



Internal Audit Division

AUDIT OF THE NATIONAL
CAPITAL REGIONAL OFFICE
FINAL AUDIT REPORT

DECEMBER 2014

Recommended for Approval to the Director of Public Prosecutions by the
Departmental Audit Committee on December 8, 2014.

Approved by the Director of Public Prosecutions on December 11, 2014.

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1.0 EXECUTIVE SUMMARY

1.1 OBJECTIVES AND SCOPE

The overall objective of this audit was to assess the adequacy and effectiveness of the National Capital Regional Office's (NCRO) management control framework in support of the Public Prosecution Service of Canada's (PPSC's) mandate, mission and values. The audit also assessed the efficiency of operational processes.

The audit focused on the operations of the NCRO including interactions with selected headquarters (HQ) functional areas that provide support to the regional office, and interactions with other federal departments and investigative agencies.

The audit methodology included:

- interviews conducted with PPSC personnel and senior management in the NCRO and HQ;
- a review of relevant processes and documents;
- a review of a judgmental sample of prosecution files;
- a review of a judgmental sample of expenditures; and
- an analysis of data from PeopleSoft, iCase and Integrated Financial and Material System (IFMS).

This audit was planned and conducted during February to September 2014.

1.2 AUDIT CONCLUSION

The Internal Audit Division (IAD) assessed the adequacy and effectiveness of the NCRO's management control framework against predetermined audit criteria based on Treasury Board (TB) policies and directives, PPSC policies, directives, protocols, and procedures / guidelines such as the *Deskbook*, as well as general best practices. Overall, the NCRO's management control framework is appropriate however file closing procedures for agents should be strengthened. Other opportunities for improvements were noted in areas that are the responsibility of other senior managers within the PPSC and/or have applicability to all regions. These recommendations have been directed to those responsible managers and are also included in this report.

1.3 SUMMARY OF RECOMMENDATIONS

This report includes the following recommendation addressed to the Chief Federal Prosecutor (CFP), NCRO.

- The CFP should ensure that agents are following the appropriate procedures for closed files.

The following recommendations are directed at other responsible managers.

- The Deputy Directors of Public Prosecutions (DDPPs) should consult with the CFPs to ensure that organizational structures are optimally designed taking into account regional variation.
- The DDPPs should develop benchmarks and ensure that they are monitored and reported by all regional offices.
- The DDPP, Regulatory & Economic Prosecutions and Management Branch (REPMB), should, in collaboration with the Chief Information Officer (CIO), develop a file closeout methodology to ensure that files are being closed in a timely manner and that key information is being captured.
- The Chief Financial Officer (CFO) should develop guidance to assist managers responsible for sections 32 and 34 of the *Financial Administration Act* in carrying out their duties.
- The DDPP, REPMB, should, in collaboration with the CIO, review the controls in place for records management to ensure that all files are complete and available for review.

1.4 STATEMENT OF ASSURANCE

In my professional judgment as the PPSC's Chief Audit Executive (CAE), 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*.

I appreciate the cooperation and assistance provided to the audit team by PPSC staff in the NCRO and HQ.

Julie Betts
Chief Audit Executive

2.0. INTRODUCTION

2.1. BACKGROUND

2013-14 National Capital Regional Office Overview¹

Salary (\$)	O&M (\$)	Total (\$)	FTEs
9,240,718	6,104,479	13,345,197	81

The National Capital Regional Office (NCRO) is situated in Ottawa and is responsible for all federal prosecutions in eastern and northern Ontario, as well as in four districts in western Quebec. The majority of the employees in the region are organized into five teams each of which is supervised by a Team Leader.

The largest of the teams is the Ottawa Court Team. The members of this team are responsible for the vast majority of federal prosecutions in Ottawa, and the focus of this work is on drug prosecutions that run the gamut of hand-to-hand transfer of drugs to sophisticated dealers as well as project cases.

The Road Team is responsible for large, project cases outside of Ottawa that may involve wiretaps and sensitive information. The team includes counsel who are members of the “Barreau du Québec” and are able to conduct prosecutions in western Québec.

The Regulatory Prosecutions Team is responsible for prosecutions related to various regulatory statutes including the *Income Tax Act*, the *Fisheries Act*, the *Bankruptcy and Insolvency Act*, the *Customs Act* and the *Excise Act*. The files are typically complex with a high volume of documentary evidence.

