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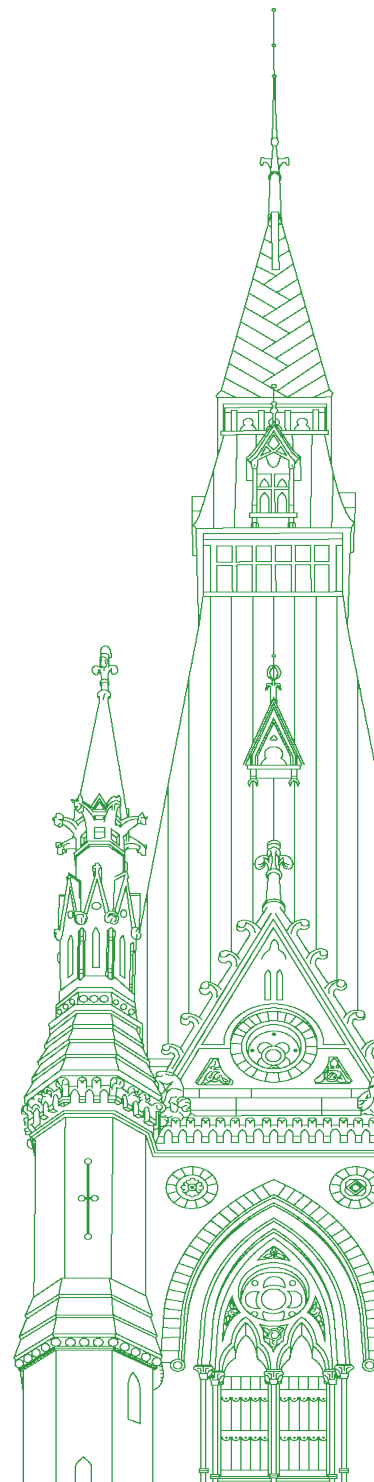
Standing Committee on Access to Information, Privacy and Ethics

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Chair: Mr. Pat Kelly



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• (1630)

[Translation]

The Chair (Mr. Pat Kelly (Calgary Rocky Ridge, CPC)): I call this meeting to order.

Welcome to the 21st meeting of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

[English]

Pursuant to Standing Order 108(3)(h) and the motion adopted by the committee on Monday, December 13, 2021, the committee will be studying the main estimates and hearing from today's witness, Monsieur Mario Dion, Ethics Commissioner.

Today's meeting is taking place in a hybrid format pursuant to the House order of November 25, 2021.

Today, with Commissioner Dion, we also have Sandy Tremblay, director of corporate management.

Mr. Dion, you have up to five minutes for an opening statement.

[Translation]

Mr. Mario Dion (Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner): Mr. Chair, thank you for inviting me to appear before you today as the committee considers the 2022-2023 main estimates for the Office of the Conflict of Interest and Ethics Commissioner.

To begin, I will share some brief background information about the office for those of you whom I have not previously met in my four years as Commissioner.

Our main goal is to help regulatees, namely public office holders and members of the House of Commons, know and follow the rules of the two regimes the office administers: the Conflict of Interest Act and the Conflict of Interest Code for Members of the House of Commons.

[English]

We fulfill this mandate through our experienced staff. There are slightly more than 50 people who work for the office, and our budget is devoted mostly to paying their salaries. In fact, 82% of the budget goes towards salaries.

You were likely in communication with an adviser from the office, as all the members who completed their initial compliance process were in contact with an adviser from the office.

In addition to advisory services, which are the most visible part of what we do, all of the work of the office supports regulatees, directly and indirectly, and builds an understanding of the rules.

Employees provide communications, outreach support and investigative services when allegations of possible issues are made, and they also provide legal expertise to me in conducting all these activities. They maintain the technical and financial framework for the office's operations and assist me directly. Nearly 70% of the budget is dedicated to program-related functions.

It was a busy year in 2021-22. The advisers' workloads increased by 43% in this fiscal year over the previous one. This is a natural outcome following an election, of course. It requires additional work under both regimes, such as completing the initial compliance process for all MPs, newly elected or re-elected, and for new ministers, new parliamentary secretaries as well as new ministerial staff. As you know, there is a significant turnover of ministerial staff after an election.

Prevention is the major focus of the regimes that the office administers, and education is key to prevention.

