

Internal Audit Division

AUDIT OF THE ATLANTIC REGIONAL OFFICE
AUDIT REPORT
MARCH 13, 2013

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

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LIST OF ACRONYMS

ACFP	Associate Chief Federal Prosecutor (<i>Procureur fédéral en chef adjoint – PFCA</i>)
ARO	Atlantic Regional Office (<i>Bureau régional de l'Atlantique – BRA</i>)
ASU	Agent Supervision Unit (<i>Unité de supervision des mandataires – USM</i>)
BCP	Business Continuity Plan (<i>Plan de continuité des affaires – PCA</i>)
CDSA	<i>Controlled Drug and Substances Act</i> (Loi réglementant certaines drogues et autres substances <i>LRCDSAS</i>)
CFO	Chief Financial Officer (<i>Dirigeant principal des finances – DPF</i>)
CFP	Chief Federal Prosecutor (<i>Procureur fédéral en chef – PFC</i>)
CSP	Corporate Services Provider (<i>Prestataire de services généraux – PSG</i>)
DDPP	Deputy Director of Public Prosecutions (<i>Directeur adjoint des poursuites pénales – DAPP</i>)
DPP	Director of Public Prosecutions (<i>Directeur des poursuites pénales – DPP</i>)
DSO	Departmental Security Officer (<i>Agent de sécurité ministériel – ASM</i>)
FAA	<i>Financial Administration Act</i> (Loi sur la gestion des finances publiques – <i>LGFP</i>)
FY	Fiscal year (<i>Exercice financier – EF</i>)
HQ	Headquarters (<i>Administration centrale – AC</i>)
IFMS	Integrated Financial and Materiel System (<i>Système intégré des finances et du matériel – SIFM</i>)
NTP	National Timekeeping Protocol (<i>Protocole national de comptabilisation du temps – PNCT</i>)
OCI	Office of primary interest (<i>Bureau de première responsabilité – BPR</i>)
PPSC	Public Prosecution Service of Canada (<i>Service des poursuites pénales du Canada – SPPC</i>)
RCMP	Royal Canadian Mounted Police (<i>Gendarmerie royale du Canada – GRC</i>)
TBS	Treasury Board Secretariat (<i>Secrétariat du Conseil du Trésor – SCT</i>)

1.0 EXECUTIVE SUMMARY

1.1 AUDIT OBJECTIVE AND SCOPE

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

In particular, the scope included:

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

The audit methodology included:

- a review of documentation, guidelines, procedures, policies and relevant legislation to gain an understanding of the ARO, its operations, key processes, and controls;
- interviews with a sample of staff from: PPSC Headquarters (HQ), the region, and the Corporate Service Provider (CSP) that provide corporate services to the region;
- a review of procedures, guidelines and practices as well as the monitoring and reporting mechanisms in place; and
- a review of a judgemental sample of prosecution case files, human resources files, procurement files and financial transactions from the 2011-2012 and 2012-13 fiscal years;

This audit was planned and conducted between September 2012 and January 2013. On-site work in the ARO began in Halifax the week of October 29th, 2012, followed immediately by one day of field work in each of the Moncton and St. John's offices.

1.2 AUDIT CONCLUSION

The Internal Audit Division (IAD) assessed the ARO's management framework within which it provides prosecutorial services against pre-determined audit criteria based on Treasury Board Secretariat (TBS) policies and directives, PPSC policies, directives, protocols and procedures/guidelines such as the *Deskbook*, as well as good practices of other government organizations and prosecution services in other jurisdictions and countries. Overall, the ARO's management framework is appropriate, except in the area of monitoring which must be strengthened to achieve compliance with the relevant policies and directives. In addition, there are opportunities for improvement that would enable the ARO and the PPSC to operate more effectively and efficiently.

1.3 SUMMARY OF FINDINGS AND RECOMMENDATIONS

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

Management should ensure that:

- communication is improved, and the use of junior prosecutors for low complexity files is considered;
- files are reviewed and monitored to ensure that decisions are properly documented, complexity ratings are current, and files are accurate. This also includes monitoring and review of active files with no time keeping activity;
- stewardship is strengthened in the areas of acquisitions; and
- the ARO's premises are secure, files are stored and transported in a secure and safe manner, and employees are aware of information security.