The Competition Law Section (CLS) recently joined the NCRO in January 2013 and deals exclusively with prosecuting violations of various statutes for which the Commissioner of Competition is responsible, most particularly the *Competition Act*.

Because of the vast geographic size of the region, the majority of federal prosecutions outside of Ottawa are conducted by lawyers in private practice who have been appointed agents of the Director of Public Prosecutions (DPP). The appointment of these agents and the monitoring of their work is the responsibility of the Agent Supervision Unit (ASU).

The NCRO participates in outreach activities with local justice partners to improve the delivery of services. Ongoing training is provided to police services and other federal investigative agencies in relation to search and seizure issues, wiretap law, and disclosure obligations. The region is participating in the development of a special court to deal with the issues faced by Aboriginal offenders. The NCRO is also involved in the Ontario Justice on Target initiative, which focuses on improving the use of limited court resources. Frequent discussions with the Ottawa Crown

¹ IFMS - Salary Forecasting Tool as of March 31, 2014.

Attorney's Office and Ottawa Police Service have been directed at improved cooperation on joint prosecutions and disclosure issues.

The Internal Audit Division (IAD) conducted this Audit of the NCRO in accordance with the PPSC's 2013-2016 Risk-Based Audit Plan, which was approved by the DPP on May 15th, 2013.

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 support of the PPSC's mandate, mission and values. It also assessed the efficiency of operational processes.

The audit focused on the operations of the NCRO, including interactions with selected headquarter (HQ) functional areas that provide support to the regional office, and interactions with other federal departments and investigative agencies.

The audit methodology included:

- interviews conducted with PPSC personnel and senior management in the NCRO and HQ;
- a review of relevant processes and documents;
- a review of a judgmental sample of prosecution files closed between April 1, 2013 to March 31, 2014;
- a review of a judgmental sample of expenditures related to travel, hospitality, training and events between October 1, 2013 to March 31, 2014; and
- an analysis of data from PeopleSoft, iCase and IFMS from the 2012-2013 and 2013-2014 fiscal years.

The planning and conduct phases of the audit were carried out between February and September 2014.

3.0 OBSERVATIONS AND RECOMMENDATIONS

3.1 PUBLIC SERVICE VALUES

NCRO employees have a high degree of awareness of the PPSC *Code of Conduct* and have received sufficient information on organizational values and ethics.

Explicit, well-communicated and well understood ethical requirements are a key element contributing to the commitment of staff as they set the standard to which all employees must adhere in their daily practices. Reinforced through ongoing communication, training and the organization's policy framework, this foundational element of a control framework is necessary to prevent conflict of interest, to provide guidance for proper behaviour, to identify improper behaviour promptly, to remove temptation for unethical behaviour, and provide discipline, where appropriate.

The audit expected that the PPSC's *Code of Conduct* including values and ethics are effectively communicated to NCRO employees. The PPSC *Code of Conduct* came into effect May 1, 2013 and the audit provided the first opportunity to assess this initiative at the regional level.

At the time, all PPSC employees were required to sign an acknowledgement form stating that they had received a copy of the *Code of Conduct*. In addition, the Corporate Counsel had developed a communication process to increase employee's awareness of their rights and obligations under the *Code*.

The audit found that NCRO employees had signed the acknowledgement form and remembered receiving a copy of the PPSC *Code of Conduct*. They also had a high degree of awareness of the regular emails from the Corporate Counsel related to values and ethics and the PPSC *Code of Conduct*. Furthermore, there were no regional issues with respect to conflict of interest.

3.2 ACCOUNTABILITY

While the organizational structure is properly documented, deficiencies were noted in the areas of work descriptions, span of control, reporting relationships and work assignment amongst the teams.

Organizational Structure and Roles and Responsibilities

Accountability is the duty to report on the fulfillment of one's responsibilities. As such, a key control of accountability is an appropriate organizational structure that clarifies authorities, responsibilities, and the duty to report.

The NCRO organizational structure is properly documented in up-to-date organizational charts that reflect current reporting relationships. Currently the organizational chart shows the Deputy

Chief Federal Prosecutor (DCFP), three General Counsel, three Team Leaders, one Senior Counsel, the Business Coordinator and the Senior Paralegal all reporting to the Chief Federal Prosecutor (CFP). Three Team Leaders, three senior Counsel and two Counsel report to the DCFP. While several of the support staff members are assigned to specific teams and report to the Team Leader, the majority of paralegals and legal assistants report to the Business Coordinator or Senior Paralegal.

