosures of wrongdoings, protect those who disclose, make effective recommendations and, most importantly, to promote public confidence in the administration of government. Having said this, our larger aim is to advance and develop a culture where management and employees embrace and promote whistleblowing, recognizing this process as critical to ensuring the integrity and health of organizations.

[1] Preceded by Ontario (2006), Manitoba (2007), Newfoundland (2007), Manitoba (2007), New Brunswick (2008), Saskatchewan (2012)

[2] hrreporter.com October 21, 2012, Canadian HR Reporter, Thomson Reuters Canada Limited

[3] Alberta Hansard; November 2, 2012, pp.593-614; November 7, 2012, pp.627-644.

[4] Hutton, David, Shooting the Messenger: The Need for Effective Whistleblowing Protection in Alberta, Parkland Institute, May 2013, p.18.

[5] Ibid

[6] Ibid

[7] *Public Interest Disclosure (Whistleblower Protection) Act*, Statutes of Alberta, 2012, Chapter P-39.5, section 2

[8] Ibid, section 37

[9] GOV.UK, Whistleblowing

[10] Whistleblowing, its importance and the state of the research," in *International Handbook on Whistleblowing Research* (Eds. A.J. Brown, David Lewis, Richard Moberly and Wim Vandekerckhove), 2014: p. 4.

[11] *Public Interest Disclosure (Whistleblower Protection) Act*, section 3

[12] Black's Law Dictionary, Sixth Edition, 1991

[13] Section 49, *Public Interest Disclosure (Whistleblower Protection) Act*, Statutes of Alberta, 2012, Chapter P-39.5

Case Examples



Over the past year, we received many calls and inquiries from public servants, both from employees and chief and designated officers. As well, we track and receive calls from non-jurisdictional public entities and its employees.

Those who reach out to us often have similar questions. They wonder how our office works. They ask whether, and how, they'll receive protection by coming forward with an allegation of wrongdoing. In some cases, individuals are unsure whether their employer is covered by the Act or who they can speak with internally if they are covered by the Act.

Below are examples of some of the inquiries and cases reviewed by the Commissioner. Some are jurisdictional, while others are not. But they all illustrate the type of interactions we've had over the past year. (We have also taken steps to keep details to a minimum to ensure anonymity of callers and complainants, unless the whistleblower has agreed to provide personal comments or observations.)

No wrongdoing, but issues of concern found with AHS computer purchase

We found Alberta Health Services did not commit wrongdoing, as defined by the *Public Interest Disclosure (Whistleblower Protection) Act*, in its 2012 computer purchase and deployment in the Edmonton Zone.

The investigation, launched in January 2014 in response to whistleblower allegations raised publicly, examined whether the project resulted in the gross mismanagement of public funds or a public asset. Our investigators determined gross mismanagement did not occur because:

- The computer purchase was made to replace outdated computers used in clinical units in the Edmonton Zone
- The procurement utilized a public tender process
- The bulk purchase significantly reduced per-unit costs

- The project was funded using the surplus operating budget
- AHS negotiated an additional no-cost year of warranty for the desktop computers
- AHS identified issues with the deployment and was taking steps to resolve the issue before the first whistleblower complaint was made

However, our investigation shows some decisions were poorly executed during the purchase and deployment:

- A \$75,000 sole-source consultant contract was approved by a senior AHS executive in late 2012. Investigators determined a conflict of interest existed, as the individual who recommended and co-signed the contract was a former partner and shareholder with the corporation receiving the contract. This conflict of interest was not disclosed to AHS
- The procurement was rushed to draw on available funding. There was no testing of applications prior to the computer purchase and no deployment plan. This resulted in project delays. Moreover, \$4.4 million in funding for the deployment was authorized without a project charter
- An analysis of the project's procurement process revealed a failure to comply with some policies related to the approval of contract requisitions and engaging corporate consultants

While wrongdoing did not occur, some actions were clearly not done right during this purchase and deployment, particularly the undisclosed conflict of interest. While any employee may be exposed to a potential conflict, a senior executive should understand the importance of declaring a conflict when one arises. This is a significant issue.