1.4 STATEMENT OF ASSURANCE

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

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

Philip Morton
Chief Audit Executive

2.0 INTRODUCTION

2.1 BACKGROUND

The ARO is headquartered in Halifax, Nova Scotia, with local offices in Moncton, New Brunswick and in St. John's, Newfoundland and Labrador. As at March 31, 2012, 45 prosecutors and 23 support staff work in the region under the direction of the Chief Federal Prosecutor (CFP), who is assisted by an Associate Chief Federal Prosecutor (ACFP). The ARO is comprised of seven teams: three General Prosecution Teams (which prosecute drug matters) in Halifax, Moncton, and St. John's; an Agent Supervision Unit (ASU) in Halifax; an Organized Crime and Proceeds of Crime Team, with members in Halifax, Moncton, and St. John's; an Economic Crimes Team, with members in Halifax and St. John's; and a Regulatory Prosecutions Team, with members in Halifax, Moncton, and St. John's. In addition to staff prosecutors, PPSC retains the services of 36 legal firms, consisting of 94 lawyers and 16 law students, to work as agents in the region.

2012-13 Atlantic Regional Office Overview¹

Salary (\$)	O&M (\$)	Total (\$)	FTE
5,638,729	535,961	6,174,690	64

Federal prosecutors handle a wide range of drug, organized crime, proceeds of crime, regulatory, and economic crime prosecutions and cover 52 judicial districts throughout the four provinces in the region. Federal prosecutors work closely with investigative agencies, including the Royal Canadian Mounted Police (RCMP), municipal police, federal investigative agencies/departments, and combined forces special enforcement units.

In 2011-2012, the ARO began with 8,370 open cases, and opened an additional 1,964 cases during the year. In total, 4,569 cases were closed during the year, leaving 5,765 cases open at year-end.

The IAD has conducted this audit of the ARO in accordance with the PPSC's 2012-2015 Risk-Based Audit Plan, which was approved by the Director of Public Prosecutions (DPP) on March 20th, 2012.

2.2 OBJECTIVES, SCOPE, AND METHODOLOGY

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

In particular, the scope included:

¹ Public Prosecution Service of Canada's Financial Situation Report as of August 31, 2012.

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

The audit methodology included:

- a review of documentation, guidelines, procedures, policies and relevant legislation to gain an understanding of the ARO, its operations, key processes, and controls;
- interviews with a sample of staff from: PPSC HQ, the region, and the CSP that provide corporate services to the region;
- a review of procedures, guidelines and practices as well as the monitoring and reporting mechanisms in place; and
- a review of a judgemental sample of prosecution case files, human resources files, procurement files and financial transactions from the 2011-2012 and 2012-13 fiscal years.

This audit was planned and conducted between September 2012 and January 2013. On-site work in the ARO began in Halifax the week of October 29th, 2012, followed immediately by one day of field work in each of the Moncton and St. John's offices.

3.0 OBSERVATIONS AND RECOMMENDATIONS

3.1 GOVERNANCE PROCESSES IN THE REGIONAL OFFICE

There are appropriate governance processes in place in the ARO, although there is room for improvement with respect to communication, official languages, and the use of junior prosecutors for low complexity files.

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

The organizational structure in place is well documented and communicated, although recent changes to the team reporting structure are not reflected in the organizational chart. Currently the organizational chart shows the ACFP, general counsel, all team leaders, senior counsel, business coordinator and administrative coordinator all reporting to the CFP. Recently, some team leaders have started substantively reporting to the ACFP.

The ARO relies on staff from the CSP to perform various support functions that are not part of the documented organizational structure, including information technology, finance, and security. PPSC legal support staff are assigned to individual teams, although there are informal arrangements for legal support to assist others as needed, based on availability. The local offices do not have any prosecutors at the LA-01 level although there are a large number of low complexity cases, particularly in Moncton, which are currently handled by prosecutors at the LA-2A level. The PPSC is currently reviewing the organizational structure of the regional offices to ensure alignment of resources and workload.

The region effectively engages with investigative agencies, federal departments, and other stakeholders in the region. A Memorandum of Understanding (MOU) is in place respecting the Integrated Proceeds of Crime Unit in New Brunswick and there is a major/minor agreement in place with the Attorney General of New Brunswick. The ARO management has taken an active lead in building strong relationships with regional stakeholders.

According to interviews, ARO management has been successful in improving communication and transparency, and in demonstrating integrity and ethics in the region by establishing a respectful workplace committee and holding management and respectful workplace workshops. However, ARO management indicated that further ongoing action is needed to continue to foster open communication and transparency.

