

Detecting abuses in government

Canadians expect their governments to be fully accountable for detecting irregularities. Are the measures now in place sufficient?

Experience has shown that Canadian public administration is vulnerable to serious fraud, irregularity and abuse. Such wrongdoing can be committed by anyone — including ordinary citizens.

In a 2004 report on the Quebec Régime général d'assurance médicaments (basic prescription drug insurance plan), the Auditor General of Quebec spoke of wrongdoing by ordinary citizens. The report found that 43%, some 28,420, of the youths registered as students under the public plan in 2002 were not on file as full-time students with the Quebec education ministry during that year. This group was covered entirely without charge by the public plan, which means almost \$991,000 in deductibles and co-insurance were wrongly paid out under the plan in 2002, not to mention the premiums that were lost.

In a 2003 report on the Office of the Privacy Commissioner of Canada, the Auditor General of Canada provided examples of wrongdoing by senior officials:

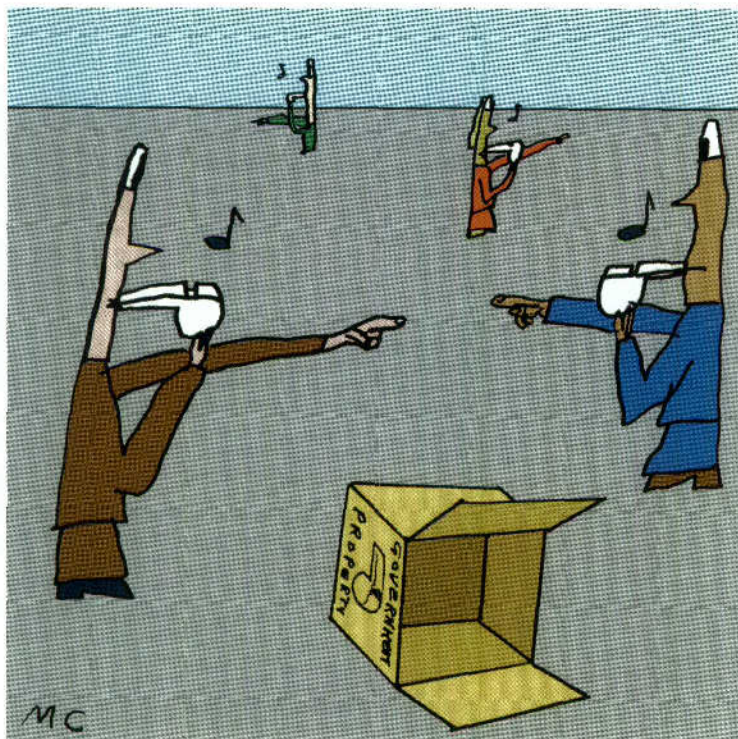
"We found an environment of fear and arbitrariness in the Office of the Privacy Commissioner that led to a major breakdown of controls over financial management, human resources management, contracting, and travel and hospitality. The effect of this breakdown was a climate that allowed the abuse of public treasury for the benefit of the former Commissioner and a few senior executives."

Needless to say, the sponsorship scandal cannot be ignored. The Commission of Inquiry into the Sponsorship Program and Advertising Activities chaired by Justice John Gomery exposed a clandestine system that allowed firms obtaining a large number of federal contracts to contribute to the financing of the Liberal Party. Justice Gomery found a "complex web of financial transactions among Public Works and Government Services Canada, Crown corporations and communication agencies, involving kickbacks and illegal contributions to a political party."

Faced with such overwhelming findings, we are forced to acknowledge that fraud and abuse constitute a large public administration cost. Scandals undermine citizens' confi-

dence in government, which therefore has every interest in establishing systems for preventing and detecting such reprehensible acts. What follows is an outline of four principal tools available to governments for detecting fraud and abuse.

Internal controls, information sharing
Government authorities can detect wrongdoing by implementing appropriate internal controls and information sharing among departments and agencies. However, this process must be closely supervised, owing to the private and confidential nature of the information being shared. The federal and provincial governments have passed various laws, especially those dealing with the protection of personal information, to this end. As time passes, debates continue as to how these laws should be amended. Given the ongoing evolution of technology, some feel that privacy legislation should be strengthened against threats to the right to privacy. Others claim such



legislation should be relaxed to facilitate control of public funds and thus the detection of fraud and abuse. Arguments abound in support of each of these diametrically opposed positions.

Federal and provincial governments are still studying plans to revise their various statutes. More flexible laws favouring easier sharing of information by departments and agencies would improve the detection of fraud and abuse. Supporters of this view argue it would be enough to take legislative, administrative and technological precautions to ensure that increased information sharing by departments and agencies occurs in a secure and confidential manner. They maintain that governments could also achieve substantial savings.

Some managers in the public service would say that any citizen benefiting from government social programs should agree that all organizations within that government may, for administrative and control purposes, use the personal information on which the citizen's eligibility for these programs has been established.

Of course, governments must take all opinions into account and strike a balance between the protection of personal information and government management that is effective, in terms of administrative control. This involves oversight and control of information sharing to preserve fundamental privacy rights in the face of ongoing technological change. What is more, mechanisms must be put in place to manage the risk of fraudulent use of the information collected and to ensure its quality.