This was the first publicly reported investigation by the Commissioner in July 2014, and demonstrates Alberta's new disclosure process can achieve results for both a whistleblower and an organization.

Allegations of wrongdoing were raised and taken seriously. Although wrongdoing was not found, AHS had taken steps to deal with some of the problems that sparked the initial complaint. Moreover, our investigators identified other issues of concern and AHS committed to dealing with these in an appropriate and timely manner.

Correctional centre complainant asked to disclose internally

An employee of a provincial correctional centre was concerned with procurement and other matters at their institution.

After analyzing the information and allegations, the Commissioner's office referred the complainant to the Government of Alberta's own designated officer.

As always in such matters, we are clear with complainants they can always contact our office if they are unsatisfied with the results of an internal investigation conducted through the *Public Interest Disclosure (Whistleblower Protection) Act*.

Post-secondary complaint of reprisal moves to union grievance process

The employee of a post-secondary institution contacted our office seeking advice after believing they were being subjected to a reprisal. This individual believed reprisal was taken after reporting a former employee to a professional college with a complaint of unprofessional conduct.

Although our office worked on the matter and provided information to the complainant, the individual has chosen to file a grievance through a relevant union. Currently, the investigation has been discontinued.

Whistleblower highlights need for improved communication

It's not uncommon for whistleblowers to feel that certain on-the-job decisions or actions are wrongdoing or reprisals directed at them. Management or human resources related decisions can be misunderstood for a variety of reasons, leading to confusion among employees – confusion that can turn into doubt and even fear of reprisal.

In some cases, it's because policies or procedures are new. In others, it's because they have been poorly communicated or misunderstood (or both).

For example, a mental health worker contacted our office, alleging improper procedures were followed that adversely affected a client. In short, the worker indicated his immediate supervisor acted inappropriately by having his client taken into secure custody.

The worker felt these actions constituted a wrongdoing under the Act, specifically “an act or omission that creates a substantial and specific danger to the life, health or safety of individuals other than a danger that is inherent in the performance of the duties or function of an employee,” as well as “knowingly directing or counselling an individual to commit a wrongdoing.”

The mental health worker also reported an allegation of reprisal to our office after cases they were responsible for were transferred to another employee. Our investigator reviewed materials and spoke directly with the employee. After acknowledging some growing pains with a new internal procedure, the whistleblower agreed the matter was more of a communication and educational issue, rather than a wrongdoing. Our investigator also worked with AHS and the whistleblower to determine the issues behind the complaint of reprisal. Our work revealed there was further miscommunication and the whistleblower agreed that appropriate measures had been taken once the reasons behind the re-assignment of his cases were explained.

We were pleased to see positive assistance from AHS personnel who worked directly with our investigator. Their actions were critical to the early resolution of this case.

Cabinet shuffles do not constitute a wrongdoing

Does continuous cabinet shuffling, resulting in ongoing changes at a government ministry, constitute a wrongdoing? Can the potential confusion and re-jigging of priorities and tasks be considered a gross mismanagement of public funds?

That was a concern brought to our office in 2014. The complaint was related to the department of Jobs, Skills, Training and Labour. The allegation stated that because various ministers had been shuffled in and out of the department between December 2013 and September 2014, there was a corresponding waste of public resources, leading to poor direction and wasted time.

After reviewing the complaint and allegations, we concluded cabinet shuffles – even many of them – do not constitute wrongdoing. Our rationale included the fact the disclosure did not provide specific evidence that changes to the position of minister resulted in gross mismanagement of public funds or public assets.

Most importantly, however, is the fact that any changes to the ministerial appointment followed established rules and precedence of government and are consistent with the spirit of democracy and our Westminster parliamentary system.

Potential breach of information kept with the information and privacy commissioner's office

An employee of a health sector organization feared his employee records had been wrongly submitted to a professional college and suggested this could constitute a wrongdoing under the Act.

Because the Office of the Information and Privacy Commissioner had already been involved, the complainant agreed to withdraw his complaint and pursue an outcome through that channel.

