

QUESTIONNAIRE

Annex 1

NOTES TO THE QUESTIONNAIRE

- The nature of the federal system of Canada is such that the provinces and territories play an important role in any integrity system. For example, although the Criminal Code is federal (central), it is, for the most part implemented by the provinces. The federal police, the Royal Canadian Mounted Police (RCMP), act as the provincial police in all provinces except Quebec and Ontario. They also do not police the large cities of Vancouver, Toronto and Montreal. Prosecutions for corruption related issues take place, overwhelmingly, at the provincial level. The exceptions are primarily drug offences. As a result, meaningful statistics must be gathered at provincial levels, as well as the federal. A more in-depth research of corruption in Canada would have to examine issues in large cities and at the provincial level, a major undertaking.¹
- There are different conflict of interest and disclosure codes and regulations for three different groups.

A distinction must be made between (a) public office holders such as the Prime Minister, ministers, Secretaries of State, Governor in Council Appointees, and Ministerial Exempt Staff members, and (b) MPs (backbenchers) and Senators. The rules concerning the acceptance of gifts and hospitality as well as conflict of interest for the first group are contained in The Conflict of Interest and Post-Employment Code for Public Office Holders. The provisions regarding conflict of interest for the second group (MPs and backbenchers) who are not members of the executive are not consolidated in a single statute, but are found in the Parliament of Canada Act, the Criminal Code, the Rules of the Senate, the Standing Orders of the House of Commons, as well as in other laws. (c) Public servants are guided by a separate code, other regulations, and the criminal code.

- The research involved a combination of Internet search, telephone interviews, personal interviews, and a focus group discussion. The focus group discussion was intended to include seven people. A combination of bad weather and last minute unavailability meant only three were able to attend. They included Madelaine Drohan (journalist), Arthur Kroeger (former senior civil servant), and Alan Gilmore (senior official from the auditor General's Office). Sunny Pal, a member of the T. I. Canada board, also contributed in a separate interview.

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Indicators	Formal provisions	What actually happens
1. Executive		
<ul style="list-style-type: none"> • Can citizens sue Government for infringement of their civil rights? 	<p>Yes. Citizens can sue the Government under several acts including the Charter of Rights and Freedoms, Access to Information Act, and the Privacy Act. (Civil actions concerning easements and expropriations are almost exclusively at the municipal or provincial level)</p>	<p>Citizens do sue the government, sometimes successfully, sometimes not.</p>
<ul style="list-style-type: none"> • Are there procedures for the monitoring of assets, including disclosure provisions, for the chief executive, Ministers and other high level officials, 	<p>Yes. Public office holders such as the Prime Minister, ministers, Secretaries of State, and Governor in Council Appointees, are governed by The Conflict of Interest and Post-Employment Code for Public Office Holders (June 1994). In the case of Ministers, Secretaries of State and Parliamentary Secretaries, information must be disclosed as well by spouses and dependent children. This requires that public office holders sign a document certifying that they will observe the Code (para 6). Compliance arrangements, which are done with the assistance of the Ethics Counsellor, include stating the methods of compliance and certifying that he or she is fully cognisant of the post-employment compliance measures. Public office holders must provide to the Ethics Counsellor, in a confidential report, a listing of assets, all their outside activities such as directorships and official positions, including those in which they were engaged during the two-year period before they assumed their official duties and make this available in a public declaration. This provides a basis for determining how to comply with the Code.</p> <p>The Public Registry contains all of the public documents that a public office holder must execute as a compliance arrangement. Certain assets (Declarable Assets), certain permissible outside activities, and permissible gifts, hospitality and benefits must be declared publicly. The Public registry also contains a statement indicating the method(s) of compliance used. The Public</p>	<p>There is a high degree of compliance.</p>

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	Registry is available to the public, including via the Internet. http://strategis.ic.gc.ca (see also below)	
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<ul style="list-style-type: none"> • Are there conflict of interest rules? 	<p>Yes. The Conflict of Interest and Post-Employment Code for Public Office Holders (June 1994) defines prohibited activities (para. 17), and emphasises the need to avoid being placed or the appearance of being placed in a position of providing preferential treatment to organisations, groups, family members, or friends [para. 23(1-4)].</p>	<p>There is a high degree of compliance.</p>
<ul style="list-style-type: none"> • Are there rules and registers concerning gifts and hospitality? 	<p>Yes. Rules for public office holders concerning the acceptance of gifts and hospitality are contained in The Conflict of Interest and Post-Employment Code for Public Office Holders. A Public Registry (updated annually) is maintained which contains all the public documents that are required under the Conflict of Interest and Post-Employment Code for Public Office Holders. This includes Declarable Assets, permissible Outside Activities, and permissible gifts, hospitality and benefits.</p>	<p>There is a high degree of compliance.</p>
<ul style="list-style-type: none"> • If so, are these registers kept up to date? By whom? 1. Have they legal powers to enforce disclosure? 2. Have they staff to investigate allegations? 3. What powers of sanction are in place against parliamentarians? 4. Have they ever been invoked? 	<p>Yes. The Registry is maintained by the Office of the Ethics Counsellor and is available on the Internet. (http://strategis.ic.gc.ca) The Code provides for sanctions. Conflict of interest issues are resolved between the PM (or his representative) and the Ethics Counsellor.</p> <p>Note: The Code and the registry applies to public office holders. It does not apply to parliamentarians who are not public office holders.</p>	<p>There is no process for making information about the nature of the issues or conclusions public.</p> <p>Sanctions are applied though the Prime Minister who has considerable discretion.. The decisions of the Prime Minister are subject to scrutiny and criticism in the House of Commons.</p>

