

# **Public Servants Disclosure Protection Tribunal Canada**

**2011 – 2012 Estimates**

**Report on Plans and Priorities**

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The Honourable James Moore  
Minister of Canadian Heritage and Official Languages



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## Chairperson's Message



As the new Chairperson of the Public Servants Disclosure Protection Tribunal, I am pleased to present the Tribunal's *2011-2012 Report on Plans and Priorities*.

Last year was marked by events that called into question the merits of the regime for the disclosure of wrongdoing and the protection of public servants who report wrongdoing. Some even called for an immediate review of the Act that created the regime. While legislative amendments may be required, we must remember that the Tribunal has not yet had the opportunity to interpret and apply the *Public Servants Disclosure Protection Act*. That said, the decision by the Interim Public Sector Integrity Commissioner to review the 56 reprisal complaints that were filed with the Commissioner's Office over the last three years should enable public servants and Canadians to evaluate the true effectiveness of the Act with respect to the protection of public servants who disclose wrongdoing.

It should be noted that the federal regime to protect public servants making disclosures is unique in the world in that reprisal complaints are dealt with by a specialized tribunal composed of superior court judges. In addition, the Tribunal has the power to order remedies in favour of complainants and disciplinary action against persons who take reprisals. The Tribunal's decisions regarding reprisals will mark the first milestone of a regime aimed at ensuring effective protection for public servants who report wrongdoing.

This report is intended to mark a new beginning for the Tribunal. The appointment of new Tribunal members under the direction of a chairperson appointed last year, the eventual appointment of a new Public Sector Integrity Commissioner and the Tribunal's first reprisal complaint proceedings should give new momentum to the regime established under the *Public Servants Disclosure Protection Act*.

In dealing with reprisal complaints, we will acquire practical experience that will stand us in good stead when the time comes to review the Act.

The Honourable Luc Martineau  
Chairperson  
Public Servants Disclosure Protection Tribunal

## Section I – Departmental Overview

### Raison d'être

The raison d'être of the Tribunal is to protect public servants who disclose wrongdoing from reprisals.

The Tribunal is one component of the wrongdoing disclosure regime introduced in 2007 by the *Public Servants Disclosure Protection Act* (the Act). In addition to the Tribunal, chief executives, the Office of the Public Sector Integrity Commissioner and the Treasury Board have responsibilities under the Act.

The Tribunal is an independent quasi-judicial body responsible for dealing with reprisal complaints referred by the Commissioner. The Act provides for the establishment of a Registry to support the Tribunal in the conduct of its work, with an office in the National Capital Region.

### Strategic Outcome and Program Activity Architecture (PAA)

In carrying out its mandate, the organization is aiming for the following strategic outcome:

Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

The Registry supports the Tribunal in fulfilling its mandate through the Reprisal Hearings Program. This program provides for the effective management of the processes related to reprisal complaints and Tribunal hearings. Through this program, the Registry also provides legal support to the Tribunal.

## Planning Summary

### Financial Resources (thousands of dollars)

2011–2012	2012–2013	2013–2014
1,838	1,838	1,838

### Human Resources (Full-Time Equivalent—FTE)

2011–2012	2012–2013	2013–2014
12	12	12

<b>Strategic Outcome:</b> Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.	
<b>Performance Indicators</b>	<b>Targets</b>
Number of decisions or orders issued within 250 calendar days from the start of a proceeding	90% of proceedings are completed within 250 calendar days
Degree of client satisfaction with respect to services offered by the Registry	80% of clients are satisfied with services offered by the Registry

Program Activity	Forecast Spending 2010-11	Planned Spending (thousands of dollars)			Alignment to Government of Canada Outcomes
		2011-2012	2012-2013	2013-2014	
Reprisal Hearings Program	906	1,838	1,838	1,838	Well-managed efficient government operations
<b>Total Planned Spending</b>		1,838	1,838	1,838	



