

## Internal Audit Division

**AUDIT OF THE  
ALBERTA REGIONAL OFFICE**

**FINAL AUDIT REPORT  
NOVEMBER 9, 2012**

[ \* ] The report has been severed where exempted information has been removed in accordance with the *Access to Information Act*.

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**LIST OF ACRONYMS**

|      |  |
|------|--|
| ACFP | Associate Chief Federal Prosecutor ( <i>Procureur fédéral en chef adjoint – PFCA</i> )                 |
| ARO  | Alberta Regional Office ( <i>Bureau régional de l'Alberta – BRA</i> )                                  |
| ASU  | Agent Supervision Unit ( <i>Unité de supervision des mandataires – USM</i> )                           |
| CFO  | Chief Financial Officer ( <i>Dirigeante principale des finances – DPF</i> )                            |
| CFP  | Chief Federal Prosecutor ( <i>Procureur fédéral en chef – PFC</i> )                                    |
| CSP  | Corporate Services Provider ( <i>Prestataire de services généraux – PSG</i> )                          |
| DDPP | Deputy Director of Public Prosecutions ( <i>Directeur adjoint des poursuites pénales – DAPP</i> )      |
| DSO  | Departmental Security Officer ( <i>Agent de sécurité ministériel – ASM</i> )                           |
| FAA  | <i>Financial Administration Act</i> (Loi sur la gestion des finances publiques – <i>LGFP</i> )         |
| FAD  | Finance and Acquisitions Directorate ( <i>Direction des finances et des acquisitions – DFA</i> )       |
| HQ   | Headquarters ( <i>Administration centrale – AC</i> )   |
| IAD  | Internal Audit Division ( <i>Division de la vérification interne – DVI</i> )                           |
| IFMS | Integrated Financial and Materiel System ( <i>Système intégré des finances et du matériel – SIFM</i> ) |
| ORO  | Ontario Regional Office ( <i>Bureau régional de l'Ontario – BRO</i> )                                  |
| PPSC | Public Prosecution Service of Canada ( <i>Service des poursuites pénales du Canada – SPPC</i> )        |
| SSR  | Specimen Signature Record ( <i>Fiche de spécimen de signature – FSS</i> )                              |
| TBS  | Treasury Board Secretariat ( <i>Secrétariat du Conseil du Trésor – SCT</i> )                           |

## **1.0 EXECUTIVE SUMMARY**

### **1.1 AUDIT OBJECTIVE AND SCOPE**

The overall objective of this audit was to assess the adequacy and effectiveness of the management control framework in the Alberta Regional Office (ARO) in support of the Public Prosecution Service of Canada's (PPSC) mandate, mission and values.

In particular, the scope included:

- governance processes in the regional office;
- compliance of the prosecution operations with the PPSC's policies and procedures; and
- compliance of administrative and financial practices with applicable laws, regulations, policies and procedures.

The audit methodology included:

- a review of documentation, guidelines, procedures, policies and relevant legislation to gain an understanding of the ARO, its operations, key processes, and controls;
- interviews with a sample of staff from: PPSC Headquarters (HQ), the region, and the Corporate Service Provider (CSP) that provide financial services to the region;
- a review of procedures, guidelines and practices as well as the monitoring and reporting mechanisms in place; and
- a review of a sample of prosecution case files, human resources files, contract files and financial transactions from the 2011-2012 fiscal year.

This audit was planned and conducted between March and July 2012. On-site work in Alberta began in Edmonton the week of May 28<sup>th</sup>, 2012, followed immediately by a week in Calgary.

### **1.2 AUDIT CONCLUSION**

The Internal Audit Division (IAD) assessed the ARO's management framework within which it provides prosecutorial services against pre-determined audit criteria based on Treasury Board Secretariat (TBS) policies and directives, PPSC policies, directives, protocols and procedures/guidelines such as the Deskbook, as well as good practices of other government organizations and prosecution services in other jurisdictions and countries. Overall, the ARO has an appropriate management framework with the exception of financial and administration activities that require strengthening in order to be compliant with policies and directives. In addition, there are opportunities for improvement noted for the ARO and the PPSC to operate more effectively and efficiently.

### 1.3 SUMMARY OF FINDINGS AND RECOMMENDATIONS

While there are opportunities for improvement, the ARO's management framework is appropriate.

*Management should ensure that:*

- *Prosecution decisions, including the complexity rating, and decision-making processes are clearly documented; and timekeeping reports are certified and all overtime documentation is kept on file;*
- *Active cases with no time keeping activity are monitored;*
- *An electronic disclosure framework is in place;*
- *[ \* ]; and*
- *Section 32 authority of the Financial Administration Act for acquisition cards must have been obtained from a budget holder and a process for reviewing and updating Specimen Signature Record (SSR) is in place.*

### 1.4 STATEMENT OF ASSURANCE

In my professional judgment as the PPSC Chief Audit Executive, sufficient and appropriate audit procedures have been conducted and evidence gathered to support the accuracy of the conclusion provided and contained in this report. The audit findings and conclusion are based on a comparison of the conditions, as they existed at the time of the audit, against pre-established and approved audit criteria that were agreed upon with the PPSC's management. The findings and conclusion are applicable only to the entity examined. The audit was conducted in accordance with the *Internal Auditing Standards for the Government of Canada*. A practice inspection has not been conducted.