The Business Coordinator and Senior Paralegal have developed a Support Staff Business Plan that is regularly updated and is working effectively by ensuring that support staff are clear about which Counsel they are assigned to work with and the tasks they are assigned. The Plan also identifies who provides back-up to a position and who the position provides back-up to.

The Ottawa Court Team also prepares a Monthly Spreadsheet of Court Assignments and has instituted a Vertical File Management system for the positions of File Opener, Disclosure Coordinator and Screening Crown. The assignment of Counsel to the Screening Crown position is rotated on a four-month basis to ensure continuity of file management and prevent Counsel burn-out.

Up-to-date work descriptions ensure that employees' duties are clearly defined and that there is no misunderstanding of roles and responsibilities. The audit noted that in August 2012, legal assistants received a new national work description and signed off on the confirmation that they received the document. However, a number of the support staff interviewed – including some legal assistants – indicated that they did not think they had up-to-date work descriptions or provided work descriptions that did not reflect their current responsibilities. The organization is in the process of reviewing the Business Coordinator and Paralegal work descriptions and work is underway to reclassify the Senior Paralegal position.

Reporting Relationships and Span of Supervisory Control

An effective organizational structure is established when it permits clear lines of communication and reporting (e.g., established reporting relationships provide managers with information appropriate to their responsibilities and authority) and when managerial spans of control are appropriate. Management studies² have shown that when work units increase in size, working relationships between managers and staff become less positive, which in turn affects staff performance. While the optimal number of employees supervised will vary according to the type of work, it would generally be expected that supervisors at the same level would be responsible for a comparable number of employees. It would also be expected that the number of employees assigned to a supervisor would take into consideration the level of that supervisor as well as their primary responsibilities.

² Cogliser, C., & Schriesheim, C. (2000). *Exploring work unit context and leader-member exchange*. **Journal of Organizational Behavior**.

Green, S., Anderson, S., & Shivers, S. (1996). *Demographic and organizational influences on leader-member exchange and related work attitudes*. **Organizational Behavior and Human Decision Processes**.

Schriesheim, Castro, S., & Yammarino, F. (2000). *An examination of the impact of span of supervision and upward controllability on leader member exchange*. **Journal of Applied Psychology**.

Interviews and document review indicated that reporting relationships and work assignment amongst the teams are not optimally designed within the current organizational structure:

- There are significant disparities in the span of control for the Team Leaders (LP3) ranging from a low of three Counsel (Agent Supervision Unit) to a high of eighteen in the Ottawa Court Team;
- The span of control for both the Business Coordinator and the Senior Paralegal appears wide with ten and fourteen support staff reporting to each of them respectively given their primary responsibilities;
- The Road Team faces challenges due to the extensive travel involved;
- Counsel expressed the view that the establishment of teams while facilitating specialization also limits their ability to acquire experience on more complex files and/or other specialized areas; and,
- The CFP and DCFP do not have an administrative assistant and therefore spend time on activities that could be done more efficiently by administrative staff.

Recommendation:

1. *The DDPPs should consult with the CFPs to ensure that organizational structures are optimally designed taking into account regional variation.*

3.3 GOVERNANCE

While there have been recent improvements to governance processes and structures, there are opportunities to strengthen those that support decision making and communication.

Governance is the combination of processes and structures implemented to inform, direct, manage and monitor the activities of the organization toward the achievement of its objectives. Oversight bodies are one of the structures that are important to ensuring that management's direction; plans and actions align with these objectives and are communicated effectively.

The audit expected the NCRO to have appropriate governance established to support effective decision making and communication.

In interviews, the Team Leaders and Counsel indicated that they appreciated the open door policy of the CFP and the DCFP and described them as approachable and accessible. The DCFP sends monthly e-mail communiqués to all staff which have been well received. Monthly meetings are scheduled between the CFP/DCFP and the Team Leaders, however there are no record of decisions and some Team Leaders felt that these could be held more frequently. Senior Counsel/General Counsel were not included in these monthly meetings and do not have formally scheduled meetings with the CFP/DCFP. While acknowledging that there were very few areas where it would be appropriate for them to provide input to the decision making process, Team Leaders/Senior Counsel felt that where those opportunities existed their involvement was limited.