The Atlantic Region is unique with respect to official languages. The local office in Moncton, located in an officially bilingual province, reports to Halifax, in a predominantly unilingual province. While the team leader in Moncton and the CFP are both bilingual, it is a challenge to offer all services e.g. finance, training, information technology and security, in both official languages. There is a risk that employees may not always be able to communicate in the language of their choice.

Recommendation:

1. *The CFP should ensure that:*

- a. *The organizational structure of each prosecution team is aligned with the complexity of its workload; and*
- b. *Communication with employees is conducted in the language of the employee's choice.*

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

3.2.1 Human resource utilization is effective and adequate

There is a systematic process for assigning files in the region utilizing shared Outlook calendars for scheduling and tracking court commitments.

Timekeeping

The PPSC requires all prosecutors and paralegals to record their time in iCase. The National Timekeeping Protocol (NTP) provides a framework governing timekeeping practices in the PPSC. The audit team expected timekeeping to be in accordance with the NTP.

Time can be separated into two broad categories: non-litigation and litigation. Non-litigation time includes activities such as professional development, training (both provided and received), travel, leave, corporate functions, and policy advice. Litigation time is related to specific files, and includes pre-charge advice, trials, appeals, and fine recovery. Time must be associated with specific files when it is recorded, except when the use of 'catch-all' files is specifically provided. Analysis of timekeeping data from the 2010-2011 fiscal year (FY) showed the ARO had the fourth lowest use of 'catch-all' files in the country. The ARO had the third highest ratio of non-litigation time compared to litigation time.

File 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.

The ARO uses team-based shared Outlook calendars to schedule court assignments and appearances for particular files. This allows individuals to keep track of their commitments and coordinate with their team mates, as well as facilitate team leader supervision. The general prosecution team leader in Halifax assigns prosecutors to courts on a three-month rotating basis; only larger and more complex files are assigned to an individual. In the local offices, files are assigned on more of an individual basis, although prosecutors are still assigned to certain courts. The regulatory team in Halifax assigns files to individuals who have carriage of the file over its lifespan. The audit team found that file/court assignment in the ARO is generally based on experience, availability, prosecutor interest/career development, and workload.

Prosecution Plans

The Federal Prosecution Service *Deskbook* requires prosecution plans for ‘mega-trials’ that address among other requirements, the likely resource demands of the prosecution. A 2006 practice directive dealing with prosecution plans for complex cases also outlines expectations to address resource demands.

Generally, the ARO considers resource requirements in prosecution plans, although additional detail would be beneficial. The audit team requested four prosecution plans related to complex files to determine the level of compliance with the practice directive. Three plans addressed the resource demands of the prosecution by breaking down the resource requirements into distinct phases and tasks, and one prosecution plan identified the need for a senior bilingual prosecutor. No time or level of effort estimates were included in any of the four plans.

Prosecution plans that provide limited detail of resource demands may impact the ability of managers and team leaders to accurately forecast and meet both short-term and longer-term resource requirements, particularly for complex cases in bilingual jurisdictions, due to demand for bilingual prosecutors.

3.2.2 Crown agents are adequately supported and monitored

The Agent Supervision Unit (ASU) is generally operating in-line with the PPSC’s expectations.

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

Interviews with the ASU, the CFP, and management at HQ indicated that the on-going activities of the ASU as well as new initiatives were mostly in-line with the PPSC’s expectations and the ASU was operating effectively. The ASU had recently completed training sessions for all agent firms in each of the regional offices; the Agent Supervisor would like to conduct such training on an annual or semi-annual basis. The ASU has a charge approval system in place for all drug files; for these files the ASU team works directly with the agent, for regulatory files the agent works with an available member of the regulatory team. This process provides an opportunity for the PPSC to provide advice on the file as it moves forward, and address any issues in the file to avoid recurring issues.

The PPSC expects the ASU to visit agent firms every two years to ensure that they are providing quality legal services on behalf of the PPSC and fulfilling the Terms and Conditions of Fixed-Term Agreements of Agents. The agent supervisor visits agent firms as part of the five year fixed term agreement process but not periodically throughout the term. The terms and conditions state

that *agents and staff who have access to agents firm's files pertaining to work for the DPP must have a reliability clearance as a minimum*, although there is no security screening requirement for the firm itself. The agent supervisor in the ARO ensures that an agent's office is secure at the time of signing the fixed-term agreements. The Departmental Security Officer (DSO) is currently reviewing security clearances for all agents.