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Indicators	Formal provisions	What actually happens
<ul style="list-style-type: none"> Are members of the executive obliged by law to give reasons for their decisions? 	<p>Yes. The Prime Minister and members of Cabinet are required to respond to the questions of opposition party members during "Question Period" in parliament. They are also subject regular questions from the media. They also receive a substantial number of letters from citizens and their own constituents.</p>	<p>The effectiveness of question period is seen as variable. While there are rules of conduct, many of the rules have evolved and are based on convention.</p>
<ul style="list-style-type: none"> Do Ministers or equivalent high level officials have and exercise the power to make the final decision in ordinary contract award and licensing cases? Is this power limited to special circumstances? 	<p>Yes. The powers exercised by Ministers and high level officials in the department are dictated by law, policy and procedures respecting comptrollership. These include the Financial Administration Act, Treasury Board Guidelines on Expenditures and various financial authorities</p>	<p>In practice a great deal of authority is delegated. The nature and degree of delegation varies from department to department. Ministerial involvement in contracts depends upon the levels of delegated authority, the size and sensitivity of the contract.</p>
<ul style="list-style-type: none"> Are there administrative checks and balances on decisions of individual members of the executive? 	<p>Members of the executive must operate within the policy framework and the specific administrative rules and regulations of the government for activities such as accounting, audit and evaluation, contracting, financial management. They must also conform with rules and regulations of individual departments and agencies.</p>	<p>There is a high degree of compliance.</p>

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2. Legislature	Formal provisions	What actually happens
<ul style="list-style-type: none"> Is the legislature required to approve the budget? 	<p>Yes. The legislature must approve the budget. At the beginning of the fiscal year, the government, through the Treasury Board Secretariat, presents "The Estimates" which provide a overview of proposed federal spending, the spending authorities, and the amounts to be included in the appropriation bills. Also included are individual departmental reports on plans, priorities, key results, commitments and proposed expenditures. Over the course of a fiscal year (April 1 to March 31), a number of Appropriation or Supply Bills are passed by Parliament, which authorises government expenditures. Supply Bills are linked to the tabling of the Main and Supplementary Estimates (Budget) in Parliament. To allow for due consideration of the Main Estimates and to allow for the continuation of government business, an Interim Supply Bill is submitted to Parliament. When approved, it is generally referred to as Appropriation Act No. 1 for the fiscal year. After Parliamentary review of the Main Estimates, a Full Supply Bill is submitted. Upon its approval, it is generally referred to as Appropriation Act No. 2.</p>	<p>The formal provisions are followed.</p>
<ul style="list-style-type: none"> Are there significant categories of public expenditure that do not require legislative approval? Which? 	<p>All major categories of public expenditure require legislative approval.</p>	<p>The definition of public expenditure requires some definition. For example, the expenditures of Crown Corporations do not require legislative approval.</p>

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Indicators	Formal provisions	What actually happens
<ul style="list-style-type: none"> • Are there conflict of interest rules for parliamentarians? 	<p>A distinction must be made between (1) public office holders such as the Prime Minister, ministers, Secretaries of State, Governor in Council Appointees, and Ministerial Exempt Staff members, and (2) MPs (backbenchers) and Senators. The rules concerning the acceptance of gifts and hospitality as well as conflict of interest for the <u>first group</u> are contained in The Conflict of Interest and Post-Employment Code for Public Office Holders. The provisions regarding conflict of interest for the <u>second group</u> (MPs and backbenchers) who are not members of the executive are not consolidated in a single statute, but are found in the Parliament of Canada Act, the Criminal Code, the Rules of the Senate, the Standing Orders of the House of Commons, as well as in other laws. A Joint Committee of the House of Commons and the Senate has made a number of recommendations to consolidate various provisions into a Code of Official Conduct (Second Report of the Special Joint Committee), but the legislation has not been passed by both houses.</p>	<p>In addition to the laws and other rules mentioned, parliamentarians are also subject to rules, policies and norms of their parties.</p> <p>Violations of various conflict of interest rules, laws of codes do occur, but they are relatively limited in terms of frequency and significance.</p>
<ul style="list-style-type: none"> • Are there rules <u>(and registers)</u> concerning gifts and hospitality? 	<p>There are different rules governing (1) public office holders and (2) members of Parliament and the Senate who do not hold public office. Parliamentarians and members of the Senate who are not public office holders are not required to make information available in the Public Registry.</p>	

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Indicators	Formal provisions	What actually happens
<ul style="list-style-type: none"> If so, are these registers kept up to date? By whom? 	See above.	
A. Have they legal powers to enforce disclosure?	See above.	.
B. Have they staff to investigate allegations?	See above.	Investigations do take place and are reported in the press.
C. What powers of sanction are in place against parliamentarians?	Various sanctions apply to parliamentarians and senators who are not public office holders, depending on the offence, based primarily on the Criminal Code, the Parliament of Canada Act, the Rules of the Senate and the Standing Orders of the House of Commons.	Assertions are investigated. For example, accusations of violations of the criminal code are investigated by the police. Prosecution takes place based on the results of investigations.
D. Have they ever been invoked?	See next column (right)	Sanctions are applied according to the law or rules.
<ul style="list-style-type: none"> If so, are there public registers for gifts and hospitality? 	There is no registry for parliamentarians. The registry (above) applies only to Public Office Holders (basically members of the executive).	
<ul style="list-style-type: none"> Is there an independent Electoral Commission (if not, are the arrangements for elections in the hands of agencies who are widely regarded as being non-partisan)? 	Elections Canada is the agency responsible for conducting federal general elections, by-elections and referendums. It is independent of the government because it reports directly to Canada's Parliament.	Elections Canada is seen as being very non-partisan.