In the past fiscal year, for the first year ever, we surveyed public office holders to help us better understand their needs. The response rate was high and yielded positive responses. The analysis is nearly complete, and we will not only use the results to better align our business approaches, but we will ensure it's made public to support transparency in our work. We plan to conduct a similar survey of members of Parliament, this time under the code, in this fiscal year.

I believe that the vast majority of regulatees are honest people who want to follow the rules. My role and the role of my office is to provide what is needed to achieve and maintain compliance. I believe regulatees are accountable for their own compliance with the rules and must develop a reflex to act ethically and educate themselves in order to ensure compliance. The office will continue to strengthen its focus on education and outreach in support of this.

We have maintained our primary focus on assisting, advising and directing regulatees as well as monitoring their actions.

In the main estimates, you will see that there is an increase over the previous year of \$473,000, mostly devoted to the payment of pay increases—economic increases to employees—as well as benefit plans, from the adjustment of the rate as determined by the Treasury Board.

It is also to prepare training and communications materials for our new case management system, which will come online during this fiscal year. We need to prepare both staff and users for this new system that will be introduced.

Therefore, it's benefits, salaries and making sure that people understand the new system before its deployed. The last area is to ensure that we comply with the new requirements under Bill C-81 on accessibility.

• (1635)

[Translation]

The office is already taking steps to improve the accessibility of documents used on social media and in presentations. Accessibility is not just required, it is key to meeting the needs of regulatees and the public.

I hope the committee will find this information helpful.

I'd be pleased to answer your questions.

[English]

The Chair: Thank you, Mr. Dion.

For the first questions, we will have Mr. Bezan.

Mr. James Bezan (Selkirk—Interlake—Eastman, CPC): Thank you, Mr. Chair.

Thank you, Commissioner Dion, for joining us today.

Are you familiar with section 49 of the Conflict of Interest Act?

Mr. Mario Dion: With regard to section 49, I will open my statute. I'm sure I'm familiar with 49—I think I know what it is—but I always open the statute. It's the provision that requires me to suspend an examination when one has been started, if I believe on reasonable grounds that the public office holder has committed an offence under an act of Parliament in respect of the same subject matter.

Mr. James Bezan: Have you ever had to suspend an investigation because you thought there was a contravention of an act, including the Criminal Code?

Mr. Mario Dion: Yes, I have, on one occasion, and my predecessor did so as well on two occasions. It has been applied in practice since the act was adopted.

Mr. James Bezan: Are you familiar with paragraph 121(1)(c) of the Criminal Code, Mr. Dion?

Mr. Mario Dion: I am less so, but of course I am somewhat familiar with it. At the Department of Justice I was responsible for providing the permission provided for in paragraph 121(1)(c) of the Criminal Code.

Mr. James Bezan: There's been—

Mr. Mario Dion: I don't have the Criminal Code with me, however, so I cannot read it.

Mr. James Bezan: Okay. I do have paragraph 121(1)(c) here, and I will read it. It says:

being an official or employee of the government, directly or indirectly demands, accepts or offers or agrees to accept from a person who has dealings with the government a commission, reward, advantage or benefit of any kind for them-

selves or another person, unless they have the consent in writing of the head of the branch of government that employs them or of which they are an official;

I'm sure you're aware, Mr. Dion, of the stories that are out now, of the criminal brief from the RCMP on the first “Trudeau Report” of 2017, in which the RCMP had considered a charge of fraud against the government under paragraph 121(1)(c) of the Criminal Code.

In an interview given by your predecessor, Ms. Dawson said that no one made that connection for her with criminal authorities on that investigation.

In light of the new information, do you think that first report, “The Trudeau Report”, should have been suspended and turned over to the RCMP?

Mr. Mario Dion: With the benefit of hindsight, of course, anything is possible.

I don't have a view because I don't have detailed knowledge of what was available to Ms. Dawson when she conducted the investigation back in 2017, so all I have is what I read in the media. I'm sorry.

Mr. James Bezan: Based on the stories that are out there and based on the RCMP criminal brief that was gotten through access to information, it was quite clear that the RCMP defers to the Office of the Ethics Commissioner to make those section 49 references to them.

Do you believe that, since we don't have a statute of limitations in Canada, we should making that referral to the RCMP at this point in time?

• (1640)

Mr. Mario Dion: The investigation was concluded three years ago, and I don't believe.... It was five years ago, I should have said, or four and a half years ago. The investigation is over, and I don't believe I have any jurisdiction to reopen any investigation.