3.2.3 Prosecution file management

Review and monitoring of files should be strengthened to ensure proper documentation of decisions, accuracy, and currency of complexity.

Case Complexity Ratings

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

The audit team reviewed a judgmental sample of 38 files and found that:

- in 18 of 38 cases (47%), complexity level was indicated in hard copy documents; and
- in 5 of those 18 cases (28%) complexity in iCase matched hard copy documents.

The audit team performed analysis comparing case complexity against the charge(s) laid for files opened or that had time recorded since April 1, 2010, and found that the breakdown of complexity in local offices did not accurately reflect the charges in these cases. This suggests that complexity ratings are not being changed from their default of medium. Interviews also indicated that the importance of assigning, documenting, and updating complexity was not well understood by all staff.

- In the Halifax office, the data generally reflects the national file complexity distribution.
- In the Moncton office, the majority of cases were recorded as medium-complexity files. This is not consistent with the national distribution, nor does it reflect the number of files with a single charge of possession, CDSA, s. 4(1). Files of a routine nature that are generally classified as low complexity.
- In the St. John's office, the percentage of medium-complexity files was notably higher than both the ARO and national averages, although the audit team was not able to determine the cause.

Table 1: ARO iCase Data 2010-2012

Office	Files	Files without multiple charges	Subset of files without multiple charges CDSA, s.4(1) charge	Complexity ²		
				Low	Medium	High
Halifax	3,748	2,966 (79%)	740 (25%)	1,768 (47%)	1,800 (48%)	174 (5%)
Moncton	991	630 (64%)	361 (57%)	8 (1%)	927 (94%)	53 (5%)
St. John's	610	368 (60%)	135 (37%)	106 (17%)	431 (71%)	70 (11%)
Total ARO	5,349	3,964 (74%)	1,236 (31%)	1,882 (34%)	3,158 (60%)	297 (6%)
National				56%	40%	4%

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

Prosecution Decisions

The audit team expected to find clearly documented decisions in each prosecution file reviewed. The *Deskbook* states: *Crown counsel must consider two issues when deciding whether to prosecute. First, is the evidence sufficient to justify the institution or continuation of proceedings? Second, if it is, does the public interest require a prosecution to be pursued?*

The *Deskbook* also encourages prosecutors to include notes about the assessment of the decision to prosecute on the file. The audit team initially addressed this issue during the 2011 Audit of the Ontario Regional Office (ORO). The following approved management response was distributed to all PPSC managers:

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

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

² Percentages do not always add up to 100 due to rounding. Administrative files that do not have an assigned complexity are excluded.

In the audit sample, nine files included prosecutions that resulted in a stay of proceedings by the Crown or a withdrawal of charges. In eight of those nine files (89%), the decision not to prosecute or to stop a prosecution was well documented with a memo in the file. Counsel should continue to be conscious of the need to explain a decision not to prosecute to, for example, the investigative agency.

The audit team reviewed 34 prosecution files ranging from high to low complexity, for which a decision to prosecute was applicable:

- In high-complexity files, the decision to prosecute was documented in 0 of the 2 files reviewed.
- In medium-complexity files, the decision to prosecute was documented in 4 of 24 (17%) files.
- In low-complexity files, the decision was documented in 2 of 8 (25%) files.

The decision to prosecute, particularly in high and medium-complexity cases should be clearly documented and easily accessible. This will help with the efficiency of review by team leaders or senior prosecutors, and facilitate accountability and communication.

Appeal decisions

Chapter 22.4 of the FPS *Deskbook* states that:

In general, the decision to appeal to a provincial or territorial court of appeal should be taken by or on behalf of the Regional Director [CFP], with the advice of the Group Head or a Regional appeals committee. Agents must seek the instructions of the Regional Director [CFP] or the Group Head before filing a notice of appeal.

Crown counsel may sometimes need to file a “protective” notice of appeal before consultations are completed and a final decision is taken about proceeding with the appeal. Protective notices should be the exception, not the rule, since counsel are obliged to bring significant adverse decisions to the attention of their superiors so that appropriate and timely action can be taken. Counsel should ensure that a final decision is made as soon after filing the notice as is reasonably practicable.

Interviews indicated that the decision-making process for appeals was consistently well understood in all offices. For simple matters, the decision is taken by the team lead or senior counsel, and the CFP or ACFP is advised. For more complex or prominent cases, the decision is taken by the CFP after discussion with the regional litigation committee.