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3. Political Party Funding <ul style="list-style-type: none"> • Are there rules on political party funding? 	<p>Yes there are rules. However, the rules vary depending on whether the party is a provincial or federal political party. The Canadian Elections Act sets no limits on the amount that may be contributed to a candidate or registered political party. A maximum, tax credit of \$500 is established under the Income Tax Act.</p>	<p>There is compliance.</p>
<ul style="list-style-type: none"> • Are substantial donations and their sources made public? 	<p>Registered parties and candidates have to disclose the names of all donors who have made contributions of more than \$200 (Cnd.) In addition, the new Act requires registered parties, candidates, trust funds of registered parties established for an election and registered third parties to disclose the addresses, in addition to the names, of donors who contribute more than \$200. Of the donor is a numbered company, the name of its chief executive officer or president must be disclosed.</p>	<p>There is compliance and information is publicly available.</p>
<ul style="list-style-type: none"> • Are there rules on political party expenditures? 	<p>The Canadian Elections Act (September 1, 2000) is intended to improve the disclosure of election financing information. Registered political parties are required to provide more detailed information on their financial situations, including information about their assets, liabilities, and transfers of funds to candidates, electoral district associations and trust funds to be used for an election</p>	<p>The major loophole concerns the use of party funds by candidates.</p>
<ul style="list-style-type: none"> • Are political party accounts published? 	<p>There are specific reporting requirements under the law.</p>	<p>The Chief Electoral Officer publishes a summary of each candidate's return as well as the financial returns of registered political parties and third parties. in whatever media he deems appropriate. Elections Canada has a searchable database on contributions and</p>

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<ul style="list-style-type: none">• Are accounts checked by an independent institution?	<p>According to the law, candidates must submit audited returns of their election expenses within four months of election day. Registered parties are required to submit an annual audited report and if an election has occurred an audited return of its election expenses within six months of election day. The audit must be carried out by a certified auditor who is in good standing with his/her professional association. Any third part who spends more than \$500 on election advertising during an election must also disclose contributions and expenses. Elections Canada can and does carry out further audits.</p>	<p>expenses reported by candidates and registered political parties on its Web site. There is compliance.</p>
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<ul style="list-style-type: none"> Does that institution start investigations on its own initiative? 	<p>Yes. The Commissioner of Canada Elections, appointed under the <i>Canada Elections Act</i> by the Chief Electoral Officer, has the statutory duty to ensure that the provisions of the <i>Canada Elections Act</i> and <i>Referendum Act</i> are complied with and enforced. Prior to the 1993 General Federal election, the Commissioner relied mainly on the Royal Canadian Mounted Police (RCMP) for investigation of alleged offences. Since then, most of the investigations have been carried out by investigators recruited and trained by the Office of the Commissioner. The powers to investigate are defined in the <i>Canada Elections Act</i>. The policies and procedures are contained in the Special Investigators' Manual. (www.elections.ca Electoral Law and Policy)</p>	<p>Investigations are carried out, as required.</p>

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4. Judiciary	Formal provisions	What actually happens
<ul style="list-style-type: none"> Have the courts the jurisdiction to review the actions of the executive (i.e. Presidency, the Prime Minister's or other Ministers and their officials)? 	<p>Yes. Public office holders and officials are subject to the same laws as all citizens. Criminal complaints would normally be investigated by the police. A public prosecutor would then determine if charges should be laid and brought before a court. There is no impediment to initiating a civil case simply because the individual is a public office holder or official.</p>	<p>Complaints are investigated by the police and the legal proceeding undertaken if justified.</p>
<ul style="list-style-type: none"> Are judges/investigative magistrates independent? i.e. Are appointments required to be based on merit? <p>Are the appointees protected from removal without relevant justification?</p>	<p>Yes. Under the Constitution Act, 1867, the judges of Canada's superior courts "shall hold office during good behaviour" and be removed only by Parliament. The 1971 amendments to the Judges Act created the Canadian Judicial Council which was given statutory authority to investigate complaints against federally appointed judges. Regardless of the conclusions of the investigation, a judge may only be removed by parliament.</p>	<p>A news paper report in 1996 reported that in Canada, five petitions to remove judges have been filed since confederation but up until only one in this century. ² There have been a number of cases in recent years which have resulted in resignation, suspension, and in one case removal of a family violence court judge. ³</p>
<ul style="list-style-type: none"> Are recruitment and career development (of judges) based on merit? 	<p>The Canadian Bar Association recommends potential qualified candidates. The Minister of Justice then makes recommendations to the Cabinet. Part of the mandate of the Canadian Judicial Council is the continuing education of judges.</p>	<p>Federal judges are recruited and appointed by the federal government on the basis of merit. Political convention and other factors also play a part in the process.</p>