Mr. James Bezan: As you are aware, new evidence has now been presented. If you look at the decision tree used in the RCMP's matrix, under paragraph 121(1)(c), they made the decision not to charge the Prime Minister because they did not know if he had the authorization from the head of government or the head of his department to accept the gift, the very luxurious vacation package.

Now we know, from the Prime Minister's own admission in question period, that he did not give himself permission. Do you believe, with your legal background and your time spent at the Department of Justice, that this new evidence would show that there was a potential fraud against the government?

Mr. Mario Dion: It's for the RCMP to determine whether they wish to institute proceedings, and I will be watching with interest what they decide to do.

Mr. James Bezan: When you as commissioner look at the responsibilities under section 49, if you came across any information or evidence, you wouldn't hesitate to turn that over to the RCMP and suspend your investigation.

Mr. Mario Dion: I wouldn't. I have in the past. I will in the future whenever I have the necessary facts in order to do so. It is a mandatory provision, so it's not a choice that the commissioner has. The commissioner has an obligation to refer it to the police force that has jurisdiction, so we are watchful for that in conducting our own investigations. We always have that in the back of our minds.

Mr. James Bezan: Thank you.

The Chair: Thank you.

We'll now go to Ms. Hepfner.

Ms. Lisa Hepfner (Hamilton Mountain, Lib.): Thank you very much, Mr. Chair.

[Translation]

Mr. Dion, thank you for appearing before us today. It's a pleasure to have you here.

[English]

I'd like to start by asking you about your appearance before the PROC committee in February. You said you believe the conflict of interest code is functioning well, overall.

I'm hoping you can describe that comment and the motivation behind it. Why do you feel that way about the code?

Mr. Mario Dion: When you read our annual report, which will be tabled next month, you will see that we've conducted, I think, 600 different transactions with members of Parliament who had obligations under the code. We provided them with advice. We come across a few situations, from time to time, where the code is not as clear as we wish it were, but, by and large—99% of the time—we are in a position to apply the code and feel confident that we're able to do that.

That's why I described the code as working well. Of course, anything can always be improved and everything is evolutive. The requirements will continue to evolve, but for the time being, the code is perfectly functional as far as I'm concerned.

Ms. Lisa Hepfner: Thank you for that.

We're here today to talk about estimates and the budget. I note that, since 2015, your office's budget has increased by a fifth. I think you mentioned that 82% of your budget goes toward salaries, and that expense really went up over the course of the past year or so.

I'm wondering whether finances are any sort of obstacle to you in fulfilling your mandate—whether you have enough money to do the work before you.

Mr. Mario Dion: The way the mandate is structured.... I am quite fortunate, because the Parliament of Canada Act says that, each year, I shall estimate what's necessary in order to carry out the mandate and send the Speaker my requirements. I am in a very privileged position. We've never had any difficulty carrying out our mandate with the resources we have, because we've asked for increases, from time to time, when they were necessary, as is the case this fiscal year.

We have enough. We've had enough, and we will, I believe, continue to have enough.

• (1645)

Ms. Lisa Hepfner: That's very good to hear. Thank you, sir.

Can you describe the process of how you launch an investigation? I think there are different ways they can be started. Can you go over the process and how those decisions are made?

Mr. Mario Dion: We have a very good description on our website, which I would recommend. Anybody who has an interest should have a look at it, but it's grosso modo, essentially.

It can come from two sources. A member of Parliament makes a complaint, under the code, concerning the conduct of the colleague member of Parliament, or a member of Parliament or senator makes a complaint under the Conflict of Interest Act in relation to the conduct of the public office holder. That's the first source: A parliamentarian makes a complaint.

The second source is the commissioner being aware of something on his own volition, because the commissioner saw something on Twitter, in The Globe and Mail or elsewhere. We do some proactive monitoring of the web to see whether there's anything of interest in relation to MPs and public office holders. That's the second way.

In either of these two situations, the commissioner can only launch an investigation if he has grounds to believe that a contravention has occurred. It's not a fishing expedition or a witch hunt. There must be grounds akin to those required for the police to conduct certain types of powers they have under the code and so on.