Criminal fraud allegations leveled against a non-jurisdictional entity

Often, we receive calls from individuals related to non-jurisdictional entities. In one case, a potential whistleblower alleged a private company was committing criminal fraud.

Because the complainant was not an employee of a public entity covered by the Act, and because our analysis determined the complaint was already the subject of a fraud investigation by a provincial police agency and other professional oversight bodies, we closed the matter.

Reprisal allegation or human resources matter?

An employee of a provincial health authority reported they were the subject of a reprisal, following a disclosure through an internal workplace whistleblower program. Specifically, the report alleged this individual experienced workplace harassment.

Our investigation was ended after inquiries revealed a more appropriate process via the individual's workplace human resources department. If the complainant is not satisfied with the internal investigation, our office may re-open the investigation and address the employee's concerns.

Minister did not breach hiring rules

A public service employee contacted our office with concerns a cabinet minister had hired a personal friend, in violation of the *Public Service Act*.

Furthermore, the whistleblower was concerned a furnished condominium was provided for the employee and paid for by the department – which appeared to be gross mismanagement of public funds under the *Public Interest Disclosure (Whistleblower Protection) Act*.

After an in-depth investigation, we found the appointment of the employee did not constitute a wrongdoing, and met the standards set out in the *Public Service Act*.

The whistleblower was satisfied our office took the allegations seriously and was able to conclusively prove there was no wrongdoing.

Chief medical examiner reports allegations of wrongdoing and reprisal

In fall 2014, Alberta's Chief Medical Examiner disclosed two allegations of wrongdoing (gross mismanagement of public funds or a public asset and contravention of a law) as well as one complaint of reprisal. Because these disclosures were made public, we have chosen to highlight this matter, although typically our office would wait until the case is closed before releasing or confirming involvement.

Our office is currently investigating these disclosures. We will report our findings to the complainant and the entity under investigation (the department of Justice and Solicitor General) following our investigation.

AHS hiring of education firm raises questions

A whistleblower contacted our office in September 2014 with concerns about AHS hiring an educational and coaching firm.

After reviewing materials AHS gathered during its previous work on internal complaints related to the firm, we directed AHS to conduct the investigation, given the work it had already done. (Alberta's whistleblower legislation stipulates that complaints can, when possible, be handled internally by designated officers. The whistleblower was comfortable with this approach.)

In addition to having AHS respond formally to the allegations regarding the firm, we also asked the health authority to provide us with documentation indicating any issues identified and corrective actions taken, if required. We took the approach as an intermediary between the whistleblower and AHS, as the whistleblower wanted their identity to remain anonymous.

In February 2014, we received that documentation from AHS. The health authority's investigation did not find wrongdoing occurred.

What is encouraging about this case is a whistleblower came forward with a specific complaint. AHS investigated the issue and the whistleblower is satisfied with the outcome. Moreover, the whistleblower is satisfied with the steps taken by AHS to address this issue internally.

(See our interview with the whistleblower who disclosed this case to us on page 22.)

Lending a Helping Hand

Staff and family from the offices of the Public Interest Commissioner and Alberta Ombudsman lent a helping hand on a weekend last spring to clean up and renovation work to prepare for the Be Brave Ranch outside Edmonton on May 10, 2014.

Armed with rakes, garbage bags and assorted tools, employees worked alongside other volunteers to lay down floor tile, paint rooms, haul away trash, remove old siding and help prepare various facilities for opening day.

“It’s rewarding to get out into the community and lend even a little bit of support to an organization like this,” said Jolene Morin, the Public Interest Commissioner’s executive assistant who organized the office volunteering. “They have the power to offer such a positive environment to people who really need it.”

The Be Brave Ranch provides a safe and secure place of treatment and healing for children and families who have experienced sexual abuse.

According to the organization, it offers an evidence-

based treatment program combining multiple proven therapies for children ages 8-12. They start with an initial 20-day period at the Be Brave Ranch, during which they form close relationships with the seven other members of their peer-group. This is followed by long-term therapy and support for the child and their family for a full year. During this extended period, children come back to the Be Brave Ranch for three other seven-day periods for further therapy and to reconnect in person with their peer group.