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<p>Indicators</p> <ul style="list-style-type: none"> • Have there been instances of successful prosecutions of corrupt senior officials in the past 3 years? • Does the education system pay attention to integrity issues and corruption/bribery? Is it expected to? 	<p>Formal provisions See next column.</p> <p>Education is not a federal responsibility. Curriculum varies considerably. At the secondary level integrity issues may be addressed indirectly. It is unlikely that bribery is. At the post-secondary level ethics courses are taught at several universities.</p>	<p>What actually happens</p> <p>A number of investigations of federal and provincial politicians have taken place in recent years. A number have led to prosecutions. ⁴</p>
<p>5. Police and Prosecutors</p> <ul style="list-style-type: none"> • Is the commissioner of police independent? i.e. Are appointments required to be based on merit? Is the appointee protected from removal without relevant justification? 	<p>Formal provisions</p> <p>The Royal Canadian Mounted Police (RCMP), organised under the authority of the RCMP Act, is headed by a Commissioner who reports to the Solicitor General of Canada, a Ministry separate from the Department of Justice. The Commissioner is selected by the Prime Minister and Cabinet, on advice from the Privy Council Office, from among a group of senior RCMP officers, based on merit. He/she serves at pleasure. Realistically cause would have to be demonstrated if a Commissioner were to be removed.</p>	<p>What actually happens</p> <p>The provisions of the Act are followed.</p>

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<ul style="list-style-type: none"> Are public prosecutors independent? 	<p>The function of public prosecutors is such that they are intended to be independent. Both Federal and Provincial Crown Attorneys are employees of the relevant Justice Ministry. They are career lawyers and their positions are based upon merit. They are subject to independent regulatory safeguards.</p>	<p>Independence is respected.</p>
<ul style="list-style-type: none"> Are there special units for investigating and prosecuting corruption crimes? 	<p>There are no special units exclusively for investigating and prosecuting corruption crimes. In 1997, the national Integrated Proceeds of Crime (IPOC) initiative established ten new IPOC units across Canada in addition to the three existing units. This is aimed at intensifying the investigation and prosecution of major organised criminals and crime groups.</p>	
<ul style="list-style-type: none"> Is there an independent mechanism to handle complaints of corruption against the police? 	<p>There are three oversight bodies at the national level which handle a range of complaints of which corruption is one. They are:</p> <ul style="list-style-type: none"> The Royal Canadian Mounted Police (RCMP) External Review Committee (ERC). The mandate of the ERC is to provide recommendations to the RCMP Commissioner concerning second-level grievances, appeals against disciplinary measures imposed by adjudication boards, and appeals of discharge and demotion decisions. If the Commissioner does not accept the recommendation of the Committee, reasons must be provided. The Royal Canadian Mounted Police (RCMP) Public Complaints Commission (PCC) is a federal agency that receives and reviews public complaints about the conduct, in the performance of any duty 	

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	<p>or function under the RCMP Act, of any member or other person employed under the authority of the RCMP Act. It is not a part of the RCMP and acts at arm's length from the federal government. It has the power to conduct special hearings and investigations at its discretion and has the usual powers of a board of inquiry to summon witnesses and require the production of documents. It is the Commission's job to make sure that such complaints are addressed fully, fairly, impartially and in a timely fashion. The PCC tables an annual report to Parliament.</p> <ul style="list-style-type: none">• The Security Intelligence Review Committee (SIRC) is a five-member committee which acts on behalf of all Canadians as the external review mechanism of the Canadian Security Intelligence Service (CSIS). It acts as a tribunal to consider complaints about activities carried out by CSIS and reports its findings to the Solicitor General of Canada. SIRC's findings, as well as recommendations, are detailed in an annual report which is tabled by the Solicitor General to the Parliament of Canada.	
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<ul style="list-style-type: none"> Does civil society have a role in such a mechanism? 	<p>The committees and commission described (above) are intended to be independent. They do not have direct civil society involvement.</p> <p>With the exception of the RCMP, the responsibility for enacting legislation governing policing within the provinces is a provincial responsibility.</p> <p>Municipal police service boards and provincial/territorial police commissions have oversight responsibilities pursuant to provincial and territorial legislation. The Boards' role, in short, is one of governance. Members are elected officials.</p>	
<ul style="list-style-type: none"> In the last five years, have police officers suspected of corruption been prosecuted (or seriously disciplined or dismissed)? 	<p>See next column (right)</p>	<p>Most investigations take place at the city or provincial level. A RCMP drug-squad officer was found guilty of taking payoffs in 1999. ⁵</p>
<ul style="list-style-type: none"> Are there any cases of corruption within the prosecuting agencies? 	<p>See next column</p>	<p>There are no recorded cases at the federal level in the last five years.</p>

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<ul style="list-style-type: none"> Which legislative instruments can be used by the police and public prosecutors for the investigation and prosecution of cases of corruption/bribery? Is private-to-private corruption punishable by law? 	<p>The Criminal Code of Canada includes offences which prohibit bribery (ss. 119, 120), frauds on the government (s. 122), fraud or a breach of trust in connection with the duties of office (s. 122), selling or purchasing office (s. 124), influencing appointments or dealing offices (s. 125), wilfully attempting to obstruct, pervert or defeat the course of justice through bribery or other corrupt means (s. 139(3)), fraud (s. 380), and secret commission (s. 426). Members of the Canadian Forces may be tried before civilian courts for Criminal Code and other federal offences, or before military tribunals for Criminal Code, National Defence Act, and other federal offences. The corruption of Foreign Public Officials Act entered into force in February, 1999. The Financial Administration Act creates specific offences to address corruption and fraud. The Income Tax Act contains a provision prohibiting the tax deductibility of bribes. The Immigration Act prohibits bribery of immigration officers and adjudicators.</p> <p>Private-to-private corruption depends, of course, on the definition. There are a large number of offences in the Criminal Code and many (e.g. theft, fraud) could potentially apply. The offence of secret commissions (s. 426 of the Criminal Code) covers private-to-private corruption.</p>	<p>The law is applied.</p>
<ul style="list-style-type: none"> Is the law applied? 	<p>See next column (right)</p>	<p>Yes. The law is applied. Investigations are undertaken and prosecuted as required. In the provinces, this offence would be prosecuted by the provincial attorneys general.</p>