I appreciate the cooperation and assistance afforded to the audit team by PPSC staff at headquarters and in the ARO.

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Philip Morton  
Chief Audit Executive

## 2.0 INTRODUCTION

### 2.1 BACKGROUND

The ARO is the PPSC's third largest region with nearly 100 employees, split almost evenly between the regional headquarters in Edmonton and a local office in Calgary. An Associate Chief Federal Prosecutor (ACFP) manages the day-to-day operations of each office, and reports to one Chief Federal Prosecutor (CFP) who reports to one of two Deputy Directors of Public Prosecutions (DDPP). The ARO staffing complement is made up of approximately 55% prosecutors, including management; and 45% support staff, including 13% paralegals. The ARO also retains 19 standing agent firms representing 29 individually appointed counsel.

The PPSC acquires corporate services in the ARO from a CSP through a Memorandum of Understanding for areas such as finance, human resources, information management, information technology, administration, and library.

#### 2011-12 Spending (in \$) – ARO

|                 | Salary              | O&M               | Total               |
|-----------------|---------------------|-------------------|---------------------|
| <b>Calgary</b>  | <b>3,749,563</b>    | <b>326,240</b>    | <b>4,075,803</b>    |
| <b>Edmonton</b> | <b>4,943,925</b>    | <b>494,055</b>    | <b>5,437,980</b>    |
| <b>Total</b>    | <b>\$ 8,693,488</b> | <b>\$ 820,295</b> | <b>\$ 9,513,783</b> |

Federal prosecutors in the ARO handle a wide range of drug, organized crime, proceeds of crime, regulatory and economic crime prosecutions throughout the province, with a significantly increasing volume of complex cases. Federal prosecutors work closely with investigative agencies, including the RCMP, municipal police, federal investigative agencies/departments, and combined forces special enforcement units. Members of the Regulatory and Economic Crime Group deal with as many as thirteen federal departments and agencies that have an enforcement mandate and handle significant high-profile public interest cases.

In 2011-2012, the ARO began with 6,836 open cases, and opened an additional 3,825 cases during the year. In total, 1,880 cases were closed during the year, leaving 8,781 cases open at year end.

The IAD is conducting this audit of the ARO in accordance with the PPSC's 2012-2015 Risk-Based Audit Plan, which was approved by the Director of Public Prosecutions on March 20<sup>th</sup>, 2012.

### 2.2 OBJECTIVES, SCOPE, AND METHODOLOGY

The overall objective of this audit was to assess the adequacy and effectiveness of the management control framework in the ARO in support of the PPSC's mandate, mission and values.

In particular, the scope included:

- processes in the regional office;
- compliance of the prosecution operations with the PPSC's policies and procedures; and
- compliance of administrative and financial practices with applicable laws, regulations, policies and procedures.

The audit methodology included:

- a review of documentation, guidelines, procedures, policies and relevant legislation to gain an understanding of the ARO, its operations, key processes, and controls;
- interviews with a sample of staff from: PPSC HQ, the region, and the CSP that provide financial services to the region;
- a review of procedures, guidelines and practices as well as the monitoring and reporting mechanisms in place; and
- a review of a sample of prosecution case files, human resources files, contract files and financial transactions from the 2011-2012 fiscal year.

This audit was planned and conducted between March and July 2012. On-site work in Alberta began in Edmonton the week of May 28<sup>th</sup>, 2012, followed immediately by a week in Calgary.

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### 3.0 OBSERVATIONS AND RECOMMENDATIONS

#### 3.1 GOVERNANCE PROCESSES IN THE REGIONAL OFFICE

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**There are appropriate governance processes in place in the ARO.**

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Governance determines the organizational hierarchy including the decision-making structure, internal/external lines of communication and accountabilities.

The organizational structure in place is well documented and communicated. In both offices there are three prosecution teams, each supervised by a team leader: general drug prosecutions, including Drug Treatment Court; organized crime; and regulatory and economic. Legal support staff report to the ACFP who assigns them to individual teams or specialized functions. Both offices utilize staff from the CSP to perform various support functions that are not part of the documented organizational structure. Furthermore, having employees report to a CSP manager rather than a PPSC manager complicates the working relationship and accountability between PPSC and the employee, and may impact the satisfaction of both parties. The PPSC is examining this situation as part of the operational and organizational review.

The region effectively engages with investigative agencies, federal departments, and other stakeholders in the region. Management interacts with Alberta Justice, Courts and the Police departments at various levels. The CFP and ACFP, and other delegated senior counsel, maintain a regular standing commitment to attend committee meetings and working groups as required to provide advice, discuss issues, opportunities, and plans and priorities.

#### 3.2 COMPLIANCE OF THE PROSECUTION OPERATIONS WITH THE PPSC'S POLICIES AND PROCEDURES

3.2.1 Human resource utilization is effective and adequate.

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**There is a systematic process for assigning files in the region. The planning and monitoring of resource utilization on complex files should be strengthened.**

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##### *File Assignment*

The audit team expected to find that assignment of cases provides for a fair distribution of workload and takes into consideration counsel experience and development. Organized crime and regulatory and economic team leaders assign files immediately to prosecutors who have carriage over the file from pre-charge advice until the prosecution concludes. The general drug prosecutions team leader in Calgary has implemented a similar process where she reviews the file when it arrives and assigns it immediately; the Edmonton general team leader does not assign files until a preliminary trial, or trial date has been set.