In the past, NCRO was not represented on the Appeals Committee and Ontario Regional Office (ORO) counsel went to Appeals Court for NCRO files although the CFP, NCRO recommended appeals to the Committee. This process was changed so that decisions on appeals for NCRO files are made jointly by the CFP, NCRO and the CFP, ORO (or the CFP, Québec Regional Office where appropriate). When asked to describe the appeal process for the region, only one interviewee was aware of this change.

When senior management meetings lack a formalized means of recording decisions or when formal meetings are not taking place with senior staff members, there is a potential risk that decisions are not effectively communicated or that decisions are made in the absence of adequate consultation.

3.4 PEOPLE

Human resource planning for the short to medium term is being managed effectively with the NCRO providing positive support for the development and management of human resources in the areas examined.

An organization's success depends on the people, work environment and focus on building capacity and leadership. Therefore, there should be controls in place to support the training and development of staff and human resource management in general, including supporting a suitable and comprehensive suite of human resources policies and practices.

In the NCRO, human resource planning for the short to medium term is a regional priority and is being managed effectively; however since the region was not required to submit a Business Plan this year, this activity does not form part of a comprehensive Human Resource Plan that is integrated with business planning. Interviews and/or document review indicated that:

- The CFP, DCFP, Senior Paralegal and Business Coordinator meet on a bi-weekly basis to review staffing actions, staff departures, etc. and to keep their Staffing Plan up-to-date.
- There are seven CR5s that are term employees. The CFP will be making the case to the DDPP to regularize these positions by the end of the fiscal year and developing the business case for presentation to the Staffing Exceptions Committee.
- In terms of the Federal Prosecutor Development Program, the NCRO has two Counsel in the program. A third Counsel was hired in June 2014 as a term within the Program and the plan is to extend the term. The NCRO has a number of Counsel who are nearing retirement and efforts are being made to ensure the development of new lawyers.

The region provides positive support for the development and management of human resources in the areas of official languages and Counsel training/career development however there are opportunities to enhance training for support staff and Team Leaders. Interviews indicated that:

- Staff training was available in the official language of the employee's choice;
- Staff felt free to use the official language of their choice during meetings and in preparing written materials;

- NCRO holds regular Lunch and Learn sessions which are primarily of interest to Counsel;
- Ensuring that lawyers meet their professional continuing education requirements is a priority;
- Lack of training for paralegal duties and no supervisory training for Team Leaders;³
- Support staff in particular, expressed the view that they were not requesting training since there were no resources available. However, the DCFP communicated to staff that while money is tight, training is available.

Second Language Evaluation (SLE) test results were examined for the region and it was noted that four employees' test results had expired. Employees are deemed to meet the linguistic requirements of their position as long as these were met on their appointment to the position. While there is no requirement to test employees whose SLE test results have expired, there is a risk that they will no longer meet the linguistic requirements while still in their current position. It was learned that the PPSC is in the midst of doing a review of all the positions within the PPSC to determine whether SLE test results have expired and to ensure that employees in bilingual positions continue to meet the linguistic requirement. Depending on the outcome of this review, an action plan will be formulated.

The audit team analysed Sick Leave, Management Leave and No Vacation Leave recorded and identified no exceptions:

- Sick leave for the 2012 calendar year was slightly higher than the national average and in 2013 slightly lower primarily due to the inclusion of the CLS which experienced much lower than average sick leave. The 2012 difference is not so great as to be considered significant for audit purposes;
- Management Leave for the first two quarters of the 2013-2014 fiscal year was approved and recorded according to the PPSC Directive on management leave;
- Ten employees did not record vacation leave for the 2013-2014 fiscal year. All but one of these employees were away on sick leave, maternity leave or secondment and the one employee is working part time.

3.5 PERFORMANCE MANAGEMENT

The NCRO monitors workload and time reporting on an ongoing basis, however, this information is not systematically collected, monitored or reported.

Effective organizational decision making is dependent on the processes in place to link planned results with organizational objectives. The audit expected to find that management had established appropriate performance measures, was monitoring actual results against planned results and was identifying opportunities for efficiencies in resource allocations.

³ The *Audit of Learning, Training and Professional Development* noted this finding and the PPSC is reviewing national training requirements including supervisory training.