If I have grounds to believe, we notify the person against whom the allegation is made and ask them to provide us with all the relevant material, evidence, and so on and so forth. We invariably have an interview with the alleged perpetrator—let's refer to him or her that way. We also interview other relevant witnesses. Usually, in an investigation, we have more than one witness. We have several witnesses. We try to conduct our investigations within a maximum period of one year, barring a very exceptional situation, and we table a report.

That's how it goes. I hope this answers the question.

Ms. Lisa Hepfner: Thank you very much.

I'm wondering how many investigations you have ongoing right now and whether you have concerns about vexatious or malicious claims, given that sometimes the sources are opposition members in Parliament.

Is there a consideration of that? Do you take that into consideration when a question is launched?

Mr. Mario Dion: Yes, I do, because I'm required to determine whether it's vexatious or frivolous both under the code and the act. This is a step in the process.

It hasn't been a problem. Last year, as you will see in our annual report, we had 58 situations that we had to analyze. There wasn't a single one that I would call vexatious or frivolous.

Ms. Lisa Hepfner: Very good.

Am I out of time?

The Chair: Yes. Thank you.

With that, we now go to Mr. Villemure for six minutes.

[Translation]

Mr. René Villemure (Trois-Rivières, BQ): Thank you very much, Mr. Chair.

Mr. Dion, thank you for being with us today.

First off, I'd like to thank you for the clarity of your answers. I have followed your career for years and really appreciate your work.

Mr. Mario Dion: Thank you.

Mr. René Villemure: You indicated your team was not short-staffed. In other words, there's no labour shortage in your office.

In general, what kind of educational background do you seek, when hiring?

Mr. Mario Dion: About three-quarters of our employees were there when I arrived. Since I've taken office very few have left, only 14 out of 50.

I have never really looked into the educational background of our employees. Many have university degrees, in law, administration, communications, journalism and political science. The advisors and lawyers who work in my office have law degrees, of course. It varies a great deal. Most have a university education, but not everyone has the same training. Aside from some advisors who have knowledge of this particular area, there is no specialized ethics training per se.

Mr. René Villemure: Yes, I know about this first hand.

Mr. Mario Dion: The head of our team of advisors has specific training. I'm giving you an off-the-cuff answer as I don't have my office staff's educational profiles with me.

● (1650)

Mr. René Villemure: Okay, thank you.

Let's talk about continuing education. Your turnover is low, which is a very good thing. What type of training do your staff do to ensure service quality?

Mr. Mario Dion: We keep a close eye on training provided by the Canada School of Public Service. Even though we're an independent organization, we still benefit from the training provided by the school. Some programs apply to us.

Also, people have and are still being granted study leave to complete a graduate degree, at Université de Montréal or elsewhere.

There is the Council on Governmental Ethics Laws (COGEL), with which you may be familiar, Mr. Villemure. It's a mostly North American association of people who work in parliamentary ethics. A representative of the organizational committee will be attending the COGEL conference this year. A lot of staff are attending the conference, now virtually. The conferences feature excellent study groups that look at all sorts of topical issues.

Mr. René Villemure: Would you say that your staff's training and activities are more focused on compliance and compliance assurance?

Mr. Mario Dion: Yes. I have noticed that.

First of all, there are the compliance mechanisms in the conflict of interest code for members and the Conflict of Interest Act. That's probably what you meant by compliance.

Mr. René Villemure: Yes.

Mr. Mario Dion: Then there are the substantive issues, which have to do with whether or not there's a conflict of interest.

A great deal of emphasis is placed on the mechanics and that creates a significant workload. When we're consulted on substantive issues, I'm often personally called upon to address them. Whenever someone considered important is involved, I have to look at the job profile. You will learn that we're consulted hundreds of times a year on substantive issues.

Mr. René Villemure: We often hear about the mechanical aspect of compliance. You're well known for that.

Can you tell us about the type of substantive issues you focus on?

Mr. Mario Dion: The question of recusal comes to mind. We're consulted on whether or not someone should recuse themselves and we provide advice in that area. Section 21 of the act requires recusal in certain situations and the code has similar provisions. It's an important issue.

Furthermore, quite often we're presented with conflict of interest issues relating to spouses. For example, these issues may involve the duties of a minister and the professional or business activities of their spouse. That is why we create filters. Section 29 of the act is intended to prevent situations where it appears the likelihood of conflict of interest is quite high. That's a second example.

Filters are a preventive measure to avoid recusal. The duty to recuse oneself still exists, but the goal is to not get the opportunity to recuse oneself because one is not confronted with the issue.