The audit found that file assignment in both offices is based on experience, availability, prosecutor interest/career development and workload.

### *Prosecution Plans*

The Federal Prosecution Service *Deskbook* requires prosecution plans for ‘mega-trials’ that address among other things, the likely resource demands of the prosecution. A 2006 practice directive outlines expectations to address resource demands. As well, the ARO Major Case Management Protocol emphasizes the need to forecast both short and long term prosecution resource requirements.

Generally, the ARO does not address in detail the resource requirements in mega-trial prosecution plans, although informal mechanisms are in place to monitor the resource requirements throughout the cases. The audit team assessed four prosecution plans related to mega-trials to determine compliance with the practice directive. Only one of the four plans addressed the resource demands of the prosecution by breaking the resource requirements into distinct phases, and tasks. The other three plans identified resource demands consisting of one line with the number of counsel and support staff. This situation was a result of management not requesting detailed information about resources for mega-trials when reviewing the plans.

Prosecution plans that provide limited detail of resource demands may impact the ability of managers and team leaders to accurately forecast and meet both short-term and longer term resource requirements.

### *Timekeeping*

The PPSC requires all prosecutors and paralegals to record their time in iCase. The National Timekeeping Protocol states that time should be entered on a daily basis, and in all circumstances time entries must be completed by the end of each week.

Timekeepers in the ARO record their time in iCase promptly, with over 80% of timekeeping entries recorded within one week, which is better than the national average of 74%. Timekeeping reports are monitored for accuracy and completeness on a regular basis. In Edmonton, timekeepers are required to sign off on their hardcopy timesheets; in Calgary, timesheets are reviewed electronically and there is no sign off. Interviews in Calgary indicated that this was due to the large volume of paper that was difficult to handle and store.

The cumulative hours spent on individual cases are not monitored by supervisors; however, the PPSC is currently piloting a performance measurement system based on statistical analysis and benchmarking of individual cases in the Ontario Regional Office (ORO).

### **Recommendation:**

*Recommendations with national scope related to prosecution plans, and case specific performance management were made in the Audit of the ORO (December 2011) and will be followed up with management.*

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### 3.2.2 Crown agents are adequately supported and monitored.

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#### **Agent supervision resources are limited given the workload of agents in the region.**

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The PPSC retains the services of private-sector lawyers as agents to conduct prosecutions where there is no local office, or where it is impractical or otherwise not cost-effective for staff counsel to handle cases. The Agent Affairs Program at HQ is responsible for the management of legal agents. Each region has an Agent Supervision Unit (ASU) to handle the day-to-day supervision of agents and to support them in their work. The ASU in the region is expected to address all of the core activities of the program, including: providing supervision and training, performing on-site visits on a two-year cycle basis as expected by the Agent Affairs Program at HQ, and conducting performance assessments.

The ASU of the ARO consists of an agent supervisor and an agent coordinator to support the supervisor. They supervise 19 standing agent firms representing 29 individually appointed agents. While the ratio of ASU salary compared to the number of counsel retained as agents is below average for the PPSC, the agents in Alberta have the second highest workload in the country.

Interviews held with the ASU, the CFP and management at HQ indicated that the on-going activities of the ASU as well as new initiatives were mostly in-line with the PPSC's expectations and the ASU was operating effectively. With respect to its training responsibilities, the ASU hosted a two-day formal training session last year for all of the agents in Alberta. Also, the ASU reviews all files prior to going to a trial, or a preliminary trial, as part of its supervisory role. This process allows an opportunity to offer advice on the file moving forward, and address any issues in the file to avoid recurring issues. As well, the agent supervisor also began to perform a risk-based on-site visit to three to four agents in the last fiscal year and will continue with the same number of visits each year. The agent supervisor visits the agent's office and goes to court with them to ensure they are providing quality legal services on behalf of the PPSC.

The PPSC expects agent firms to be visited every two years, compared to the 4-6 year cycle the ARO has in place. Given the current resources in the ASU it will be a challenge to meet this expectation. Additionally, the agent supervisor dedicated 16% of his time, from January to July 2012, to law society activities, separate from his agent supervision responsibilities. Finally, there is currently no back up agent supervisor in place to assist with increased workload, or in the event of sick leave or vacation. The effectiveness of the ASU could be at risk if sufficient resources are not available to supervise, monitor and support the agents' increasing workload.

### 3.2.3 Prosecution decisions are documented.

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#### **Some prosecution decisions were inconsistently documented and there was limited review of prosecution files.**

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### *Prosecution Decisions*

The audit team expected to find clearly documented decisions in each prosecution file reviewed. The *Deskbook* states:

*Crown counsel must consider two issues when deciding whether to prosecute. First, is the evidence sufficient to justify the institution or continuation of proceedings? Second, if it is, does the public interest require a prosecution to be pursued?*

The *Deskbook* also encourages prosecutors to include notes of the assessment of the decision to prosecute on the file. In addition, this issue was initially addressed by the audit team during the 2011 Audit of the ORO. The approved management response below was distributed to all PPSC managers.