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<ul style="list-style-type: none"> How many cases of prosecution have been undertaken in the past years? How many have been successful? If the number is low, are there other effective measures or other good reasons why the number is low? 	<p>See next column (right)</p>	<p>The answer to this question is found primarily at the provincial level. The Research and Statistics Division of the Department of Justice has provided a partial response which is found at the end of the questionnaire. It should be highlighted, however, that this statistical information is incomplete since, for example, there are three provinces (British Columbia, Manitoba and New Brunswick) that are not included in the Adult Criminal Court Survey at this time. Additional data limitations are also noted.</p>
<p>6. Public procurement</p>		
<ul style="list-style-type: none"> Do rules for public procurement require competitive bidding for all major procurements with limited exceptions? 	<p>Yes. Public procurement rules require competitive bidding with limited exceptions (see below re sole sourcing)</p>	<p>Procurement rules are followed to a high degree.</p>
<ul style="list-style-type: none"> Are the rules laid down in documents publicly accessible? 	<p>Yes.</p>	<p>Documents containing rules and procedures are available in hard copy or on the Internet</p>

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<ul style="list-style-type: none"> • Are there strict formal requirements that limit the extent of sole sourcing? 	<p>Yes. The government has formal requirements, including strict NAFTA ones. ⁶ Limited contracting may be used to meet an emergency situation, to gain access to a single company's copyrighted, patented or prototype product, or to undertake work subject to national security considerations. Even when a sole-source approach is used, most of the requirements are posted on MERX™, an online system, with an Advance Contract Award Notice. Firms have the opportunity to review and challenge awards.</p>	<p>The Auditor General has reported widespread violations. However, most sole sourcing is done for reasons of time, continuity of firms/personnel, compatibility of equipment, etc. Corruption is not seen as a issue by the Auditor General.</p>
<ul style="list-style-type: none"> • Are all major public procurements widely advertised to the private sector? • Are procurement decisions made public? 	<p>Yes. Public Works and Govt. Services Canada (PWGSC) manages the procurement function for more than 100 government departments and agencies. Contracts Canada (part of PWGSC) provides information to suppliers about what and how the government buys, bidding opportunities and key contact through MERX™ an online information resource on the Internet.</p> <p>Yes.</p>	<p>There are dissatisfactions with the system, but corruption (bribes, kickbacks, fraud, etc. is not one of them.</p> <p>Contract awards are announced on MERX™.</p>
<ul style="list-style-type: none"> • Is there a procedure to request review of procurement decisions? 	<p>Yes. Upon request, information can provided about a contract award to any company that submitted a bid.</p>	<p>Bidders get a personal briefing on their bids. Briefings may reveal who won and why and can also indicate to the unsuccessful bidder how to improve future bids.</p>

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<ul style="list-style-type: none"> • Can an unfavourable decision be reviewed in a court of law? 	Yes. The first step is Alternate Dispute Resolution (ADR). Unfavourable decisions can also be reviewed by a court of law.	Relatively few decision are resolved in court.
<ul style="list-style-type: none"> • Are there provisions for blacklisting of companies proved to have bribed in a procurement process? 	No.	The Canadian Criminal Code provides for lack of ability to contract only if convicted under certain sections of the Criminal Code. There is no blacklisting <i>per se</i> of companies by federal departments.
<ul style="list-style-type: none"> • Are there rules and procedures to prevent nepotism/conflict of interest in public procurement? 	Yes. Procurement regulations and procedures are specifically designed to prevent or minimise nepotism and conflict of interest.	
<ul style="list-style-type: none"> • Are assets, incomes and life styles of public procurement officers monitored? 	No. Assets, incomes and life styles are not monitored. The Conflict of Interest and Post-Employment Code for Public Employees requires Executives (EX level or equivalent) to provide a confidential report indicating (among other things) ownership of an asset or participation in outside employment or activity that might constitute a conflict of interest.	When allegations are received involving employees, the normal course of investigation dictates that the investigator look at all aspects of any subjects named in the inquiry which often means that a financial flow chart, credit check, etc. would be completed. Many procurement officers are not at the executive level and are not subject to the same conflict of interest requirements.
Indicators	Formal provisions	What actually happens
7. Supreme Audit Institution		
<ul style="list-style-type: none"> • Is the national auditor general independent? i.e. Is the appointment of the general auditor required to be based on professional criteria/merit? 	Yes he/she is independent. Candidates for Auditor-General must be professionally qualified. He/she is appointed for a ten-year period by the Prime Minister but reports directly to parliament.	Independence is respected.
<ul style="list-style-type: none"> • Is the appointee protected from removal without relevant justification? 	The A-G can only be removed for exceptional reasons and removal would require the approval of parliament.	No auditor general has ever been removed.