Programs include art therapy, play therapy, music therapy, recreational activities and peer group support.

We were also pleased to hear that on September 4, 2014, the Be Brave Ranch opened its doors to the first group of children.



Be Brave Ranch volunteers:

The Public Interest Commissioner and employees volunteer their time to charitable organizations in their community. Here, staff and family take a break from helping clean and prepare the Be Brave Ranch outside Edmonton in spring 2014.

Seasonal Support

Every year, staff in the Ombudsman and Public Interest Commissioner's office take time to donate gifts and items to charitable organizations in Calgary and Edmonton over the Christmas season.

Like they did in 2013, Calgary employees donated some much-needed items to vulnerable and isolated seniors through Seniors Secret Service. Seniors supported by the organization received gifts including items like blankets, toiletries, large print books, treats, heating pads, transit tickets, socks and gift cards.

Since 2007, Seniors Secret Service has delivered more than 17,000 Christmas gifts.

Staff in Edmonton again donated toys to children through Santas Anonymous via a Secret Santa gift exchange in the office. More than 40 individual toys were donated. This is the third year staff donated to Santas Anonymous.

“We do hear from seniors fairly often who contact our office, and we feel this is one way to help those who need a little support during the holiday season,” said Joanne Roper, an Ombudsman investigations manager in Calgary.



Christmas Donations:

Employees purchased Christmas gifts for those needing a helping hand last winter.

A blue flashlight beam illuminates the title text on a blue background. The flashlight is positioned in the upper left corner, and its beam of light extends across the middle of the page, highlighting the text.

2014-15 Annual Report Statistics

Annual Report Statistics

April 1, 2014 to March 31, 2015

Required Reporting: section 33(1) of the *Public Interest Disclosure (Whistleblower Protection) Act*

- a) The number of general inquiries made to the Commissioner relating to this Act?
- A total of 168 files were generated. These could be broken down by the following sectors:
 - ♦ Government departments: 35
 - ♦ Education: 43
 - ♦ Agencies, boards and commissions: 10
 - ♦ Offices of the Legislature: 3
 - ♦ Health authorities: 33
 - ♦ Post-secondary institutions: 17
 - ♦ Non-jurisdictional individuals/entities: 27
- b) The number of disclosures received by the Commissioner under this Act, the number of disclosures acted on and the number of disclosures not acted on by the Commissioner?
- A total of 21 disclosures were received by the Commissioner and all were acted on
 - ♦ 13 investigations were undertaken
 - ♦ 2 cases were referred to the chief officer for follow-up
 - ♦ 6 cases were determined to not meet the threshold of wrongdoing
- c) The number of investigations commenced by the Commissioner under this Act?
- A total of 13 investigations were commenced by the Commissioner
- d) The number of recommendations the Commissioner has made and whether the departments, public entities or Offices of the Legislature to which the recommendations relate have complied with the recommendations?
- No recommendations, relative to findings of wrongdoing were made by the Commissioner
- e) The number of complaints of reprisals received by the Commissioner under this Act, the number of complaints of reprisals acted on and the number of complaints of reprisals not acted on by the Commissioner?
- There were 8 complaints of reprisal received by the Commissioner and all were acted upon
 - ♦ 1 remains under investigation
 - ♦ 1 was withdrawn following advice by our office
 - ♦ 6 were investigated and determined not to be reprisal but rather reasonable human resources management decisions
- f) Whether, in the opinion of the Commissioner, there are any systemic problems that may give rise to or have given rise to wrongdoings?
- None identified
- g) Any recommendations for improvement that the Commissioner considers appropriate?
- Significant research and analysis has occurred in preparation for the forthcoming legislative review. Matters were identified to be considered for legislative amendment and will be presented to the appropriate committee