Most of the provisions aren't very easily enforceable. Of course, we know why people come to us. We read the newspapers and we hear what's going on in the House of Commons. We follow what's going on in the House of Commons very closely, as well as at committee meetings and on the web in general. That's what we do. As I told you, generally, I come into the process when someone in an important position is involved.

Mr. René Villemure: Okay.

Beyond compliance, beyond literal enforcement of the code, I guess you have to have an ethical view of the culture, of our positions.

Do you also work upstream with respect to culture? Or do you only work downstream instead when you are consulted?

Mr. Mario Dion: Personally, I don't feel members spend enough time on education, on the training that we try to provide.

I was again very disappointed with the turnout at two events recently hosted by the Library of Parliament. I don't know why the turnout is so low. I assume, of course, that MPs are busy people, but I believe that if they spent a few hours a year on prevention, on gaining a better understanding of rules that are often complex for people who don't know them, it would be time well spent. Right now, the attendance rate is dismal.

Mr. René Villemure: Do you think it would be a good idea to make ethics training mandatory?

• (1655)

[English]

The Chair: I'm sorry, but your time is up, Monsieur Villemure. We were actually a bit over there.

We will have to move on to Mr. Green.

[Translation]

Mr. René Villemure: We'll come back to it.

[English]

The Chair: Please, Mr. Green, go ahead for six minutes.

Mr. Matthew Green (Hamilton Centre, NDP): I'm happy to pick up where my good friend René left off.

Mr. Dion, do you believe that mandatory training—annual, semi-annual training—for MPs would help improve clarity around the code of conduct?

Mr. Mario Dion: I am absolutely convinced. We're talking about two hours a year, or something of that nature, on the most relevant issues—relevant, as in we see the prevalence of what the issues are.

Now we have the technology that makes it so you don't have to actually go anywhere. You can also watch after the fact. You can participate. It's easy. I have recommended in my report to PROC six recommendations, and one of them has to do with mandatory training.

Mr. Matthew Green: It sure does.

Mr. Dion, you mentioned that the code of conduct, as it is, is functional.

Given that we're here with estimates, I'm wondering, in your contemplation of your budget, when you're doing policy background and briefings with your staff, are you looking around the world to see who has the most robust programs, looking for ways to continually improve upon the code and the adherence to the code?

Mr. Mario Dion: Yes. We have a couple of officers who devote a large portion of their time to keeping abreast of what goes on internationally. We also belong to a new network of parliamentary ethics officers in la Francophonie. The countries of la Francophonie formed a new network three years ago, and we're a very active participant in that as well.

Mr. Matthew Green: What I'm trying to bring to this committee is a higher standard of transparency and accountability.

I'll share with you my opinion, Mr. Dion. While it might be true that there is functional adherence to this, when we get caught around substantive scandals of Parliament, there seems to be a pattern of the code, in the conduct and the consequences being quite different from what the general public's expectation is in terms of the standard to which we operate with professionalism in the House. I think that leads to the level of cynicism and this idea around having political impunity around a lot of issues.

When you're looking around the world for comparative examples of policy improvements, which countries would you point to that would have the most robust, transparent, highest gold standards of codes of conduct, and what do some of those consequences look like?

Mr. Mario Dion: A few come to mind, but Britain has recently looked at the reform of the rules governing the conduct of MPs. Very recently—last year—I was called as a witness to explain the Canadian regime to Lord.... I forget his name, but he was in charge of the review.

France has also created recently a new authority.

[Translation]

It's called the Haute Autorité pour la transparence de la vie publique.

[English]

There, the rules are quite harsh, basically. Their consequences are quite harsh when somebody violates the rules, both on the MP side and on the side of senior officials as well.

I have heard as well that there are some regimes in Scandinavia that are interesting—

Mr. Matthew Green: There's always the story about the Icelandic people who put people in jail when their government collapsed. There seemed to be some real consequences.

Given these examples and the recommendations you provided and the budget that's before us in terms of the estimates, if you had a magic wand or a blank cheque and the ability to have global leading standards in ethics, in adherence to ethics and to the code of conduct, in lobbying, and so on and so forth, what recommendations would you make to this committee to contemplate in terms of strengthening our legislation here?