## Contribution of Priorities to Strategic Outcome

Operational Priorities	Type	Links to Strategic Outcome	Description
Establish an effective Tribunal composed of a new chairperson and new members	Modified priority	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals	<p><b><u>Why this is a priority:</u></b> In light of recent developments, it is expected that the Tribunal will receive cases from the Office of the Public Sector Integrity Commissioner this year. Consequently, the new Chairperson and the new Tribunal members will have to be ready to deal with reprisal complaints.</p> <p><b><u>Plans for meeting the priority:</u></b></p> <ul style="list-style-type: none"> <li>▪ Ensure that new Tribunal members receive training.</li> <li>▪ Provide the necessary legal and administrative support to the Tribunal.</li> </ul>
Create a jurisprudential database on reprisals	New priority	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals	<p><b><u>Why this is a priority:</u></b> The field of whistleblower protection is still in its infancy. In addition, the federal regime is unique in the sense that reprisal complaints are dealt with by a specialized tribunal composed of superior court judges. As a result, the Tribunal can play a leading role in the field of whistleblower protection.</p> <p><b><u>Plans for meeting the priority:</u></b></p> <ul style="list-style-type: none"> <li>▪ Create a jurisprudential database on reprisals (statutory law, civil/common law and collective agreements).</li> <li>▪ Make the information available to parties and interested persons by posting it on the Tribunal's Web site.</li> </ul>

Operational Priorities	Type	Links to Strategic Outcome	Description
Provide efficient, quality Registry services to parties who appear before the Tribunal	New priority	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals	<p><b><u>Why this is a priority:</u></b>  The Tribunal will likely receive applications from the Office of the Public Sector Integrity Commissioner this year. The quality of services provided to the parties by the Registry will assist in establishing the Tribunal's reputation and could have an impact on the number of public servants who file reprisal complaints with the Commissioner's Office.</p> <p><b><u>Plans for meeting the priority:</u></b></p> <ul style="list-style-type: none"> <li>▪ Establish service standards.</li> <li>▪ Ensure that staff are properly trained and have the necessary qualifications.</li> <li>▪ Evaluate whether the parties are satisfied with Registry services.</li> <li>▪ Establish a procedure for dealing with complaints regarding Registry service to parties.</li> </ul>
Publicize the Tribunal's way of operating	New priority	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals	<p><b><u>Why this is a priority:</u></b>  The Tribunal has not dealt with any cases since it was created in 2007. As a result, the Tribunal's way of operating is not known to individuals who may find themselves before the Tribunal.</p> <p><b><u>Plans for meeting the priority:</u></b></p> <ul style="list-style-type: none"> <li>▪ Post the Rules of Procedure and the Procedural Guide on the Tribunal's Web site.</li> <li>▪ Create a glossary.</li> <li>▪ Add a section to the Tribunal's Web site that explains to parties what to expect if a reprisal complaint comes before the Tribunal.</li> </ul>

Operational Priorities	Type	Links to Strategic Outcome	Description
Prepare for the five-year review of the Act	Priority already established	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals	<p><b>Why this is a priority:</b> An independent review of the Act and its administration and operation will be conducted in 2012. In dealing with reprisal complaints, the Tribunal will acquire practical experience in terms of the Act and its administration and operation.</p> <p><b>Plans for meeting the priority:</b></p> <ul style="list-style-type: none"> <li>▪ Note and review the provisions of the Act that are problematic or that could be clarified or improved as part of the five-year review.</li> </ul>

Management Priorities	Type	Links to Strategic Outcome	Description
Mobilize human and financial resources to provide the support the Tribunal will need to deal with reprisal complaints	New priority	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals	<p><b>Why this is a priority:</b> Given that the Tribunal has not yet dealt with any complaints, the Registry has not had to provide a full range of services to the Tribunal. It has reduced its staff to the minimum, limited expenditures and moved to smaller premises. The Tribunal can expect to receive applications for hearings in 2011-2012 because of the decision by the Interim Public Sector Integrity Commissioner to review the 56 reprisal complaints that were filed with the Commissioner's Office over the last three years.</p> <p><b>Plans for meeting the priority:</b></p> <ul style="list-style-type: none"> <li>▪ Review the Registry's human resources needs in terms of both skills and staff.</li> <li>▪ If necessary, negotiate agreements with other registries.</li> </ul>

