

Andrew Hayes: Panel 2 Introduction and OAG Overview

I am honoured to introduce the second panel, which has as its theme: "A Legacy of Public Sector and Organizational Ethics". Our esteemed panelists will talk about leadership responsibilities; ethics codes and programs; training; and accountabilities, both internal and external.

Before we go there, as a member of the Office of the Auditor General, I thought that it may be worthwhile to briefly touch on some of the contributions that the Auditor General has made to the ethics dialogue. The work of the Auditor General in the mid-90s and early 2000s dovetailed with the messages from the Tait report. By no means will this be an exhaustive dive into history, but there are a number of reports that I would like to mention. I should preface my remarks by emphasizing that the statements that I will make today are my own, and I do not purport to speak on behalf of the Office of the Auditor General of Canada.

First, the May 1995 Auditor General report to Parliament titled Ethics and Fraud Awareness in Government was a foundation for future audit work that the office would perform on the topic of values and ethics. Auditor General Denis Desautels, who has a lasting legacy of integrity at the office, stated that Canadians were concerned about integrity in government, and they have the right to expect the highest ethical standards in their governments. He also noted that if Canadians do not trust their governments to act ethically, governments will find that their actions have less and less legitimacy and effectiveness.

The Auditor General again audited values and ethics in the public sector in an audit that was provided to Parliament in October 2000. In that report, the Auditor General's recommended that government:

- Reinforce leadership for promoting ethical conduct.
- Re-invigorate an extensive dialogue on values and ethics that emphasizes the primacy of the principles of respect for law, the public interest, and public service as a public trust.
- Develop a statement of values and ethics for the federal public sector and for each federal entity.
- Develop a set of values and ethics to guide the interaction between the public and private sectors.
- Establish comprehensive values and ethics initiatives in federal entities.
- Provide guidance for ethical decision making and develop recourse mechanisms to allow the voicing of ethical concerns, with appropriate protection for all concerned.

A few years later, in 2002 and 2003, the Office of the Auditor General would be called upon to audit some specific cases that brought public service values and ethics to the fore. In September 2003, the Auditor General, Sheila Fraser audited the Office of the Privacy Commissioner. In her report, she described the work

environment as a “reign of terror” where the Privacy Commissioner had humiliated staff, made inappropriate comments, and engaged in verbal abuse that were socially unacceptable—in either Canada in general or the public service in particular.

The November 2003 report to Parliament included the Auditor General’s reports on the Sponsorship Program, public opinion research and advertising activities that found blatant disregard for rules. These reports ultimately led to the Commission of Inquiry into the Sponsorship Program and Advertising Activities (better known as the Gomery Commission). I think that it can be argued that these reports also influenced the development of the *Federal Accountability Act* and the *Public Servants Disclosure Protection Act*.

It would be nice to say that after the public attention of the Gomery Inquiry and the public scrutiny of the ethics and integrity of those involved, we would be less likely to encounter such situations. Unfortunately, that was not the case. The Auditor General delivered a report on the Correctional Investigator in 2006. The Auditor General found that the former Correctional Investigator and head of the OCI, committed serious abuses and wrongdoing, some of which resulted in substantial personal benefit. The Auditor General recommended that the Privy Council Office ensure that it appropriately advises and trains full-time Governor in Council appointees about their expected standards of conduct as holders of public office.

In 2010, the Auditor General completed an audit of the Office of the Public Sector Integrity Commissioner. Perhaps the most unfortunate feature of the findings in this report is that it had the same flavor as the 2003 report on the Privacy Commissioner. With respect to the Public Sector Integrity Commissioner, the Auditor General concluded that

the allegations made by the complainants concerning the Commissioner’s inappropriate conduct and interactions with PSIC staff, retaliatory actions by the Commissioner, and the failure by the Commissioner to properly perform her mandated functions, were founded.

The Auditor General also stated:

We are of the view that the Commissioner’s conduct and actions were inconsistent with the spirit of the Public Servants Disclosure Protection Act, the same Act from which she obtains her mandate. Further, the Values and Ethics Code for the Public Service states that “Public servants shall act at all times in a manner that will bear the closest public scrutiny; an obligation that is not fully discharged by simply acting within the law.” In our view, the Commissioner’s behaviour and actions do not pass the test of public scrutiny and are inappropriate and unacceptable for a public servant—most notably for the Agent of Parliament specifically charged with the responsibility of upholding

integrity in the public sector and of protecting public servants from reprisal.

Moving to more recent reports, in 2015, Auditor General Michael Ferguson delivered an audit report on Senators' expenses to the Senate of Canada. This audit was requested by the Senate as a result of some expenses concerns that had already come to light. While the negative findings from that audit have occupied the media spotlight, it is worth noting that the audit did not find problems with the expenses incurred by most of the Senators. The audit report made recommendations to help improve transparency, accountability, and oversight and it provided the Senate with an opportunity to move forward.

Finally, we returned to the topic of public service values and ethics in our 2017 May report on Managing Fraud Risk. Although we concluded that the federal organizations that we audited did not appropriately manage all of their fraud risks, we noted a number of good practices. We also made recommendations that emphasized the need for mandatory training in values and ethics.

I suppose that it is likely that we will see future audits that will address values and ethics in the public service. My hope is that the significance of the issues that we find will never be as concerning as those that were uncovered in the Sponsorship audits, and which led to criminal convictions.

The following quote from the Tait report may be the most appropriate way to sum up the lessons from the audits that I have discussed:

"The most important defining factor for the role and values of the public service of Canada is its democratic mission and public trust; helping Ministers, under law and Constitution, to serve the common good."