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<ul style="list-style-type: none"> Are all public expenditures audited annually? 	See next column (right)	Yes.
<ul style="list-style-type: none"> Is reporting up to date? Are reports submitted to a Public Accounts Committee and/or debated by the legislature? 	See next column (right) Yes. The Auditor General's reports are examined by the House of Commons Standing Committee on Public Accounts as well as other committees. The Committee holds hearings to review audit findings. After the hearings, the Committee may report and make recommendations to the House of Commons.	Yes The formal provisions are respected
<ul style="list-style-type: none"> Are all public expenditures declared in the official budget? 	See next column (right)	Yes. There is need for a specific definition of public expenditure. For example, the budgets of Crown Corporations, do not appear in the budget and appropriations.
8. Civil Service	Formal provisions	What actually happens
<ul style="list-style-type: none"> Are there laws establishing criminal and administrative sanctions for bribery? 	See Section Five of this questionnaire.	
<ul style="list-style-type: none"> Are there rules requiring political independence of the civil service? 	Yes. The Public Service Commission (PSC) has been established by legislation to ensure a professional, competent Public Service. It is accountable to parliament.	The civil service is highly independent.
<ul style="list-style-type: none"> Are recruitment/career development rules based on merit? 	Yes. Recruitment must meet the standards and procedures established by the Public Service Commission which are based on merit. A great deal of recruitment is delegated to individual departments who have a responsibility to maintain standards set by the PSC.	The merit principle is applied to recruitment and promotion. Naturally not everyone agrees with the results.

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Indicators	Formal provisions	What actually happens
<ul style="list-style-type: none"> Are there specific rules to prevent nepotism? Cronyism? (note: rules discriminating positively in favour of marginalised or minority groups are <u>not</u> included in this description) 	<p>Yes. The policies, principles and statutory requirements related to the acceptance of gifts, hospitality and other benefits by public employees, as well as other situations which might lead to conflict of interest, are found in various laws and regulations including the Conflict of Interest and Post-Employment Code of the Public Service, various Acts (the Financial Administration Act, the Public Service Act, Immigration Act, Income Tax Act) as well as various sections of the Criminal Code.</p> <p>The merit principle applies to both recruitment and promotion. For example, there is nothing in the Public Service Employment Act or the Conflict of Interest Code to prohibit one family member supervising another. However, sections 30 and 31 of the Code states that employees must not accord preferential treatment in relation to any official matter to family members or friends, or to organisations in which the employee, family members or friends have an interest. Certain departments have guidelines concerning working relations between relatives in order to manage these situations. Para. 23.1 - 5 of the Code for Public Office Holders specifies rules to avoid preferential treatment.</p>	<p>Nepotism and cronyism which result in the appointment of clearly incompetent individuals are rare. There are differing views, however, on the importance and effect of "(old) boys' networks".</p>

QUESTIONNAIRE

Indicators	Formal provisions	What actually happens
<ul style="list-style-type: none">• Are there rules (including registries) concerning acceptance of gifts and hospitality?	<p>Yes. Government employees must decline gifts, hospitality or other benefits that could influence their judgement and performance of official duties. To accept a gift from a person who they know (or should know) has dealings with the government requires the written consent of their superior. Exceptions may be made for incidental gifts, etc. arising out of activities related to official duties provided the situation meets certain criteria. Where it is impossible to decline unauthorised gifts, etc. employees must immediately report the matter to the designated official. The designated official may require that a gift of this nature be retained by the department or be disposed of for charitable purposes. There are no registers of gifts received.</p>	<p>The rules are respected. Public officials rarely are offered substantial gifts.</p>

QUESTIONNAIRE

Indicators	Formal provisions	What actually happens
<ul style="list-style-type: none"> • If so, are these registers kept up to date? By whom? 1. Have they legal powers to enforce disclosure? 2. Have they staff to investigate allegations? 3. What powers of sanction are in place against parliamentarians? 4. Have they ever been invoked? 	<p>As noted above, there are no registers of gifts for public officials. Upon joining the Public Service and upon each appointment, employees must fill an Employee Certification Document. If employees have something to declare, they submit a confidential report. Once a year, or as required, employees must review their personal circumstances and report any changes to the designated official. Government employees comply with the Code by providing a written statement to the designated official in their department indicating ownership of an asset, receipt of a gift, hospitality or other benefit, or participation in any outside employment or activity.. Failure to comply can lead to disciplinary measures ranging from an oral warning up to and including discharge from the public service. In cases of disagreement, the grievance process (Section 91 of the Public Service Staff Relations Act) applies. Some departments, for example National Museums, add supplementary compliance measures. Note: Different rules apply for Public Service Staff, Parliamentarians and Senators, and Public Office Holders.</p>	

QUESTIONNAIRE

Indicators	Formal provisions	What actually happens
<ul style="list-style-type: none"> • Are there restrictions on post public service employment? 	<p>Yes. Paragraph 6 (i) of the Code states that public servants should not, after leaving public office, take improper advantage of their previous positions. The definition of improper advantage is determined by the circumstances of each case, and must stand the test of what is "reasonable".</p>	<p>There are practical problems of enforcement once public servants have left the public service.</p>
<ul style="list-style-type: none"> • Are procedures and criteria for administrative decisions published (e.g. for granting permits, licences, bank loans, building plots, tax assessments, etc)? 	<p>Yes. Many administrative decisions (permits, licences, land registration, land tax assessment) are made by provincial or municipal governments. Administrative procedures at the national level vary considerably in their complexity according to the subject matter.</p>	<p>Documentation is increasingly available via the Internet.</p>