The CFP/DCFP and Team Leaders monitor workload and time reporting on an ongoing basis. Management examines iCase reporting – the number of hours worked by Counsel, number of Counsel assigned to a file, etc. If time seems excessive, the CFP will run a report for the specific file or client department. Team Leaders review the number of hours spent on files and on administration, and monitor delays in cases as well. They have a clear sense of their teams' files except in the case of the Ottawa Court Team because of the large number of Counsel and files.

The analysis of iCase data⁴ revealed that for all but one of the workload/efficiency indicators examined, the NCRO performance was lower than the national average. While recognizing that the current lack of consistency across regions in terms of defining what constitutes a 'file' limits this type of comparative analysis, there is value in examining this data as a first step in determining what may contribute to regional variation.⁵ On average, during the 2012-2013 fiscal year, a Law Group (LA) Full Time Equivalent (FTE) from the NCRO billed more hours than the national average at all levels (LA-1A to LA-3A). The analysis also revealed that for the 2012-13 fiscal year:

- NCRO Senior Counsel (LA-3A) spent more time than the national average on low and medium complexity files spending 10% of time on low complexity files compared to 3% nationally and 28% of time on medium complexity files compared to 14% nationally;
- the NCRO average hourly cost was slightly higher (1%) than the PPSC average;
- the actual cost for supervising agents in the NCRO was higher than the national average; and,
- the average number of files worked on by the NCRO Counsel was 49 files compared to the national average of 76 and the average number of files closed by NCRO Counsel was 40 compared to the national average of 63 files.

An operational benchmarking pilot review for in-house Counsel was conducted by the ORO CFP and the Director of the Agent Affairs Unit (AAU) aimed at guiding management in resource allocation for low and moderate complexity files. The PPSC implemented the roll-out of the pilot nationally in all regional offices in April 2014. At the time of the audit, the NCRO had not yet completed the quarterly review due to other priorities.

Recommendation:

2. *The DDPPs should develop benchmarks and ensure that they are monitored and reported by all regional offices.*

⁴ Data from iCase for each regional office and by file complexity was analysed by internal audit for the fiscal years 2007-2008 to 2012-2013. Costs for counsel were based on legal services rates noted in the Treasury Board submission (or LA costs where available).

⁵ Issues such as these will be addressed in the upcoming Audit of iCase File Compliance.

3.6 PROGRAM ACTIVITIES

Prosecution activities were generally compliant with PPSC policies, guidelines and directives however there are opportunities for improvement in file closure and conducting file review.

File Compliance

The *PPSC Deskbook* (“*Deskbook*”) sets out the guiding principles which all federal prosecutors, and persons acting as federal prosecutors, must follow. It contains the directives and guidelines that instruct and guide federal prosecutors, whether employees of the PPSC or private sector agents, in the exercise of their prosecutorial discretion. The audit team reviewed a judgmental sample of 32 files (hard copy and iCase format) closed between April 1, 2013 to March 31, 2014 in terms of the compliance with the *Deskbook* and the relevant directives. Files were not reviewed in GCDOCS and files from the CLS were excluded from the sample since files from this area were reviewed as part of an earlier process review.

Of the 32 files reviewed, seven were fine recovery files, three were transfers to the province and one was a transfer to another regional office. Of the remaining 21 files, the review found the following:

- Overall, files were well organized – one of the regulatory files was very well organized and documented.
- Disclosure documents were identified and found in all but one file.
- Six files (29%) did not document when the decision to prosecute was taken.
- Sixteen files (76%) did not have the file closing form (pink sheet) signed by Counsel.
- Dates in iCase did not match the dates on the hard copy for three files (14%).

Timekeeping in iCase

The PPSC requires all counsel and paralegals to record their time in iCase. The audit team expected timekeeping to be monitored by the NCRO management. The audit found that the iCase Coordinator produces monthly reports on timekeeping which are signed-off by counsel and paralegals. Time spent on files is monitored by the NCRO management as monthly iCase reports were generated and reviewed to ensure time spent on files is reasonable. In addition, the CFP approves timekeeping in IFMS for cost recoverable amounts billed to client departments.

Files assignment

The audit team expected to find that assignment of cases provides for a fair distribution of workload and takes into consideration Counsel’s experience and development. It was also expected that the seniority of a prosecutor is in line with the complexity of files assigned to them.