Mr. Mario Dion: It's up to the House to determine what it wants in terms of rules. The House could make a decision through the committee, for instance—your committee—to do a review of the code of conduct. PROC is doing one. I don't know what will come out of the review by PROC, but it's up to the House of Commons. It's also up to the government—

Mr. Matthew Green: Let me ask you this. I'm an MP. I'm in the House of Commons, I'm in the ethics committee and I'm asking you for a specificity. What recommendations would you provide to create the gold standard of a code of conduct to ensure that the gap between the perception of a conflict of interest and the actual legislation is bridged in such a way that the general public doesn't continue to have this viewpoint that we have impunity as a class?

• (1700)

Mr. Mario Dion: It's obviously something that I would not try to answer on the fly like this. It's very serious—

Mr. Matthew Green: Would you consider perhaps providing it in writing?

Mr. Mario Dion: I would be happy to study the issue and come back within a few months with some suggestions, yes.

Mr. Matthew Green: Thank you.

Those are my questions.

The Chair: Thank you, Mr. Green.

With that, we go to five-minute rounds.

Go ahead, Mr. Bezan.

Mr. James Bezan: Thank you, Mr. Chair.

Mr. Dion, in the estimates, you have \$5.6 million budgeted for “Administration and Interpretation of the Conflict of Interest Act and the Conflict of Interest Code for Members of the House of Commons”. Knowing that you need to be looking at other pieces of federal legislation such as the Criminal Code under section 49 of the Conflict of Interest Act, do you have on staff anyone who has a particular lens on violations that are happening under other pieces of legislation when you are undertaking your investigations?

Mr. Mario Dion: We have three excellent lawyers who have given me advice from time to time on the Criminal Code and who, if required, would consult some experts as well in criminal law matters. I do have the professional resources that are required to keep in mind continuously the Criminal Code aspects of what we do.

Mr. James Bezan: How would you explain paragraph 65 from the RCMP criminal brief on the investigation of fraud against the government by Prime Minister Trudeau when they say:

While the RCMP are not bound by Commissioner Dawson's interpretation that Mr. Trudeau's actions were not criminal in nature, given Commissioner Dawson's legal background—and her long tenure as Ethics Commissioner—her opinion should be given some deference.

When she was interviewed by The Globe and Mail, she said, “Nothing alerted me at the time to the fact that there would be a potential criminal charge,” and “I wasn't aware of a specific provision in the criminal law that would apply to that.”

Is that a failure of the Office of the Ethics Commissioner for not giving a red flag that there was a potential fraud under the Criminal Code in paragraph 121(1)(c)?

Mr. Mario Dion: Mr. Chair, I believe I've already answered this question, referring to the benefit of hindsight. Of course, I do not have a view, and if I had one, I would not share it, as to whether this is a failure or not a failure.

Mr. James Bezan: You mentioned that there have been a couple of occasions since you've been commissioner that you've had to refer different investigations over to authorities. Would that be over to the RCMP or to a different agency?

Mr. Mario Dion: It always goes over to the RCMP. There is a directive that makes it mandatory to go through the RCMP, so it's always through the RCMP. I've done it on one occasion. It was on

the Grewal matter, which you might recall from three or four years ago. The charges are still pending before the courts.

Mr. James Bezan: Will you follow up on the other case that you referred to? If the RCMP determines that there's no criminal charge, would you reinstate your investigation as to a violation under the code?

Mr. Mario Dion: I would reassess whether I should terminate the suspension and resume the investigation, or if the matter has become moot, depending on the facts of the case.

There was a case a few years ago involving Mr. Carson, who was a special adviser, I think, to the government back in the first part of the 2000s. It was suspended and we decided not to reactivate it, considering the facts of the case. We published a report to inform the House of our decision not to reopen the investigation.

Mr. James Bezan: Do you believe that anyone, including public office holders, is above the law?

Mr. Mario Dion: No, I don't. Not at all. I believe everybody is.... The rule of law is one of the cardinal foundations of our democracy.

Mr. James Bezan: Do you agree then that the Prime Minister is not above the law and he should not be allowed to act with impunity?

Mr. Mario Dion: Nobody is above the law.

Mr. James Bezan: How do you feel about the statement by the RCMP in their criminal brief that they took into consideration public interest, as it would undermine the integrity of democratic institutions? That's one of the reasons they never charged the Prime Minister.