QUESTIONNAIRE

<ul style="list-style-type: none"> Are there complaint mechanisms for public servants and whistleblower protection measures? 	<p>Canada does not have any explicit mechanisms in place, such as the U. S. whistle-blowing protection legislation. Despite the lack of any formal protection legislation, government employees are obligated to report violations of the law with respect to fraud or loss of money. In general, complaints are expected to follow the established "chain of command" and internal procedures. There are a number of /measures to protect government employees who disclose corruption, such as policies on discipline, the grievance process, and workplace harassment policy. There is also the right to appeal under the Public Service Employment Act. The Privacy Commissioner prevented the development of an anonymous hotline by arguing that the accused has a right to know the identity of the accuser.</p> <p>Seven federal departments have "ombudsmen". However, they are not ombudsmen in the generally understood sense. For the most part their role is to impartially provide employees (as opposed to the public) with informal, confidential support in dealing with work situations. Only the Nat. Defence Ombudsman and the Office of the Correctional Investigator have mandates to investigate complaints.</p>	<p>There are many who feel whistle-blower protection is an increasingly important issue and protection is inadequate. The issues go well beyond corruption and involve such issues as health, the environment and military misconduct.</p>
<ul style="list-style-type: none"> Are there means for complaints by members of the public? 	<p>Yes. Each department must appoint a person to receive complaints. The Information Commissioner investigates complaints from people who believe they have been denied rights under the Access to Information Act and the Privacy Commissioner investigates individual's complaints and monitors government compliance with the federal Privacy Act.</p>	<p>All of these channels are used.</p>

QUESTIONNAIRE

	Several possible channels exist for expressing complaints: (1) Directly to the head or representative of the government agency concerned, or through: (2) the individual's member of parliament, (3) a newspaper "help" column, (4) a consumer advocacy group, (5) a lobbyist, (6) professional/legal representative.	
9. Ombudsman	Formal provisions	What actually happens
<ul style="list-style-type: none"> Is there an ombudsman or its equivalent (i.e. an independent body to which citizens can make complaints about maladministration)? 	No. There is no position which uses the title ombudsman at the national level to whom citizens can make complaints. There are Information and Privacy Commissioners who play roles similar to an ombudsman. (See section 8 above)	
<ul style="list-style-type: none"> Is the ombudsman independent? i.e. Are appointments required to be based on merit? Is the appointee protected from removal without relevant justification? Has an ombudsman been removed without relevant justification in the last five years? 	Both the Information Commissioner and the Privacy Commissioner, who provide a role to the public similar to an ombudsman, have investigative powers.	
<ul style="list-style-type: none"> Can petitioners complain anonymously if they fear possible reprisals? 	The Privacy Commissioner has prevented anonymous reporting arguing that the accused has a right to know the identity of the accuser.	
<ul style="list-style-type: none"> Are reports of the ombudsman published? 	Yes.	The Information and Privacy Commissioners each publish annual and occasional reports.

QUESTIONNAIRE

Indicators	Formal provisions	What actually happens
<ul style="list-style-type: none"> • Does the government act on the Ombudsman's recommendations? 	See next column (right)	Government action is selective and depends on a number of factors. These include public opinion and support for the issue, need for consultations, governmental priorities, legal considerations, timing (proximity to elections), complexity and costs of the recommendations,
10. Investigative/watchdog agencies (e.g. Anti-Corruption Bureau)	Formal provisions	What actually happens
<ul style="list-style-type: none"> • Are there special investigative or watchdog agencies? 	No. Canada does not have the equivalent of an anti-corruption agency.	
<ul style="list-style-type: none"> - Are they independent? i.e. Are appointments required to be based on merit? - Are appointments generally based on merit? - Are the appointees protected from removal without relevant justification? - Are their reports published (other than when criminal charges are pending)? 	Not applicable N/A (See above)	
<ul style="list-style-type: none"> • Do they report publicly to the legislature on the general scope of their work? 	N/A	
<ul style="list-style-type: none"> • Can people complain to the agency without fear of recrimination? 	N/A	

QUESTIONNAIRE

Media	Formal provisions	What actually happens
Is there a law guaranteeing freedom of speech and of the press?	Yes. Freedom of the press is guaranteed in the Charter of Rights and Freedoms.	
Is there censorship of the media?	There is no government censorship of the media.	There is no censorship by the government.
Is there a spread of media ownership?	See next column (right)	There is a growing concentration of media ownership.
Does any publicly-owned media regularly cover the views of government critics?	See next column (right)	Yes. Publicly-owned media provide the same range of views as the private media.
Have journalists investigating cases of corruption been physically harmed in the last five years?	See next column (right)	Incidents where journalists have experienced physical harm in their investigations have primarily involved organised crime, not corruption per se.
Does the media carry articles on corruption?	See next column (right)	Yes.
Do media licensing authorities use transparent, independent and competitive criteria and procedures?	Licensing authorities use procedures which are intended to be transparent, independent and competitive.	
Are libel laws or other sanctions (e.g. withdrawing of state advertising) used to restrict reporting of corruption?	No. Libel laws may be used if an accusation is deemed to have violated the law.	Libel laws or other sanctions are not used by the government to restrict reporting.