Entity Compliance – Not Required

- Currently tracking a total of 377 entities, these include:
 - ♦ 19 government departments
 - ♦ 20 agencies, boards and commissions
 - ♦ 7 Offices of the Legislature
 - ♦ 6 health sector agencies
 - ♦ 20 post-secondary institutions
 - ♦ 305 school authorities
 - 42 public school authorities
 - 17 separate school authorities
 - 4 francophone authorities
 - 13 charter schools
 - 93 Early Childhood School (ECS) private operators
 - 136 private schools
- Of the 72 Government of Alberta agencies, boards, commissions, Offices of the Legislature, health sector and post-secondary institutions – 68 or 94% have identified their chief/designated officers to the Public Interest Commissioner and advised procedures are in place
- Of the 63 school authorities, 56 or 89% have identified their chief/designated officers to the Public Interest Commissioner and advised procedures are in place
- Of the 13 charter schools, 9 or 69% have identified their chief/designated officers to the Public Interest Commissioner and advised their procedures are in place
- Of the 229 private schools and ECS private operators, only 8 or 3% have identified chief/designated officers to the Public Interest Commissioner and advised their procedures are in place

Further Statistics of Potential Interest – Not Required

- Number of employees impacted by this legislation?
 - ♦ Estimated at approximately 200,000 Albertans
- Number of exemptions (section 31) – The Commissioner must provide reasons for giving an exemption under this section and must ensure the exemption, including any terms or conditions imposed, and the reasons for giving the exemption are made publicly available
 - ♦ The Commissioner has made it clear there will be no complete exemptions from the legislation considered
 - ♦ There were a total of three partial exemptions requested and granted
 - Irricana Early Childhood School
 - Glamorgan Community Kindergarten Society
 - Morinville Christian School
 - ♦ A partial exemption for public entities would only be considered relative to sections 5, 7, 9, 10 and 11 of the Act
 - ♦ All three partial exemptions were granted on the basis that these entities are of a size which would make it impractical to have procedures in place (section 5), have a designated officer identified (section 7), that employees do not have to report to their designated officer (section 9), but rather can report directly to the Commissioner (section 10) and removes the responsibility on employees of reporting a matter of imminent risk to their designated officer (section 11)

Financial Statements

March 31, 2015

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Independent Auditor's Report

To the Members of the Legislative Assembly

Report on the Financial Statements

I have audited the accompanying financial statements of the Office of the Public Interest Commissioner, which comprise the statement of financial position as at March 31, 2015, and the statements of operations and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian public sector accounting standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Office of the Public Interest Commissioner as at March 31, 2015, and the results of its operations, its remeasurement gains and losses, and its cash flows for the year then ended in accordance with Canadian public sector accounting standards.

[Original signed by Merwan N. Saher FCPA, FCA]

Auditor General
July 7, 2015
Edmonton, Alberta

Statement of Operations

Year Ended March 31, 2015

	2015		10 Months Ended March 31, 2014
	Budget	Actual	Actual
Revenues	\$ —	\$ —	\$ —
Expenses - Directly Incurred (Note 2(b) and Schedule 2)			
Salaries, Wages, and Employee Benefits	1,050,000	1,077,608	844,084
Supplies and Services	224,000	131,994	280,416
Total Expenses	1,274,000	1,209,602	1,124,500
Net Operating Results	\$ (1,274,000)	\$ (1,209,602)	\$ (1,124,500)

The accompanying notes and schedules are part of these financial statements.

Statement of Financial Position

As at March 31, 2015

	2015	2014
Assets		
Prepaid Expenses	\$ 1,101	\$ –
Tangible Capital Assets (Note 3)	5,833	–
	\$ 6,934	\$ –
Liabilities		
Accounts Payable and Accrued Liabilities	\$ 14,386	\$ 59,388
Accrued Vacation Pay	74,048	54,052
	88,434	113,440
Net Liabilities		
Net Liabilities at Beginning of Year	(113,440)	–
Net Operating Results	(1,209,602)	(1,124,500)
Net Financing Provided from General Revenues	1,241,542	1,011,060
Net Liabilities at End of Year	(81,500)	(113,440)
	\$ 6,934	\$ –

The accompanying notes and schedules are part of these financial statements.