*In the majority of files (low and medium complexity) the continuation of the prosecution indicates that a decision has been taken that the evidence is sufficient to meet the test that there is a reasonable prospect of conviction. As the Deskbook notes, in most instances, the public interest will then require a prosecution. In relation to high and mega cases, the prosecution plans will provide this assessment. In the case of all mega cases and certain high complexity, the plans will be reviewed by the Major Case Advisory Committee composed of senior practitioners from across the country.*

*The ORO CFP will disseminate instructions to counsel, after discussion with ACFPs and team leaders, regarding the preparation of documentation in the file. The decisions to prosecute will be documented for cases of medium, high and mega complexity. For low complexity files, only decisions to withdraw charges will be documented.*

In the majority of files where prosecutions resulted in a stay of proceedings (Crown) or withdrawal of charges, the decision not to prosecute was well documented. For 17 of 18 (94%) prosecutions in the audit sample that were stayed by the Crown, or where charges were withdrawn, the prosecution files clearly documented the decision to stop the prosecution with a memo in the file. Counsel should continue to be conscious of the need in appropriate cases to explain a decision not to prosecute to, for example, the investigative agency.

The audit team also reviewed 51 prosecution files ranging from high to low complexity, for which a decision to prosecute was applicable. In the sampled prosecution cases that did proceed, the decision to prosecute was documented in 9 of the 51 (18%) files<sup>1</sup>. Of the high and medium complexity files, the decision to prosecute was documented in 6 of 12 (50%) files in Edmonton, and 1 of 28 (4%) files in Calgary. The cause of the difference between the two offices was not clear. The decision to prosecute, particularly in high and medium complexity cases should be clearly documented and easily accessible. This will help with the efficiency of the review by team leaders or senior prosecutors, and facilitate accountability and communication.

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<sup>1</sup> This sample is not mutually exclusive from the “decision not to prosecute” in the previous paragraph. The total sample size of prosecution cases was 58. For example, some cases involved multiple accused individuals where one proceeded to a prosecution while the other had charges withdrawn. The decision to prosecute the one accused was not documented, while the decision to withdraw the charges on the other was documented.

The appeal decision-making process was consistently well understood in both offices during the interviews; however, the documentation of the decisions could be improved. The audit team reviewed a sample of five appeals, four in the Calgary office and one in Edmonton. The Edmonton appeal decision was well documented, though none of the Calgary decisions were on file. Recently a paralegal in Edmonton was assigned to document the minutes of all appeal committee meetings for the ARO, which includes the appeal decision. It is important that appeal decisions are clearly documented to ensure that significant questions of law are litigated on the basis of a proper and compelling record of evidence.

### *Case Complexity Ratings*

The premise of the PPSC Legal Risk Management process is based on the inherent complexity of the files and cases it manages, rather than on the risk of losing a case and the ensuing costs and consequences facing government. Each case is assigned a rating of Low, Medium, High or Mega which the PPSC uses for internal reporting purposes and relies on its accuracy for resource planning and forecasting. The case complexity rating is inputted into iCase when the file is created, with a default complexity of Low for all cases. Prosecutors are expected to revise the complexity on the appropriate template if impacted by new developments. It is the responsibility of the prosecutor to update the complexity in iCase, though it may be delegated to a legal assistant.

The audit team identified 8 of 21 (38%) files in the Edmonton office had an inconsistent complexity rating between iCase and the hardcopy file, while only 1 of 38 (3%) files in Calgary was inconsistent. Interviews conducted with prosecutors and legal assistants in Edmonton demonstrated inconsistent practices and unclear accountabilities for updating the complexity ratings.

Without accurate and up-to-date complexity ratings, there is a risk that prosecution cases may not be assigned the appropriate resources and that management may not become aware of emerging legal risks as the cases progress through the federal criminal prosecution process.

### *File Review*

Many professions and organizations have implemented post-activity review procedures to ensure quality and consistency across a large area, such as a region or an entire organization. Some have established a qualified, independent group to perform assessments to ensure compliance with policies, procedures, and professional standards.

The audit team found limited evidence that the ARO, or PPSC, had implemented such quality control measures for the review of prosecution files aside from the team leader review at the file assignment, or pre-charge advice stage. The ARO has developed various protocols, guidelines, templates and checklists to ensure the consistency and quality of its prosecutions.

Unless specific issues are identified, there is no systematic on-going review of files. An on-going review of files is being piloted as a result of the audit of the ORO to determine if it will assist in ensuring greater quality and consistency of prosecutions.

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**Recommendation:**

1. *The ARO CFP should ensure that prosecution decisions, including the complexity rating, and decision-making processes are clearly documented in mega, high and medium complexity prosecution files.*

**3.3 COMPLIANCE OF FINANCIAL AND ADMINISTRATION PRACTICES****3.3.1 Finance and Overtime**

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**Stewardship in the ARO needs to be strengthened, particularly in the areas of financial delegations and procurement practices.**

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*Acquisitions of goods and services*

The objective of Acquisitions in the Government of Canada is to acquire goods and services in a manner that enhances access, competition and fairness and results in best value or, if appropriate, the optimal balance of overall benefits to the Crown and the Canadian people.