Files were assigned to in-house Counsel in a systematic manner by Team Leaders based on experience while taking into consideration the availability, workload and interest of Counsel. However, assignment of Counsel to assist on complex files was described as “pretty ad hoc” as

Senior/General Counsel rely on available Counsel from the teams which may have competing priorities.

Prosecution Plans

The *Deskbook* requires prosecution plans for ‘major cases’ that address among other requirements, the likely resource demands of the prosecution. A 2006 practice directive on Prosecution Plans for Complex Cases also outlines the expectations to address resource demands and includes an example of a prosecution plan. The audit team was advised that these plans were prepared by lead Counsel/Team Leaders for high complexity files and were submitted to the CFP for approval. Two prosecution plans were reviewed and both included resource estimates as well as other types of information required as per the practice directive example.

Files closure

The audit found delays in closing files. Interviews indicated that the CLS has not closed files since September 2013 because the section has not yet migrated to GCDOCs and the files will have to be renumbered before they can be closed. As well, files that were stored in the file room awaiting closure were not being closed in a systematic manner e.g. aging, first-in/first-out. In addition, the audit found that 542 active files within iCase (excluding fine recovery files, files flagged to be closed and files with a bench warrant) opened on or prior to April 2011 (March 2011 for CLS) recorded no timekeeping activity since January 2012.

Consistency in and Quality of Prosecution Files

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.

Interviews and/or documents/iCase reviews indicated reliance on the *Deskbook* and practice directives as guides in executing prosecutions, as well as, the use of templates and forms to promote consistency in prosecution files.

The current formal quality assurance review conducted for prosecution files is through regular iCase audit reports to ensure that mandatory opening and closing fields were filled. A more comprehensive review of closed files could identify items like those observed by the audit team in the review of file compliance and would better ensure the overall quality and consistency of file management within the NCRO. A similar observation was already made for the *Audit of the ORO* with the expectation of a national action plan to address the audit recommendation but the NCRO was among the regional offices that have yet to implement the plan.

Security of e-Disclosure

The audit team was advised that a new *TB Information Technology Policy Implementation Notice* called *Secure use of portable data storage devices within the Government of Canada* came into effect on May 20, 2014. As part of the changes, only approved secure USB devices will be allowed

to connect to corporate computers. Originally, the corporate services provider planned to be compliant with the TB directive by September 30th, 2014 and the manner proposed by them would not meet the PPSC's requirements for processing electronic disclosure material. However, the September 30th deadline was delayed and in an October 23, 2014 email, the Deputy Chief Information Officer advised that "All PPSC employees that process electronic disclosure are exempt from the USB restriction and still have this functionality". For these staff members, hard drives received from third parties will continue to use the same workflow as is currently in place. Procedures have been developed to encrypt and password protect USB devices that will be sent to third parties.

Recommendation:

3. *The DDPP, REPMB should, in collaboration with the CIO, develop a file closeout methodology to ensure that files are being closed in a timely manner and that key information is being captured.*

3.7 RESULTS AND PERFORMANCE

Overall, there are adequate systems in place to monitor and support Agents however there are opportunities for improving compliance with file closing procedures.

The Agent Affairs Program (AAP) at headquarters is responsible for the overall management of agents. Each regional office (excluding the northern regions) has an 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 interviewing candidates and making recommendations for appointments pursuant to the Fixed-Term Agreement protocol; providing supervision and training, performing on-site visits on a risk-based cycle; and conducting performance assessments.

Agents support and monitoring

Agents receive adequate support from the AAU and were subject to monitoring of their expenditures, fees and timekeeping. The AAP verifies agents' expenses and monitors their billing. Certain types of expenditures require pre-approval such as travel, transcripts, overtime, and expensive phone calls. Hours billed to files are monitored by the AAP and action plans are taken to correct any anomalies. The audit team reviewed the Audit Recommendations Tracking Form for the NCRO for the period of December 1, 2013 to March 31, 2014 and found that appropriate follow-up was being conducted and documented by the ASU.

In addition the ASU and/or the AAU fulfilled the following core activities:

- Transition to a five year contract;
- Provision of training to Agents;
- Provision of training to Enforcement and Concerned agencies;
- Provision of case Specific Litigation Advice to Agents;

- Provision of case Specific Litigation Advice to Enforcement and concerned agencies;
- On-site visit to agents;
- Agents performance assessment;
- Account review and file audit; and
- Pre/post charge review.