The audit reviewed a judgmental sample of six appeal files and found that one decision was made after consulting the ACFP and two decisions were made by a senior counsel or team leader. None of these three decisions were recorded in the regional litigation committee minutes. The ARO provided only a supporting role for the remaining three appeals and was not responsible for the initial decision.

As the ARO evolves, managing appeals and decisions to appeal may become more challenging and could result in inconsistencies throughout the ARO if no formal process is followed.

File Review

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

The audit team found limited evidence of on-going supervisory file review beyond the team leader's initial review at the file assignment, or pre-charge advice stage. Supervisors typically only get involved with files when a specific issue arises, or at the prosecutors request. Team leaders update the CFP or ACFP about significant files, and legal issues for complex files are discussed at the regional litigation committee. In response to the audits of the ORO and the Northwest Territories Regional Office, the ARO ACFP has begun to periodically review a sample of prosecution files.

An on-going review of files is being piloted as a result of the audit of the Ontario Regional Office to determine if it will assist in ensuring greater quality and consistency of prosecutions.

File Organization

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

The audit expected to find that ARO files are organized in a way that meets the PPSC's business requirements and legislative obligations. Specifically, that:

- the records kept are complete, accurate, current, and orderly;
- the risk of limitation dates being missed is minimized;
- the risk of files and or materials getting lost is reduced;
- time spent searching for files and specific materials on the files is reduced;
- the volume of paper on files is reduced; and
- the orientation time when files are transferred between counsel is decreased;

The audit team reviewed a sample of 38 prosecution files and found that overall, files are organized in a logical, consistent manner for small and medium-size files; however, the organization of larger files could be improved. In 13 of 13 (100%) large files where the volume of information was significant, no pocket indexes or table of contents was found. The ARO has recently introduced a colour-coded file system that will be progressively deployed with the aim of improving file organization.

The audit team also reviewed the files for completeness and data accuracy against supporting documents in the prosecution file, and made the following observations:

- Disclosure documents are identified and found on file in 29 out of 38 cases (76%);, but their management, in terms of who received what and when, was clear in only 22 out of 38 cases (58%). This is in part because disclosure was not prepared if it was not requested by a defendant or defense counsel because of an expected plea.

- In 15 out of 38 files (39%), iCase court appearance dates were not supported or did not match the dates in the prosecution file. In nearly all files, iCase was complete but appearance sheets/notes could not be located.
- In 3 out of 38 cases (8%), the charge date in iCase was different than the charge date in the hard copy document.
- In 2 out of 38 cases (5%), the sentencing date in iCase was different from the hard copy document.
- In 4 out of 38 cases (11%), the court date in iCase in which the outcome was made (guilty, not-guilty, stay, withdraw) was different from the date in the hard copy documents.

The PPSC relies on iCase data for its performance management and reporting activities. If iCase data is not accurately recorded and complete, there is a risk that decisions will be made based on incomplete or inaccurate data which may negatively impact the organization.

Active Files with no Timekeeping Activity

The audit expected that files, without a search warrant or fine recovery, be closed within 30 calendar days after the receipt of the final outcome of the matter, or the expiry of any applicable appeal periods. Information about active files is crucial to the PPSC's resource planning, allocation, and for reporting purposes. The audit team analyzed active files with no recent timekeeping activity, excluding search warrants files and fine recovery files, and administrative agent affairs files. Out of a total of 5,627 active files, 485 (9%) have no time keeping activity since September 2011:

- 49 out of 231 active files (21%) for the ASU;
- 334 out of 4,727 active files (7%) for the Halifax office;
- 72 out of 396 active files (18%) for the Moncton office; and
- 30 out of 273 active files (11%) for the St. John's office.

The weaknesses in prosecution file management are primarily a result of little systematic on-going and post-activity file monitoring and review.

Recommendations:

2. *The ARO CFP should develop and implement a procedure to review files on a regular basis to ensure that:*
 - a. *prosecution decisions and decision-making processes are clearly documented in high and medium-complexity prosecution files;*
 - b. *the complexity rating is accurate for all files;*
 - c. *iCase dates (e.g., charge dates, sentencing dates) are accurate and can be supported by hard copy documents where applicable; and*
 - d. *active cases with no time keeping activity are monitored to ensure that completed cases are closed in a timely manner.*

3. *The ARO CFP should review the existing appeal process and consider formalizing it to ensure documentation of appeal decisions and more consistency within the region and across the PPSC.*

3.3 COMPLIANCE OF ADMINISTRATION AND FINANCIAL PRACTICES

3.3.1 Finance and Acquisitions

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

Acquisitions of goods and services

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

Judgemental samples of eleven contracts, five invoices, eighteen acquisition card transactions and ten travel claims were selected for testing. The audit team reviewed all transactions between April and August 2012, over \$200, for which a commitment was expected in the Integrated Financial Management System (IFMS) and five acquisition card monthly statements for the same period. The audit team expected the ARO to comply with applicable legislation and TBS and PPSC policies, directives, and guidelines with respect to finance and acquisitions.