Judgemental samples of nine contracts, ten invoices, five of which were related to these contracts, and twenty acquisition card transactions were selected. The audit team expected the ARO to comply with applicable legislation and TBS/PPSC policies, directives and guidelines with respect to finance and acquisitions. The analysis of the samples resulted in the following observations:

- In four of twenty acquisition card purchases (20%) were for ineligible goods pursuant to the criteria in the PPSC's *Acquisition Cards Procedure*. In addition, some purchases required a functional approval at HQ before proceeding with a purchase, which was generally not documented. Work started before the contract was signed in two of nine (22%) contracts; a third contract was amended after its expiry date;
- The ARO exceeded its delegation of financial authority, purchasing over 10K of telecommunication equipment for the Edmonton office as part of its relocation to a new office;
- In 100% of all acquisition card transactions reviewed there was no evidence of s.32 of the *Financial Administration Act* (FAA). As well, a card holder in the Edmonton office purchased goods and services using an acquisition card without having acquisition card spending authority;
- Tax codes in the Integrated Financial and Materiel System (IFMS) were incorrect in nine of nineteen (47%) acquisition card transactions. Instead of using the tax code for GST (IG), tax codes entered in IFMS were either employee expenses (IE) or exempt (IO);
- In six travel transactions out of twenty-one (29%) reviewed there was not a valid s32 certification pursuant to the FAA; and

- In twenty-two (nine acquisition card transactions, two invoices and eleven travel transactions) out of fifty transactions (44%), s33 of the FAA was signed by an employee with no delegated authority. The PPSC's Finance and Acquisitions Directorate (FAD) indicated that this individual was not informed that her SSR had expired. The process for renewing SSRs is being reviewed.

In addition, the following observations were noted during interviews:

- CSP financial/acquisition staff were not aware of certain PPSC directives and guidelines and were not applying them, such as the *Acquisition Cards Procedure*. The PPSC's Chief Financial Officer (CFO) indicated that the current communication protocol only allows communication with the CSP's CFO who will then disseminate the information. The CSP is currently undergoing a re-organization in the area of finance to centralize the function, which may improve communication;
- The CFP monitors the ARO's budget on a regular basis by reviewing the Financial Situation Report as well as the Salary Forecasting Tool. ACFPs were not involved in the budgeting process, which makes it challenging for them to monitor commitments and be fully comfortable in signing s32 and s34. It is in the CFP's long term plan to involve ACFPs in handling their own budget.

The CFO is in the process of centralizing finance and acquisition services for the Prairie Region to PPSC's HQ in Ottawa. As of November 2012, FAD in HQ will provide all financial services for the ARO. This will allow the PPSC: to be in a better position to resolve issues quickly; to ensure compliance with central agency policies; to reduce the risks of losing contractual delegations; to centralize and standardize procedures; reduce the turn around time to issue payments; and to increase the PPSC's corporate knowledge.

Non compliance with legislation (FAA) and TBS/PPSC policies and directives may result in inappropriate expenditures, and/or damage to the PPSC's reputation.

#### *Overtime Reconciliation*

Overtime for prosecutors is reconciled on a four week cycle as defined in the LA Collective Agreement. According to the collective agreement, overtime must be approved in advance, and documentation must be submitted within six working days after the end of the four week timekeeping cycle to be eligible for overtime compensation, with room for management discretion in certain circumstances.

The audit team examined the timekeeping files and overtime claims for twelve prosecutors, six in Calgary and six in Edmonton, and found that:

- Six of twelve prosecutors claimed overtime based on individual days worked instead of the monthly 'net' total, which resulted in minor discrepancies.
- In Calgary, there was no record of pre-approvals, though the ACFP indicated that pre-approvals are sent to compensation with the overtime claim. As timekeeping reports are distributed electronically, there was no evidence of certification in accordance with the National Timekeeping Protocol;

- In Edmonton, there were instances where each prosecutor exceeded the pre-approved hours, three prosecutors had pre-approval forms signed after the fact, and in one instance, four cycles worth of overtime claims were approved at the same time; and
- Four of six (66%) Edmonton prosecutors signed off on their timesheets.

*Note: On June 27, 2012 the Association of Justice Counsel, the union representing approximately 2,700 lawyers employed by the Government of Canada, reached a tentative agreement with Treasury Board. This tentative agreement, which has not been ratified yet, may eliminate the overtime provisions in the collective agreement effective April 1, 2013. Until such time, overtime must be managed appropriately in order to properly administer public funds.*

**Recommendations:**

2. *The CFO should communicate to all acquisition cardholders and managers that FAA Section 32 authority must have been obtained from a budget holder for all acquisition card purchases regardless of their value.*
3. *The CFO should develop and implement a process for reviewing and updating SSR to ensure that delegated authority is current and understood.*
4. *The CFP should ensure timekeeping reports are certified and all overtime documentation is kept on file.*

3.3.2 Security

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The TBS Policy on Government Security states that security is the assurance that information, assets and services are protected against compromise and individuals are protected against workplace violence. The PPSC works with highly sensitive information on a daily basis.