Whistleblowing

Whistleblowing is the prime mechanism for detecting fraud and abuse in public administration. For a public servant, this means disclosing or reporting situations where colleagues or superiors have committed acts or made decisions that do not comply with the strict ethical standards that public servants are required to follow. However, private citizens, elected officials and suppliers can also disclose information in these situations. A whistleblowing channel, also called a fraud or ethics hotline, is needed to encourage people to reveal what they know about wrongdoing and, when needed, to protect them from potential reprisal. The existence of such a mechanism "lends credibility to the public service ethos, and hence can make a significant contribution to public service morale and conduct, and to public confidence in government," according to a report by the public service Human Resources Management Agency. However, the mechanism will not be effective unless whistleblowers are entirely sure the process will make it possible for complaints to be received, reviewed, investigated and reported in a serious and confidential manner.

Generally speaking, our neighbours to the south have a head start on us on this topic. The scandals that tarnished the reputations of Enron and WorldCom clearly helped Americans grasp the importance of whistleblowing. Whistleblowers helped expose the inappropriate accounting and dubious bookkeeping strategies that enabled the leaders of those companies to conceal major losses. No one can say with certainty that these scandals would have assumed such magnitude had these informants been taken seriously from the outset. However, subsequent popular pressure

on the country's top decision makers to put stronger controls in place led to more stringent legislation. The US passed the Sarbanes-Oxley Act forcing public companies to adopt appropriate policies and procedures for handling disclosures. This legislation governs corporate ethics, obliges organizations to monitor their employees and protects whistleblowers who report dubious practices.

Canada has not established an equally rigorous framework. Nonetheless, Ontario's Bill 198 is in place (although it is less restrictive than SOX). Furthermore, some securities commissions have requested greater powers to fight fraud. While these are steps in the right direction, few Canadian public authorities have mechanisms to protect people who disclose irregularities.

Internal audits

According to the Institute of Internal Auditors (IIA), internal auditing is "an independent, objective assurance and consulting activity designed to add value and improve an organization's operations."

Whistleblowing is the prime mechanism for detecting fraud. For a public servant, this means disclosing when colleagues don't comply with the strict ethical standards

The IIA feels an internal auditing service helps an organization achieve its objectives by evaluating its processes for risk management, control and governance by making recommendations to enhance their effectiveness. Internal audits can also be used to identify and evaluate fraud risks.

With SOX, the US has strengthened its regulatory practices in this regard. In Canada, provincial securities commissions are establishing new rules for corporate governance. Governments are undertaking major initiatives to modernize their management as a means of tightening control over public spending through strict internal audit systems. The federal government updated its policy on internal audit, effective in April 2006. In November 2006, Quebec announced its orientations concerning internal audit. These orientations are meant to serve as a reference to departments and agencies to promote the implementation of internal audit, to strengthen internal auditing activities, to guarantee independence of those activities and ensure their objectivity and credibility. These initiatives seem to be on the right track. Those measures combined with political will and maintained effort can only improve the current situation.

Currently, few government bodies use internal audits for the purpose of detecting fraud and abuse. Since public expectations are on the rise and governments are strengthening their resources in this area, departments and agencies will undoubtedly hasten to develop this detection system. However, no means of detecting wrongdoing can work effectively unless there is concern for the skills and training of the internal auditors and for the efficiency of the tools they may use.

Canada's legislative auditors

Federal and provincial legislative auditors cannot escape the

current trend of spreading the responsibility for the detection of fraud and wrongdoing over a number of stakeholders. On the contrary, legislative auditors have a definite role to play, especially since their audits have a much wider scope than that of most external auditors, who concentrate their efforts on financial reporting issues.

Legislative auditors serve legislative assemblies and their parliamentary committees, helping them to exercise their supervisory authority. As a general rule, the mission of legislative auditors is to facilitate parliamentary control of public funds and other state assets. They perform independent audits of financial statements and compliance with legislation and directives. They evaluate management practices and reporting, and promote sound management practices.

From one province to the next, legislative auditors have varying degrees of latitude in terms of the scope of their mandates and their access to public or parapublic bodies. For example, Alberta and New Brunswick legislative auditors can audit the use of grants from public funds only as permitted by funding agreements or if requested by the legislative assembly or government. In terms of fraud detection, the auditors general of Canada, Alberta and Manitoba have a head start on the country's other legislative auditors: each of these offices has hired teams of seasoned forensic accountants. Each has also developed policies and audit manuals on wrongdoing. Other offices, such as

that of the auditor general of Québec, have begun to set up a forensic accounting department.

Conclusion

Canadians expect their governments to be fully accountable for detecting fraud, irregularity and abuse. The federal government recently proclaimed the accountability act aimed at strengthening these four detection tools. The act indicates a growing determination to do what is needed to improve control of government management. We must also hope that stakeholders are persuaded of the relevance and benefits, for the Canadian public administration, of the development of appropriate tools for detection of fraud, irregularities and abuse and that they will work together to improve this situation. Finally, it is important that all public sector auditors take the risk of fraud into account and help their administrations detect and prevent wrongdoing.

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