During the file review, the audit team was advised that one of the agents had 60 boxes of closed files in his basement that should have been sent to the NCRO for archiving and some other agents were several years behind in returning closed files. In a November 3, 2013 email, agents were advised that “As per section 7.4 of the Terms and Conditions of Fixed-Term Agreements of Agents, all firms must retain their files for 1 year after the file has been closed. Following this period, files should be returned to the Public Prosecution Service of Canada for archiving.”

The audit team found a good practice in place with the ASU’s development of a trial book for Agents which includes practice and procedural tips regarding issues that counsel – especially those that are regularly in court – typically encounter. The first trial book that was circulated in 2009 was updated in 2013 and distributed in CD format. The feedback from agents has been positive.

A review of agent resource utilization compared the number of “years called to the bar” (YCTB) of agents and the percentage of hours billed by complexity of files. The audit team found that during the 2013-2014 fiscal year, agents with ten or more YCTB billed 86.19% of their time to low complexity files compared to 72.13% nationally. In addition, agents with six to nine years experience were charging 73.52% of their time to low complexity files compared to 67.01% nationally. These variances were attributed to the fact that the NCRO covers a large number of remote communities where agent resources are limited and where most of the agents who are appointed have ten or more YCTB.

Recommendation:

4. *The CFP should ensure that agents are following the appropriate procedures for closed files.*

3.8 STEWARDSHIP

Transactions for low-dollar amounts were non-compliant with Section 32 of the *Financial Administration Act* (FAA) and supporting documentation for some of these transactions had not been properly retained.

Sound stewardship is the result of an organizational control regime (assets, money, people, services, etc.) that is integrated and effective, and where the underlying principles are clear to all staff. The audit expected to find that travel, hospitality, conference and event expenditures are managed in compliance with the *Directive on Travel, Hospitality, Conference and Event Expenditures* that came into effect April 1, 2013 and was implemented in the PPSC as of October 1, 2013.

A judgmental sample of 26 transactions processed between October 1, 2013 and March 31, 2014 was selected for testing. Our review noted that three of the 26 (12%) transactions were non-compliant with section 32 of the FAA and were low-dollar amounts. Two of the 26 (8%) transactions had documents that were not available or the original documentation was missing. The documentation was lost post-section 33 after the invoices were paid. The PPSC recently implemented new records management processes within HQ including financial documentation for NCRO and interviews and the results of the analysis show that there are issues with the process. The Finance and Acquisition Directorate has also noted that they have also had difficulty locating documents as part of their quality assurance work.

In terms of the section 32 compliance, the Manager and Deputy CFO, Corporate Finance Division, advised the audit team that currently there is no PPSC policy for low-dollar value transactions and that they are looking into determining the amount as per the monitoring requirements in the *TB Policy on Internal Control*.

Recommendations:

5. *The CFO should develop guidance to assist managers responsible for sections 32 and 34 of the FAA in carrying out their duties.*
6. *The DDPP, REPMB, should, in collaboration with the CIO, review the controls in place for records management to ensure that all files are complete and available for review.*

4.0 CONCLUSION

The IAD assessed the adequacy and effectiveness of the NCRO's management control framework against predetermined audit criteria based on TB policies and directives, PPSC policies, directives, protocols, and procedures / guidelines such as the *Deskbook*, as well as general best practices. Overall, the NCRO's management control framework is appropriate however file closing procedures for agents should be strengthened. Other opportunities for improvements were noted in areas that are the responsibility of other senior managers within the PPSC and/or have applicability to all regions. These recommendations have been directed to those responsible managers and are also included in this report.