[ \* ]

**Recommendation:**

5. [ \* ]

3.3.3 Training and Mentoring

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**Prosecutors receive training and mentoring to develop and maintain the skills needed to execute current and future responsibilities effectively.**

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Learning, training, leadership development and professional development are necessary to ensure that employees are equipped to discharge their responsibility and be prepared to meet future challenges.

Overall, employees receive the training and mentoring required developing and maintaining the skills needed to execute their current and future responsibilities effectively. Timekeeping data in 2011-2012 (up to January 2012) showed training received was 3.3% of time entries, which equates to over a week of training per timekeeping employee. Also, interviews indicated that prosecutors in the ARO have access to formal training (including level 1 School for Prosecutors for LA-01, and level 2 for most 2As), in-house training, on-the-job training, mentoring (Brown Bag Lunches) and there is an open door policy in the office. However, support staff indicated that they did not have access to formal training and some were under the impression that there were no funds for training, or if there were, training requests would be denied.

The Calgary ACFP indicated that a list of available training targeted to support staff, similar to the one they have for lawyers, will be put together and circulated to them.

### 3.3.4 Official language requirements

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**Official language requirements are adequately addressed, however the PPSC needs adequate information regarding the frequency of French trials in other unilingual English regions.**

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Sections 530 and 530.1 of the *Criminal Code of Canada* ensure the right to a proceeding in French and in English anywhere in Canada.

The ARO is a unilingual English region. There are no bilingual positions in the ARO, though there are at least 3 bilingual prosecutors and two bilingual team leaders. Interviews indicated the ARO has not had a trial in French for the last few years but that it currently would be able to accommodate a French trial. Also, in the past, prosecutors from the ARO were sent to help another region conduct a French trial.

The PPSC does not have adequate information regarding the frequency of minority language trials in other unilingual regions. This information is crucial to ensure that capacity or other arrangements exist to handle cases where the accused asks to be tried in a region's minority language. Not having capacity or other arrangements to conduct a trial in the language of the accused person's choice may result in a case being remanded and/or damage to the reputation of the PPSC.

#### **Recommendation:**

6. *The DDPPs, in conjunction with the Director General Human Resources, should periodically collect data from all PPSC regional offices to ensure that each office has the capacity or arrangements in place to conduct prosecutions in both official languages.*

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### 3.3.5 Information Management

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**File management standards are in place in the ARO; however, an electronic disclosure framework to help manage electronic disclosure should be developed and implemented. As well, monitoring of inactive cases should be strengthened.**

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The objective of the TBS Policy on Information Management is to achieve efficient and effective information management to support program and service delivery; foster informed decision making; facilitate accountability, transparency, and collaboration; and preserve and ensure access to information and records for the benefit of present and future generations.

#### *File Organization and Management*

The ARO has a File Organization and Management Guide to standardize the practice of file organization and management. This guide is designed to ensure that the practices used meet not only the business requirements but also the legislative obligations of the PPSC. In particular, the guide aims to:

- Ensure that the records kept are complete, accurate, current, and orderly;
- Minimize the risk of limitation dates being missed;
- To minimize the risk of files getting “lost in the system”;
- To reduce time spent searching for files and specific materials on the files;
- To reduce the risk of materials getting lost;
- To reduce the volume of paper on files;
- To decrease the orientation time when files are transferred between counsel;
- To ensure the security and confidentiality of files; and
- To ensure proper handling of protected and classified information.

The audit team reviewed a sample of fifty-eight prosecution case files and found that:

- Overall, files are organized in a logical, consistent manner; however, the organization of larger files could be improved by creating pocket indexes. In nine of fourteen (76%) complex files where the volume of information was significant, no pocket indexes or table of contents was found.
- Disclosure documents were identified, easily locatable within the file, and demonstrated when each party received which disclosure information for 96% of files;
- iCase data entries matched the hard-copy file information regarding key dates and court appearances for 95% of cases; and
- Required checklists and templates for file screening, file disposition report, and file closing were completed in 86% of cases.

Interviews indicated that no review is done to ensure that inactive open cases were closed. The region has 496 open files that were opened between 1995-2009 and that have had no timekeeping activity from 2010 to 2012. These files have no bench warrant and are not fine

recovery related cases, which are often reasons why files with no activity remain open. The breakdown of these cases, per cost centre, are the following:

- 422 in the Edmonton Office
- 7 in the Edmonton ASU
- 67 in the Calgary sub office

PPSC uses an electronic system (iRIMS) to track files and sign them in and out. Roles and responsibilities on who updates the system were not clear. Interviews indicated that tracking files was an issue. In Edmonton, active files are stored on open shelves and if a file is taken without updating the system it can become difficult to locate. It was not unusual for employees to pass files around, but the system was not always updated. This situation leads to missing components of files, and inefficiencies trying to locate missing files.