QUESTIONNAIRE

<p>Civil Society Does the public have access to information and documents from public authorities?</p>	<p>Formal provisions The Access to Information Act gives Canadian citizens, as well as individuals and corporations present in Canada, the formal, and enforceable, right of access to federal government information in accordance with certain principles, subject to certain exemptions and exclusions. The Information Commissioner plays a role similar to an ombudsman and investigates complaints from people who believe they have been denied rights under the Access to Information Act.</p>	<p>What actually happens Large amounts of information concerning government activities, regulations, procedures, etc. are increasingly available on the Internet. The Information Commissioner would argue access to other types of information still needs considerable improvement.</p>
<p>Do the public authorities generally co-operate with civil society groups?</p>	<p>_____</p> <p>_____</p> <p>_____</p>	<p>Generally, public authorities co-operate with civil society groups. There are inevitable tensions which can become serious.</p>
<p>Are there citizen's groups or business groups campaigning against corruption?</p>		<p>Citizen's and business groups do undertake campaigns. Depending on the group and the issue, corruption often takes on a broader definition than that used by T. I.</p>
<p>Are there citizen's groups monitoring the government's performance in areas of service delivery, etc?</p>		<p>There are a large number of citizens groups (NGOs, professional associations, university groups, etc.) who monitor government performance.</p>
<p>Do citizen's groups regularly make submissions to the legislature on proposed legislation?</p>	<p>The introduction of new legislation involves various consultative requirements and processes.</p>	<p>Citizen's groups, including lobbyists, can and frequently do make submissions on proposed legislation.</p>
<p>Local Government</p>	<p>Formal provisions</p>	
<p>Is there a legal requirement that meetings of city/ town councils be open to the press and public?</p>	<p>There are legal requirements that council meetings be open to the press and public. The specific requirements may vary slightly from one municipality to another.</p>	<p>"The nature and quality of meetings and public participation" is highly variable</p>
<p>Are there clear criteria restricting the circumstances in that city/town councils can exclude the press and public?</p>	<p>There are clear criteria whose requirements may vary slightly from one municipality to another.</p>	
<p>Progress with Government Strategy</p>	<p>Formal provisions</p>	<p>What actually happens</p>

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Has the government announced an anti-corruption strategy and a timetable for implementation?	The government does not have a single anti-corruption strategy. Measures to fight corruption are found in a variety of policies, laws and regulations.	
How much of the strategy has been implemented?	Improved anti-corruption measures are ongoing and there is no specific overall timetable.	
Is the government meeting its own timetable?	See above	

QUESTIONNAIRE

KEY DOCUMENTS

1. 1995 Report of the Auditor General of Canada, Chapter 1, Ethics and Fraud Awareness in Government
2. 2000 Report of the Auditor General of Canada, Chapter 12, Values and Ethics in the Federal Public Sector.
3. Canadian Public Integrity and Anti-Corruption Measures, Department of Justice.
4. Clarification on the Policy Conflict of Interest and Post-employment - Letter from the Treasury Board Secretariat to all Deputy Ministers, August 9, 1999.
5. Conflict of Interest and Post-Employment Code for Public Office Holders, June 1994.
6. Guide on the Application of the Conflict of Interest and Post-employment Code for the Public Service (2000-11-01), Treasury Board Secretariat.
7. Privacy Commissioner, Annual Report 1999-2000.
8. Second Report of the Special Joint Committee on a Code of Conduct of the Senate and the House of Commons, Senator Donald H. Oliver, Q. C., and Peter Milliken, M. P., 1997.
9. Impact on Canada of Corrupt Foreign Officials in Other Countries, Alasdair MacLaren, Global Challenges and Opportunities network, September 2000.

KEY WEBSITES USED

Virtually all Government of Canada departments, ministries, agencies etc. have their own web-sites. Typically these contain information about the organization's mission, mandate, role and responsibilities, policies, programs, and contacts as well as a list of publications, mostly down-loadable.

DEPARTMENT OR OFFICE	WEBSITE
Auditor General	www.oag-bvg.gc.ca
Canada Information Office	www.cio-bic.gc.ca
Canadian Judicial Council	www.cjc.gc.ca
Canadian Security Intelligence Service	www.csis-scrs.gc.ca
Criminal Intelligence Service Canada	www.cisc.gc.ca
Department of Justice of Canada	http://canada.justice.gc.ca
Elections Canada	www.elections.ca
Office of the Ethics Counselor	http://strategis.gc.ca
Office of the Information Commissioner	www.accessca@magi.com
Parliamentary Internet Website (House of Commons, Senate and the Library of Parliament)	www.parl.gc.ca
Privacy Commissioner of Canada	www.privcom.gc.ca
Public Service Commission of Canada	www.psc-cfp.gc.ca
Public Works and Government Services Canada	www.pwgsc.gc.ca
Royal Canadian Mounted Police	www.rcmp-grc.gc.ca
Solicitor General of Canada	www.sgc.gc.ca
Treasury Board of Canada - Secretariat	www.tbs-sct.gc.ca

QUESTIONNAIRE

REFERENCES (QUESTIONNAIRE)

¹ The Research and Statistics Division of the Department of Justice provided statistics on cases involving the payment of secret commissions from 1994 to 1998. The data is not complete from all provinces and has not been included.

² Globe and Mail, 03/05/1996.

³ Judge Brian Corrin was given a 30-day suspension (Canadian Press 07/16/1996), Judge Ron Meyers was removed. Winnipeg Free Press 06/12/94.

⁴ Some cases include: Former Progressive Conservative minister Sinclair Stevens who was found in conflict of interest (Toronto Star 1/06/97), Progressive Conservative Senator Michel Cogger (Winnipeg Free Press 08/27/1998), Saskatchewan Member of the Legislature, Ralph Katzman, who was the last person convicted (November 2000) of fraud, theft and breach of trust, along with 16 other members of the conservative government. The members included a former deputy minister, Eric Bernston who had become a senator. The case went back to the 1980s. (Canadian Press 10/312/2000)

⁵ Globe and Mail, 01/21/1999

⁶ North American Free Trade Agreement (NAFTA)