Statement of Cash Flows

Year Ended March 31, 2015

	2015	10 Months Ended March 31, 2014
Operating Transactions		
Net Operating Results	\$ (1,209,602)	\$ (1,124,500)
Non-Cash Items included in Net Operating Results:		
Provision for Vacation Pay	19,996	54,052
	(1,189,606)	(1,070,448)
Increase in Prepaid Expenses	(1,101)	–
Increase/(Decrease) in Accounts Payable and Accrued Liabilities	(45,002)	59,388
	(1,235,709)	(1,011,060)
Capital Transactions		
Acquisition of Tangible Capital Assets	(5,833)	–
Cash Applied to Capital Transactions	(5,833)	–
Financing Transactions		
Net Financing Provided from General Revenues	1,241,542	1,011,060
Cash, Beginning of Year	–	–
Cash, End of Year	\$ –	\$ –

The accompanying notes and schedules are part of these financial statements.

Notes to the Financial Statements

March 31, 2015

Note 1 – Authority and Purpose

The Office of the Public Interest Commissioner (the Office) operates under the authority of the *Public Interest Disclosure (Whistleblower Protection) Act* (the Act). The Office manages, investigates and makes recommendations respecting disclosures of wrongdoings relating to departments and public entities and reprisals relating to public service employees.

The Office was established June 1, 2013 when the Act received proclamation and for the purposes of the financial statements for 2013-14, had only been in existence for 10 months.

Note 2 – Summary of Significant Accounting Policies and Reporting Practices

These financial statements are prepared in accordance with Canadian public sector accounting standards.

(a) Reporting Entity

The reporting entity is the Office of the Public Interest Commissioner, which is a legislative office for which the Public Interest Commissioner is responsible. The Office operates within the General Revenue Fund (the Fund). The Fund is administrated by the Minister of Treasury Board and Finance. All cash receipts of the Office are deposited into the Fund and all cash disbursements made by the Office are paid from the Fund.

Net Financing Provided from General Revenues is the difference between all cash receipts and all cash disbursements made.

(b) Basis of Financial Reporting

Revenues

All revenues are reported on the accrual basis of accounting.

Expenses

Directly Incurred

Directly incurred expenses are those costs the Office has primary responsibility and accountability for, as reflected in the Office's budget documents.

In addition to program operating expenses such as salaries, supplies, etc., directly incurred expenses also include:

- pension costs, which are the cost of employer contributions for current service of employees during the year, and
- valuation adjustments which represent the change in management's estimate of future payments arising from obligations relating to vacation pay.

Incurred by Others

Services contributed by other entities in support of the Office's operations are not recognized and are disclosed in Schedule 2.

Note 2 – Summary of Significant Accounting Policies and Reporting Practices (Cont'd)

(b) Basis of Financial Reporting (Cont'd)

Assets

Financial assets are assets that could be used to discharge existing liabilities or finance future operations and are not for consumption in the normal course of operations. Financial assets of the Office are limited to financial claims, including prepaid expenses.

Tangible capital assets of the Office are recorded at historical cost and are amortized on a straight-line basis over the estimated useful lives of the assets as follows:

Computer hardware and software	3 years
Office equipment and furnishings	10 years

The threshold for capitalizing new systems development is \$250,000 and the threshold for major system enhancements is \$100,000. The threshold for all other tangible capital assets is \$5,000.

Amortization is only charged if the tangible capital asset is in use.

Liabilities

Liabilities are recorded to the extent that they represent present obligations as a result of events and transactions occurring prior to the end of fiscal year. The settlement of liabilities will result in sacrifice of economic benefits in the future.

Net Assets/Net Liabilities

Net Assets/Net Liabilities represent the difference between the carrying value of assets held by the Office and its liabilities.

Canadian public sector accounting standards require a net debt presentation for the statement of financial position in the summary financial statements of governments. Net debt presentation reports the difference between financial assets and liabilities as net debt or net financial assets as an indicator of the future revenues required to pay for past transactions and events. The Office operates within the government reporting entity, and does not finance its expenditures by independently raising revenue. Accordingly, these financial statements do not report a net debt indicator.