### *Electronic Disclosure*

The Calgary office started receiving electronic disclosure packages from the Calgary Police Service in January 2012. The office has a standalone machine (“Livelink”) where disclosure information is downloaded daily and saved onto the PPSC network. In comparison, the Edmonton office still receives most files from police in hardcopy, but scans the files themselves in an electronic portable document format (PDF). This business practice is unique to this region, though it is likely others will move in the same direction to leverage technology and create efficiencies in the disclosure process. The PPSC currently has no framework or guidelines in place to deal with electronic disclosure to ensure compliance with:

- The TBS Policy on Information Management in achieving efficient and effective information management to support program and service delivery; foster informed decision making; facilitate accountability, transparency, and collaboration; and preserve and ensure access to information and records for the benefit of present and future generations; and
- The TBS Policy on Government Security in safeguarding information assets and exchanging through effective and consistent security practices.

Without adequate controls in place, the benefits of electronic disclosure may expose the PPSC to unnecessary information security risks. Furthermore, lessons learned from Calgary can be applied to assist other offices where the opportunity exists to manage disclosure electronically.

### **Recommendations:**

7. *The CFP should monitor active cases with no time keeping activity to ensure that only cases that should stay open are open.*
8. *The DDPP in consultation with the Chief Information Officer (CIO) should develop an electronic disclosure framework in line with TBS Policies on Information Management and Government Security.*

#### **4.0 CONCLUSION**

The IAD assessed the ARO's management framework within which it provides prosecutorial services against pre-determined audit criteria based on TBS policies and directives, PPSC policies, directives, protocols and procedures/guidelines such as the *Deskbook*, as well as good practices of other government organizations and prosecution services in other jurisdictions and countries. Overall, the ARO has an appropriate management framework with the exception of financial and administration activities that require strengthening in order to be compliant with policies and directives. In addition, there are opportunities for improvement noted for the ARO and the PPSC to operate more effectively and efficiently.

The management action plan is located in section 5.0 of the report. In six to twelve months, the CAE will follow-up with those responsible to determine the extent to which the management action plan has been implemented.

## 5.0 MANAGEMENT ACTION PLAN

| Risk Ranking                 | Recommendation   | Management Response and Action Plan   | Office of Primary Interest | Initial Target Date for Completion |
|------------------------------|--|---|----------------------------|------------------------------------|
| <b>Prosecution Decisions</b> |  |   |                            |                                    |
| <b>M</b>                     | 1. <i>The ARO CFP should ensure that prosecution decisions, including the complexity rating, and decision-making processes are clearly documented in mega, high and medium complexity prosecution files.</i> | <p><b>Agreed.</b> A complexity review project was initiated by the CFP on February 7, 2012 requiring all counsel to review their assigned files and confirm or correct complexity ratings by March 1, 2012. This was followed by a request to the Strategic Planning and Performance Measurement Division on June 7, 2012 for a follow up report on the file complexity report no. 3 used for the 2012-2013 Business Planning process, to assess changes to and the current complexity profile of prosecution files in the region. The complexity review project is proposed to be a semi-annual process and serve as an audit compliance and data integrity initiative.</p> <p>The CFP will also instruct ACFPs and Team Leaders to review files on an on-going basis to ensure that complexity is accurate, the decisions not to prosecute on all files and decisions to prosecute on files that are of medium, high or mega complexity are documented.</p> | CFP                        | March 2013                         |
| <b>Stewardship</b>           |  |   |                            |                                    |
| <b>M</b>                     | 2. <i>The CFO should communicate to all acquisition cardholders and managers that FAA Section 32 authority must have been obtained from a budget</i>   | <p><b>Agreed.</b> FAD will re-issue an Acquisition Bulletin on acquisition cards to inform cardholders and their respective managers to obtain FAA Section 32 for all purchases. The bulletin will also remind cardholders of the current directive.</p>  | CFO                        | March 2013                         |

| Risk Ranking              | Recommendation  | Management Response and Action Plan  | Office of Primary Interest | Initial Target Date for Completion |
|---------------------------|---|--|----------------------------|------------------------------------|
|                           | <i>holder for all acquisition card purchases regardless of their value.</i>   | FAD will communicate with all FAA Section 33 officers to ensure that FAA Section 32 is accurate for all acquisition card payment.  |                            |                                    |
| <b>M</b>                  | 3. <i>The CFO should develop and implement a process for reviewing and updating SSR to ensure that delegated authority is current and understood.</i> | <b>Agreed.</b> FAD will modify the current process to include an annual review of functional delegations.  | CFO                        | March 2013                         |
| <b>M</b>                  | 4. <i>The CFP should ensure timekeeping reports are certified and all overtime documentation is kept on file.</i>                                     | <b>Agreed.</b> The requirement for certification has been communicated to all timekeepers and will be repeated at semi-annual prosecutor's retreats. Compliance with requirements for timekeeping and overtime documentation will be addressed by assigning a monitoring function to the new corporate support position working with the Business Coordinator. | CFP                        | March 2013                         |
| <b>Security</b>           |   |  |                            |                                    |
| <b>H</b>                  | 5. [ * ]  | <b>Agreed.</b><br>[ * ]  | CFP                        | December 2013                      |
| <b>Official Languages</b> |   |  |                            |                                    |
| <b>M</b>                  | 6. <i>The DDPPs, in conjunction with the Director General</i>   | <b>Agreed.</b> The PPSC has an obligation to have in place the ability to provide for the prosecution of individuals in  | DDPP                       | June 2013                          |