Management Priorities	Type	Links to Strategic Outcome	Description
<p>Manage the Registry's financial resources taking into consideration the measures introduced by the Government to minimize operating expenses</p>	<p>New priority</p>	<p>Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals</p>	<p><b><u>Why this is a priority:</u></b></p> <p>In the 2010 budget, the government proposed certain measures to reduce the growth of operating expenses.</p> <p>In addition, the new Directive on the Management of Expenditures on Travel, Hospitality and Conferences requires departments to manage these activities so as to demonstrate value for money and the use of the most economical options.</p> <p><b><u>Plans for meeting the priority:</u></b></p> <ul style="list-style-type: none"> <li>▪ The Registry will identify opportunities for savings that its new location offers and will negotiate memoranda of understanding with similar organizations.</li> <li>▪ The Registry will establish procedures and implement oversight control mechanisms to ensure that the travel, hospitality and conference expenses incurred are necessary to fulfill the Tribunal's mandate and priorities and that the most economical and efficient options are considered.</li> </ul>

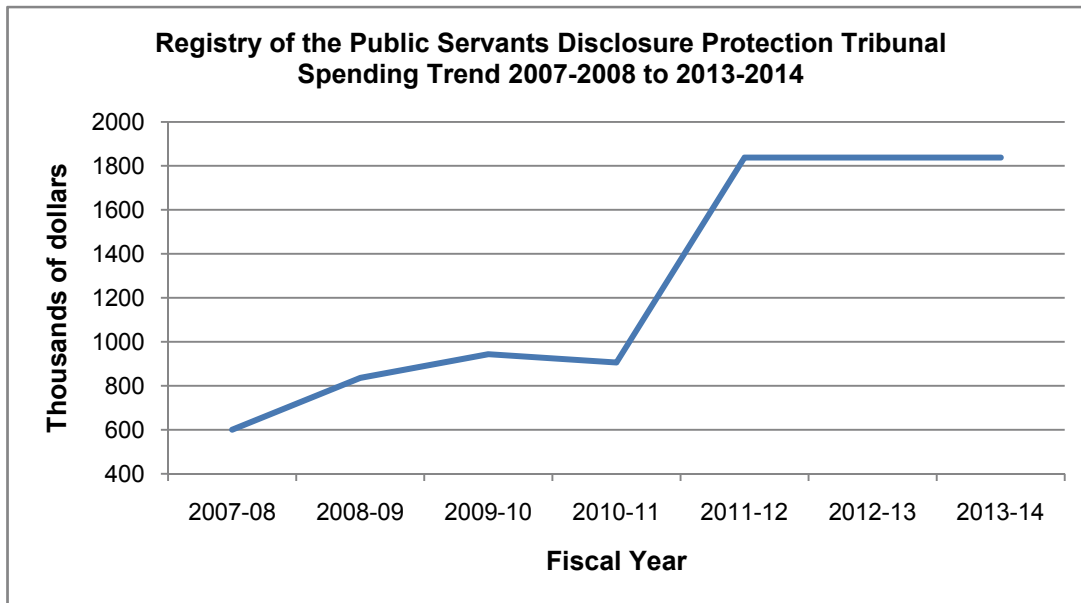
## **Risk Analysis**

The Tribunal is expecting to receive applications for hearings in 2011-2012 as a result of the decision by the Interim Public Sector Integrity Commissioner to review the 56 reprisal complaints that were filed with the Commissioner's Office since it was created in 2007. At this stage, it is impossible to anticipate the number of complaints that the Commissioner's Office will refer to the Tribunal or when they will be sent.

The unpredictable workload makes it difficult to effectively manage the Registry's human and financial resources. However, it appears that the Registry will be required to provide a complete range of services to the Tribunal for the first time since its inception in 2007. This will be challenging for the organization, which reduced its staff to the minimum last year because of the lack of applications for hearings. The Registry will have to review its human resources needs in terms of both skills and staff and mobilize the resources the Tribunal will need to deal with reprisal complaints. The Registry's new location in the building occupied by the Federal Courts, the Courts Administration Service and the Competition Tribunal provides the Registry with new opportunities to optimize human and financial resources as well as use of the physical premises. Since the Registry is co-located with similar organizations, it will be able to identify opportunities for savings and to minimize its operating expenses.