The Chief Financial Officer (CFO) has centralized finance and acquisition services for the ARO to PPSC's Finance and Acquisitions Directorate (FAD) in Ottawa. As of November 2012, the FAD in HQ provided all financial services for the ARO. This allows the PPSC to be in a better position to resolve issues quickly; to ensure compliance with central agency policies; to reduce the risks of losing contractual delegations; to centralize and standardize procedures; reduce the turn around time to issue payments; and to increase the PPSC's corporate knowledge.

The analysis of the samples resulted in the following observations. The first two have been addressed, the subsequent two are affected by the centralization and the last resulted in a recommendation:

- in 5 out of 11 (45.5%) of the contracts reviewed, s.41 of the *Financial Administration Act* (FAA) was performed by a CSP employee with no delegated authority. The CFO previously identified these occurrences and steps were taken to correct the situation as of April 1, 2012;
- in 8 out of 18 (44%) acquisition card transactions reviewed, there was no evidence of s.32 of the FAA. The CFO indicated that by March 31st 2013 an Acquisition Bulletin will be issued on acquisition card procedures. The CFO will communicate with all FAA s.33 officers to ensure that FAA s.32 is accurate for all acquisition card payments;
- 5 out of 10 (50%) travel claims did not use government-approved suppliers. In 2 of the 5 (40%) travel claims, justification was provided for not using an approved government supplier;

- 4 of 5 acquisition card statements were not accurately recorded in the IFMS. In the other case, there were discrepancies between subtotals and tax amounts in the IFMS and the Bank of Montreal statements; and
- 91 out of 242 (38%) applicable transactions between April and September 2012 had no commitment entered in the IFMS. Section 6.3.1 of the PPSC Directive on commitments states that the Responsibility Centre Manager is responsible for ensuring all commitments are recorded, reviewed, and closed in accordance with the directive.

In addition, the following observations were made during interviews:

- the CSP financial/acquisition staff were not informed of certain PPSC directives and guidelines by the CSP HQ and as a result were not applying them, such as the Acquisition Cards Procedure. This will no longer be an issue, due to the centralization of financial management services and
- the CFP monitors the ARO's budget on a regular basis by reviewing the Financial Situation Report as well as the Salary Forecasting Tool. The CFP expressed concern about being accountable for the agents' budget without having full authority over it. The AAU indicated that roles and responsibilities had been clarified as of November 2012.

Ineffective internal controls resulting in non-compliance with legislation (FAA) and TBS/PPSC policies and directives may result in damage to the PPSC's reputation and could result in inappropriate expenditures.

Recommendation:

4. *The CFP should ensure that commitments are entered into the IFMS in accordance with the Directive on commitments.*

3.3.2 Security

Overall, ARO premises are adequately secured [*]

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

The audit team interviewed staff and did a walkthrough of the three offices. Access to the offices is well controlled and the region has an approved business continuity plan (BCP), although it has not been tested or recently updated. Each office is equipped with an alarm/security system and secured with a swipe card system at the entrances. Security requirements for PPSC offices include bullet-proof glass and reinforced mesh wall lining in the lobby/reception of each office. [*]

The Halifax office is the only office in the region with a secure fax machine and working videoconferencing equipment. In the St. John's office, staff go to the RCMP or Canada Revenue Agency office in order to send and receive secure faxes. The Chief Information Officer advised

that secure faxes were expected to be in place in all offices in February 2013. Videoconferencing equipment has been purchased for both local offices, but has yet to be installed due to the transition to Shared Services Canada, which is now responsible for the CSP's telecommunications and network services. The PPSC has been working with Shared Services Canada to obtain a clear commitment for videoconferencing services for the local offices, but has not yet been successful in doing so.