Valuation of Financial Assets and Liabilities

Fair value is the amount of consideration agreed upon in an arm's length transaction between knowledgeable, willing parties who are under no compulsion to act. The fair values of Prepaid Expenses, and Accounts Payable and Accrued Liabilities are estimated to approximate their carrying values because of the short term nature of these instruments.

Note 3 – Tangible Capital Assets

	2015		
	Cost	Accumulated Amortization	Net Book Value
Computer hardware	\$ 5,833	\$ 0	\$ 5,833

The total cost of tangible capital asset additions is \$5,833 (2013-14 \$0).

Note 4 – Contractual Obligations

Contractual obligations are obligations of the Office to others that will become liabilities in the future when the terms of those contracts or agreements are met.

Estimated payment requirements for the unexpired terms of these contractual obligations are as follows:

2015-16	\$	6,420
2016-17		4,815
	\$	<u>11,235</u>

Note 5 – Defined Benefit Plans (In Thousands)

The Office participates in the multi-employer Management Employees Pension Plan and Public Service Pension Plan. The Office also participates in the multi-employer Supplementary Retirement Plan for Public Service Managers. The expense for these pension plans is equivalent to the annual contributions of \$135 for the year ended March 31, 2015 (2014 – \$94).

At December 31, 2014, the Management Employees Pension Plan reported a surplus of \$75,805 (2013 surplus \$50,547), the Public Service Pension Plan

reported a deficiency of \$803,299 (2013 deficiency \$1,254,678) and the Supplementary Retirement Plan for Public Service Managers reported a deficiency of \$17,203 (2013 deficiency \$12,384).

The Office also participates in the multi-employer Long Term Disability Income Continuance Plan. At March 31, 2015, the Management, Opted Out and Excluded Plan had an actuarial surplus of \$32,343 (2014 surplus \$24,055). The expense for this plan is limited to the employer's annual contributions for the year.

Note 6 – Statement of Remeasurement Gains and Losses

As the Office does not have any transactions involving financial instruments that are classified in the fair value category and has no foreign currency

transactions, there are no remeasurement gains and losses and therefore a statement of remeasurement gains and losses has not been presented.

Note 7 – Approval of Financial Statements

These financial statements were approved by the Public Interest Commissioner.

Salary and Benefits Disclosure

Year Ended March 31, 2015

	2015				2014
	Base Salary ⁽¹⁾	Other Cash Benefits ⁽²⁾	Other Non-Cash Benefits ⁽³⁾	Total	Total
Senior Official					
Commissioner ⁽⁴⁾⁽⁵⁾	\$ 259,908	\$ 36,621	\$ 9,777	\$ 306,306	\$ 286,960

(1) Base salary includes regular base pay.

(2) Other cash benefits include pension-in-lieu payments.

(3) Other non-cash benefits include the employer's share of all employee benefits and contributions or payments made on behalf of employees including health care, CPP/EI, dental coverage, group life insurance, and long-term disability plans.

(4) Automobile provided, no dollar amount included in other non-cash benefits.

(5) The Alberta Ombudsman was appointed as the Public Interest Commissioner effective April 24, 2013; however, there is no additional remuneration for this role. The salary and benefits reflected on this statement is the incumbent's full remuneration. The Alberta Ombudsman's financial statements (direct expenses) reflect 75% of the full remuneration and the Public Interest Commissioner's financial statements (direct expenses) reflect the remaining 25%. This represents the incumbent's actual time engagement for each Office.

Allocated Costs

Year Ended March 31, 2015

Program	2015				10 Months Ended March 31, 2014
	Expenses - Incurred by Others			Total Expenses	Total Expenses
	Expenses ⁽¹⁾	Accommodation Costs ⁽²⁾	Business Costs ⁽³⁾		
Operations	\$ 1,209,602	\$ 33,318	\$ 3,109	\$ 1,246,029	\$ 1,161,136

(1) Expenses – Directly Incurred as per Statement of Operations.

(2) Cost shown for accommodation are allocated by the total square meters occupied by the Office.

(3) Costs shown for Business include Service Alberta's costs for the Office's telephone lines.



**PUBLIC INTEREST
COMMISSIONER**

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