However, since the Tribunal will be hearing reprisal complaints for the first time in its history and since hearings may be held throughout Canada, we must anticipate a significant increase in travel expenses considering that travel, conference and hospitality expenses have never exceeded one percent of the Registry's operating budget. That said, the Registry will ensure that the expenses incurred are necessary to fulfill the Tribunal's mandate and priorities and that the most economical and efficient options are considered.

## Expenditure Profile



For its first four years of operation, the Registry spent at most 50 percent of its budget. This is because the Tribunal has not dealt with any cases since its inception in 2007. However, the Tribunal expects to receive applications for hearings beginning in 2011-2012. That said, it is impossible to anticipate the number of complaints the Office of the Public Sector Integrity Commissioner will refer to the Tribunal and, consequently, to assess the human and financial resources the Registry will need to support the Tribunal in carrying out its mandate. For this reason, the Registry expects to spend its entire budget in 2011-2012 and in subsequent years.

## Estimates by Vote

For information on our organizational votes and/or statutory expenditures, please see the 2011-12 Main Estimates publication. An electronic version of the Main Estimates is available at <http://www.tbs-sct.gc.ca/est-pre/20112012/me-bpd/toc-tdm-eng.asp>.

## Section II – Analysis of Program Activities by Strategic Outcome

**Strategic Outcome:** Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals

<b>Program Activity:</b> Reprisal Hearings Program					
<b>Human Resources (FTE) and Planned Spending</b> (thousands of dollars)					
<b>2011–2012</b>		<b>2012–2013</b>		<b>2013–2014</b>	
<b>FTE</b>	<b>Planned Spending</b>	<b>FTE</b>	<b>Planned Spending</b>	<b>FTE</b>	<b>Planned Spending</b>
12	1,838	12	1,838	12	1,838

<b>Program Activity Expected Result</b>	<b>Performance Indicators</b>	<b>Targets</b>
Effective management of the Tribunal's proceedings	Number of decisions or orders issued within 250 calendar days from the start of a proceeding	90% of proceedings are completed within 250 calendar days
	Degree of client satisfaction with respect to services offered by the Registry	80% of clients are satisfied with services offered by the Registry

### Benefits to Canadians

The federal public administration is an important national institution and is part of the essential framework of Canadian parliamentary democracy. Canadians benefit directly from an effective, efficient and ethical public service. They have the right to expect public servants to conduct themselves in an ethical manner and in accordance with their legal obligations.

The Tribunal is one component of the regime for the disclosure of wrongdoing and the protection of public servants who report wrongdoing. The success of the Tribunal and its partners will foster an environment in which employees can openly express their concerns without fear of reprisal. It will contribute to developing a culture in the federal public sector that is based on the highest ethical standards.

## Section III – Supplementary Information

### Financial Highlights

#### Future-oriented Condensed Statement of Operations

For the Year (Ended March 31) (in dollars)

	% change	Future-oriented 2011–2012	Future-oriented 2010–2011*
Expenses		<b>1,932,669</b>	
Total Expenses	N/A	<b>1,932,669</b>	N/A
Revenues		-	
Total Revenues	N/A	-	N/A
<b>Net Cost of Operations</b>	N/A	<b>1,932,669</b>	N/A

Financial statements are available on the website of the Public Servants Disclosure Protection Tribunal Canada at: <http://www.psdpt-tpfd.gc.ca>.

### Supplementary Information Tables

All electronic supplementary information tables found in the 2011–12 Report on Plans and Priorities can be found on the Treasury Board of Canada Secretariat web site at: <http://www.tbs-sct.gc.ca/rpp/2011-2012/info/info-eng.asp>.

- Greening Government Operations

### Contact Information

Public Servants Disclosure Protection Tribunal Canada  
90 Sparks Street, Suite 512  
Ottawa, Ontario K1P 5B4  
Telephone: 613-943-8310  
Facsimile: 613-943-8325

E-mail: [Tribunal@psdpt-tpfd.gc.ca](mailto:Tribunal@psdpt-tpfd.gc.ca)

Web site: [www.psdpt-tpfd.gc.ca](http://www.psdpt-tpfd.gc.ca)