[*] Interviews indicated that the combination dials were challenging to use, and there is a lack of information security awareness, including proper handling of information. [*] The DSO confirmed that no security awareness training had yet been provided to the region by PPSC Security Services, although the CFP noted that security training was provided by the CSP's regional IT manager.

[*]

Recommendations:

5. [*]
6. *The DSO, in consultation with the CFP, should provide a security awareness session for all staff in the three offices.*
7. *The DSO should develop and implement a testing plan for the PPSC's BCPs and, in consultation with the CFPs, should review and update the BCPs on a regular basis to ensure that the information they contain is up-to-date and accurate.*

4.0 CONCLUSION

The IAD assessed the ARO's management framework against pre-determined audit criteria based on TBS policies and directives, PPSC policies, directives, protocols, and procedures / guidelines such as the *Deskbook*, as well as against best practices identified by other government organizations and prosecution services in other jurisdictions and countries. Overall, the ARO's management framework is appropriate, except in the area of monitoring which must be strengthened to achieve compliance with the relevant policies and directives. In addition, there are opportunities for improvement that would enable the ARO and the PPSC to operate more effectively and efficiently.

The Management Action Plan is located in section 5.0 of the report. In six to twelve months, the Chief Audit Executive will follow-up with those responsible to determine the extent to which the Management Action Plan has been implemented.

5.0 MANAGEMENT ACTION PLAN

Governance and Organizational Structure	
<p>Risk: Low</p> <p>OPI: CFP</p> <p>Target Date: a) July 2013 b) June 2013</p>	<p><i>1. The CFP should ensure that:</i></p> <p style="margin-left: 20px;"><i>a) The organizational structure of each prosecution team is aligned with the complexity of its workload; and</i></p> <p style="margin-left: 20px;"><i>b) Communication with employees is conducted in the language of the employee's choice</i></p> <p>Management Response:</p> <p>a) We presently have two LA-1 indeterminate positions in the ARO. The CFP is in the process of using some funds from the MMP initiative to create another LA-1 position in the ARO. This position will be created and filled within the next 3 months.</p> <p>b) We will encourage employees to seek training opportunities in the language of their choice. The ARO PPSC will continue to communicate with employees in the language of their choice. As an example of our efforts to build capacity in both official languages, the relatively recent creation of the ACFP position included a BBB/BBB language profile [*]. An EC-02 position, with a BBB/BBB language profile, has recently been created. We are also working towards having more written communication in both official languages. Such communication has already commenced and we will institute guidelines in this regard.</p> <p>Some of our services (i.e. corporate services) are provided from outside of the PPSC and most employees providing these services are unilingual Anglophones who reside in Halifax. Recent announcements that some of these services will be centralized within PPSC should assist us in the provision of services in both official languages.</p>

Prosecution File Management	
<p>Risk: Medium OPI: CFP</p>	<p>2. <i>The ARO CFP should develop and implement a procedure to review files on a regular basis to ensure that:</i></p> <ul style="list-style-type: none"> <i>a) prosecution decisions and decision-making processes are clearly documented in high and medium-complexity prosecution files;</i> <i>b) the complexity rating is accurate for all files;</i> <i>c) iCase dates (e.g., charge dates, sentencing dates) are accurate and can be supported by hard copy documents where applicable; and</i> <i>d) active cases with no time keeping activity are monitored to ensure that completed cases are closed in a timely manner.</i>
<p>Target Date: June 2013</p>	<p>Management Response:</p> <p>We agree with these recommendations and will continue to implement procedures (we are presently conducting quarterly reviews of files by way of spot-check to ensure documentation of decision making is complete) to review files on a regular basis:</p> <ul style="list-style-type: none"> a. As of July 2012, we implemented a disposition form to ensure counsel are recording reasons for disposition of lower complexity prosecutions. We will remind prosecutors that prosecution decisions are required to be documented on higher complexity files. As of July 2012, we implemented quarterly random spot-checks to ensure we are documenting the course of a prosecution in a uniform and detailed fashion. We will continue these spot-checks quarterly. b. We will remind staff that complexity ratings must be accurate and consistent, both in the files and in iCase, and we will use our quarterly spot-checks to ensure this is being done; c. We will remind staff of this requirement and conduct quarterly reviews; d. We are monitoring cases with no time keeping activity more closely and will continue to do so on a quarterly basis.