| Risk Ranking                  | Recommendation   | Management Response and Action Plan   | Office of Primary Interest | Initial Target Date for Completion |
|-------------------------------|--|---|----------------------------|------------------------------------|
|                               | <i>Human Resources, should periodically collect data from all PPSC regional offices to ensure that each office has the capacity or arrangements in place to conduct prosecutions in both official languages.</i> | <p>English or French and we thus will ensure that in all regions, we have a process in place that provides for alternative arrangements should the local regional office not be able to provide the service.</p> <p>A memo will be sent to all CFPs requesting information regarding the capacity to conduct prosecutions in the minority language of the region, as well as any necessary arrangements that are in place in the event that the capacity is not sufficient. The aggregate results will be communicated to the Official Languages Committee.</p> |                            |                                    |
| <b>Information Management</b> |  |   |                            |                                    |
| <b>M</b>                      | 7. <i>The CFP should monitor active cases with no time keeping activity to ensure that only cases that should stay open are open.</i>  | <p><b>Agreed.</b> The review of the information leading to this recommendation will be initiated with regional iCase Coordinators, to identify the causes for such files remaining open and to institute procedures to remove causes if possible.</p> <p>Reducing any backlog of files to be closed in iRims depends in part on the capacity of the Records Management function.</p>  | CFP                        | December 2012                      |
| <b>M</b>                      | 8. <i>The DDPP in consultation with the CIO should develop an electronic disclosure framework in line with TBS Policies on Information Management and Government Security.</i>                                   | <p><b>Agreed.</b> One of the recommendations arising from the audit of the ORO called for the development of a PPSC case file management protocol to include procedures and minimum standards for managing information related to prosecution files, such as file organization, storage media, security classification, sharing with others, and retention. This particular information management initiative was also identified as a priority project for Information Management</p>  | CIO                        | March 2014                         |

| Risk Ranking | Recommendation | Management Response and Action Plan  | Office of Primary Interest | Initial Target Date for Completion |
|--------------|----------------|--|----------------------------|------------------------------------|
|              |                | <p>and Technology Directorate (IMTD) for this year by the Information Management and Technology Committee.</p> <p>Further to the above guidance, IMTD will develop instructions for the handling of e-disclosure material that will be specifically annexed to the case file management protocol being developed in order to address the concerns raised by the ARO audit.</p> |                            |                                    |

**APPENDIX A: LINKS TO RELATED LEGISLATION, POLICIES, DIRECTIVES,  
GUIDELINES AND FRAMEWORKS**

[Agreement between the Treasury Board and the Association of Justice Counsel](#)

[Director of Public Prosecutions Act](#)

[Federal Prosecution Service Deskbook](#)

[Financial Administration Act](#)

[Government Contracts Regulations](#)

[TBS Directive on Account Verification](#)

[TBS Directive on Delegation of Financial Authorities for Disbursements](#)

[TBS Contracting Policy](#)

[TBS Directive on Information Management Roles and Responsibilities](#)

[TBS Policy on Information Management](#)

[TBS Policy on Government Security](#)

**APPENDIX B: AUDIT CRITERIA**

| <b>Criteria</b> |  | <b>Management Accountability Framework (MAF) Elements</b>     |
|-----------------|--|---|
| 1.1             | There is a well documented and communicated organizational structure.  | Governance<br>G-1, G-2  |
| 1.2             | The Region is positively and effectively engaged with investigative agencies and federal departments. The expectations, roles and responsibilities of these parties are documented, communicated and understood. | Governance<br>G-5, G-8<br>Citizen-Focused Service<br>CFS-2    |
| 1.3             | Performance measurement framework is in place using a mix of quantitative and qualitative indicators.  | Results and Performance<br>RP-2 RP-3<br>Stewardship ST-16     |
| 2.1             | Effective planning and monitoring of timekeepers' activities.  | Results and Performance<br>RP-2, RP-3<br>Stewardship<br>ST-16 |
| 2.2             | Crown agents are adequately supported and monitored.   | Citizen-Focused Service<br>CFS-3<br>Stewardship ST-15, ST-16  |

| Criteria |  | Management<br>Accountability<br>Framework<br>(MAF) Elements |
|----------|--|---|
| 2.3      | Prosecution decisions are documented.  | Accountability<br>AC-1, AC-2                                |
| 3.1      | Financial systems, controls, and practices are in line with the <i>Financial Administration Act</i> , Treasury Board Secretariat, and the PPSC's policies. | Stewardship<br>ST-18, ST-15, ST-4, ST-13                    |
| 3.2      | Security is properly controlled  | Stewardship<br>ST-9, ST-12                                  |
| 3.3      | Employees receive training to develop and maintain the skills needed to execute current and future responsibilities effectively.                           | People<br>PPL-4, PPL-5, PPL-6                               |
| 3.4      | Official language requirements are adequately addressed.   | Citizen-Focused Service<br>CFS-3, CFS-5                     |
| 3.5      | Prosecution operations records are accessible, organized, timely, reliable and comprehensive.  | Risk Management<br>RM-2<br>Stewardship<br>ST-12, ST-19      |