5.0 MANAGEMENT ACTION PLAN

RECOMMENDATIONS	MANAGEMENT RESPONSE AND ACTION PLAN	OFFICE OF PRIMARY INTEREST	TARGET DATE
<p>1. <i>The DDPPs should consult with the CFPs to ensure that organizational structures are optimally designed taking into account regional variation.</i></p> <p><i>(Risk: Medium)</i></p>	<p>The DDPPs will set up meetings with each region to review regional structures and report on the results of this review by June 30, 2015.</p>	<p>DDPPs</p>	<p>Q1 2015-2016</p>
<p>2. <i>The DDPPs should develop benchmarks and ensure that they are monitored and reported by all regional offices.</i></p> <p><i>(Risk: Medium)</i></p>	<p>Benchmarks have already been developed and implemented in respect of offences under 4(1) of the <i>Controlled Drugs and Substances Act</i>. An evaluation of the effectiveness of these benchmarks will be prepared and considered by the DDPPs by September 30, 2015. The results of that evaluation will determine whether additional or alternative benchmarks should be considered and established.</p>	<p>DDPPs</p>	<p>Q3 2015-2016</p>
<p>3. <i>The DDPP, REPMB, should, in collaboration with the CIO, develop a file closeout methodology to ensure that files are being closed in a timely manner and that key information is being captured.</i></p> <p><i>(Risk: Medium)</i></p>	<p>The DDPP, REPMB, will, in collaboration with the CIO, develop a file close-out framework for legal files.</p>	<p>DDPP, REPMB</p> <p>CIO</p>	<p>Q4 2015-2016</p>

RECOMMENDATIONS	MANAGEMENT RESPONSE AND ACTION PLAN	OFFICE OF PRIMARY INTEREST	TARGET DATE
<p>4. <i>The CFP should ensure that agents are following the appropriate procedures for closed files.</i></p> <p><i>(Risk: High)</i></p>	<p>The CFP will ensure that a reminder is sent to all agents of the appropriate close out process at the beginning of the next fiscal year and that file closing by agents is monitored on an annual basis.</p>	<p>CFP, NCRO</p>	<p>Q1 2015-2016</p>
<p>5. <i>The CFO should develop guidance to assist managers responsible for sections 32 and 34 of the FAA in carrying out their duties.</i></p> <p><i>(Risk: Medium)</i></p>	<p>The CFO will develop a reference checklist with respect to sections 32 and 34 of the FAA to send to all managers.</p>	<p>CFO</p>	<p>Q4 2014-2015</p>
<p>6. <i>The DDPP, REPMB, should, in collaboration with the CIO, review the controls in place for records management to ensure that all files are complete and available for review.</i></p> <p><i>(Risk: Medium)</i></p>	<p>The DDPP, REPMB, will, in collaboration with the CIO develop a file close-out framework for administrative files.</p>	<p>DDPP, REPMB CIO</p>	<p>Q4 2015-2016</p>

APPENDIX A – LINKS TO RELATED LEGISLATION, POLICIES, DIRECTIVES AND GUIDELINES

PPSC Code of Conduct

PPSC Deskbook

Financial Administration Act

Policy on Internal Control

Directive on Travel, Hospitality, Conference and Event Expenditures

Secure use of portable data storage devices within the Government of Canada

Internal Auditing Standards for the Government of Canada

APPENDIX B -- AUDIT CRITERIA

Lines of Enquiry	Audit Criteria
1. Governance	1.1 The organization has the appropriate structures in place to support PPSC's objectives.
	1.2 PPSC's Values and Ethics/Code of Conduct are communicated internally and to key stakeholders.
2. Program Activities	2.1 Prosecution files are managed and executed in compliance with PPSC's policies and procedures.
3. Results and Performance	3.1 Agents are adequately supported and monitored.
	3.2 A Performance Management Framework is in place to support effective decision-making.
4. Accountability	4.1 An organization structure exists that provides effective management control within the organization.
5. People	5.1 Policies and practices support the development and management of human resources.
6. Stewardship	6.1 Travel, Hospitality, Conference and Event expenditures are managed in compliance with the amended Directive.

APPENDIX C – LIST OF ACRONYMS

ASU	Agent Supervision Unit
CAE	Chief Audit Executive
CFP	Chief Federal Prosecutor
CFO	Chief Financial Officer
CLS	Competition Law Section
DCFP	Deputy Chief Federal Prosecutor
DDPP	Deputy Director of Public Prosecutions
DPP	Director of Public Prosecutions
FAA	<i>Financial Administrative Act</i>
FTE	Full Time Equivalent
HQ	Headquarters
IAD	Internal Audit Division
IFMS	Integrated Financial and Material System
NCRO	National Capital Regional Office
O&M	Operations and Maintenance
ORO	Ontario Regional Office
PPSC	Public Prosecution Service of Canada
REPMB	Regulatory and Economic Prosecutions and Management Branch
SLE	Second Language Evaluation
TB	Treasury Board