<p>Risk: Low</p> <p>OPI: CFP</p> <p>Target Date: April 2013</p>	<p>3. <i>The ARO CFP should review the existing appeal process and consider formalizing it to ensure documentation of appeal decisions and more consistency within the region and across the PPSC.</i></p> <p>Management Response: Through our Regional Litigation Committee, we will ensure proper documentation of appeal decisions</p>
<p>Finance</p>	
<p>Risk: Medium</p> <p>OPI: CFP</p> <p>Target Date: June 2013</p>	<p>4. <i>The CFP should ensure that commitments are entered into the IFMS in accordance with the Directive on commitments.</i></p> <p>Management Response: We will take steps, such as having our business coordinator oversee the assignment of responsibilities, to ensure compliance with the Directive. With recent changes to corporate services resulting in this work now being done in-house, we will be able to exercise much tighter internal controls. Subsequent to these recent changes, the Finance and Acquisitions Directorate visited the region to provide financial training. In addition, the Finance and Acquisitions committee has approved a new position at the CR-05 level to provide additional support with respect to finance. The FAD will publish an acquisition card bulletin reminding cardholder to enter their commitments into the IFMS.</p>

Security	
<p>Risk: High</p> <p>OPI: DSO/CFP</p> <p>Target Date: March 2014</p>	<p>5. [*]</p> <p>Management Response: [*]</p> <p>.</p> <p>[*]</p>
<p>Risk: Medium</p> <p>OPI: DSO/CFP</p> <p>Target Date: December 31, 2013</p>	<p>6. <i>The DSO, in consultation with the CFP, should provide a security awareness session for all staff in the three offices.</i></p> <p>Management Response: Agree.</p> <p>Security Services Section will deliver in-person security awareness sessions during the course of FY 2013-2014.</p> <p>In addition to this response, the following points are included:</p> <ul style="list-style-type: none"> • Secure briefcases were provided to the Halifax regional office in 2010 for use by regional staff. • The NL and NB satellite offices were fit-up and renovated. As part of this work, each location has secure spaces and cabinets to store sensitive information.
<p>Risk: Low</p> <p>OPI: DSO</p> <p>Target Date: September 2013</p>	<p>7. <i>The DSO should develop and implement a testing plan for the PPSC's BCPs and, in consultation with the CFPs, should review and update the BCPs on a regular basis to ensure that the information they contain is up-to-date and accurate.</i></p> <p>Management Response:</p> <p>With regards to testing, the ARO (St-John's and Moncton) has had opportunities to partially activate their BCPs in reaction to weather-related or emergency situations and to assess their effectiveness. Post-incident reviews highlighted areas for improvements to ensure a better response. Updates to contact lists are coordinated systematically every quarter.</p> <p>The Security Section is faced with capacity issues in the area of business continuity, pending completion of a staffing process. A maintenance and testing cycle will be formally established once a full time resource is in place. The staffing action is expected to be completed in the first quarter of FY 2013-2014.</p>

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

[Federal Prosecution Service Deskbook](#)

[Financial Administration Act](#)

[Government Contracts Regulations](#)

[TBS Directive on Account Verification](#)

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

[TBS Contracting Policy](#)

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

[TBS Policy on Information Management](#)

[TBS Policy on Government Security](#)

APPENDIX B: AUDIT CRITERIA

Criteria		Management Accountability Framework (MAF) Element
1.1	Organizational structure, lines of communication, and values and ethics in the region are communicated and implemented.	Governance G-1, G-2 Public Service Values PSV-1, PSV-8
1.2	The Region engages positively and effectively with its investigative agencies, federal departments, and other stakeholders.	Governance G-5, G-8 Citizen-Focused Service CFS-2
1.3	Performance measurement framework is in place using a mix of quantitative and qualitative indicators.	Results and Performance RP-2 RP-3 Stewardship ST-16
2.1	Human resource utilization is effective and adequate.	Results and Performance RP-2, RP-3 Stewardship ST-16
2.2	Crown agents are adequately supported and monitored.	Citizen-Focused Service CFS-3 Stewardship ST-15, ST-16
2.3	Prosecution decisions are documented.	Accountability AC-1, AC-2
3.1	Financial systems, controls, and practices are in line with the <i>Financial Administration Act</i> (FAA), Treasury Board, and the PPSC's policies.	Stewardship ST-18, ST-15, ST-4, ST-13
3.2	Security practices are in line with the Treasury Board of Canada Secretariat Policy on Government Security.	Stewardship ST-9, ST-12
3.3	Prosecution operations records are accessible, organized, timely, reliable and comprehensive.	Risk Management RM-2 Stewardship ST-12, ST-19