Mr. Mario Dion: As a citizen, I would respect their judgment, because I'm not familiar with all the facts of the case. It's their job, as well, to establish these things and to go through a checklist of sorts. If that's their conclusion, I have no reason to believe that it was inappropriate.

• (1705)

Mr. James Bezan: If you look at the decision tree that the RCMP used as they went down the matrix, now that we know that the Prime Minister did not give himself authority to accept a gift, ultimately, it should have led to a fraud charge. They deferred first to the Ethics Commissioner's report, seeing that they thought that the Ethics Commissioner would have referred to them the details of the report if they thought something was criminal.

Now we know that Mary Dawson wasn't even aware of paragraph 121(1)(c) of fraud against the government.

I ask, as you dig into or you look at this, doesn't it appear that the Prime Minister is above the law if it should have led to a charge and it didn't?

The Chair: Mr. Dion, go ahead.

Mr. Mario Dion: I'm afraid I don't have anything more to say about that.

The Chair: With that, it is now time for Ms. Saks. You have up to five minutes.

Ms. Ya'ara Saks (York Centre, Lib.): Thank you, Mr. Chair.

I'd like to thank Monsieur Dion for joining us here today.

This committee has spent considerable time going over the issues that were mentioned. They've been thoroughly aired and, as you mentioned previously, they're closed.

For the sake of understanding process, can you describe how your office maintains the division between your mandate and criminal investigations, and why that is so important to what we do here?

Mr. Mario Dion: It's more than a division. It's an absolute. We have no.... Section 49 is the bridge between our office and criminal prosecutions. Other than section 49, I play no role whatsoever in the criminal process.

I refer the matter to the local authorities, or I cease and desist whenever I learn or I'm told by a local authority that they are investigating. There is not much by way of traffic between law enforcement and my office.

Ms. Ya'ara Saks: Thank you for that clarification. It's really important for all of us to understand that process.

Previously, you mentioned one of the six changes to the conflict of interest code for MPs. Perhaps you'd like to go through the other five and explain which is the most urgent and why.

Mr. Mario Dion: I would start by saying that nothing is really urgent. I had six concrete suggestions to make to continue to go forward in a certain direction.

The first one was that we should, like we have in the Conflict of Interest Act, include friends in the circle of people who MPs are the closest to when it comes to conflict of interest issues. Currently, only the small nuclear family is to be treated specially in the code. Friends have been in the Conflict of Interest Act since 2006, and I suggested that the House would maybe want to consider the inclusion of friends as well—as close associates, if you wish.

The second one was on outside activities. There is a section in the code that allows MPs to have professional activities outside of their role as an MP. In fact, it clearly authorizes it. Nothing in the code prevents members from doing that. I've suggested that maybe we should look at having some kind of an analysis to make sure that this does not lead to a situation where a conflict of interest could arise. Section 7 is very general in its terms as it is, and maybe it should be looked at.

The third one was a suggestion that in the area of gifts, we should not waste too much time looking at any gift valued at less than \$30. I don't think that anybody in 2022 would believe that an MP can be swayed with a gift worth \$29.99. We spend some time looking at those things, not only at my office but in MPs' offices as well, and didn't think it's a useful, worthwhile time.

Sponsored travel is a fact of life. Before the pandemic, there were 80 trips or so on an annual basis involving MPs and sometimes their spouses. The test applicable to gifts is not applicable to sponsored travel, and it escapes me why it's okay if it's a trip and it would not be okay if it were something else. Some of these trips are quite expensive.

The fifth one was giving me more authority to issue some general guidelines to assist MPs in interpreting the code. As things are now, I need the formal approval of PROC before expressing any view of a general nature in writing. I would like to seek more authority, with a review after the fact, as opposed to a review prior to issuance. It has the potential of taking many months before I can actually send out a message of a general nature to MPs.

I'm sorry for the length of the answer.

The last one, of course, was on mandatory training for MPs. There are six altogether, plus nine technical suggestions—very technical ones.

• (1710)

Ms. Ya'ara Saks: Thank you very much.

Mr. Chair, how much time do I have?

The Chair: You have about 25 seconds.

Ms. Ya'ara Saks: Okay. I'll ask one very quick question.

How do Canada's rules compare with other western democracies? Are we up there, down there? Are we on par?

Mr. Mario Dion: I have not done a really concrete serious analysis, so I'm afraid I cannot answer that. Because I was too busy in my first years of involvement in the commissioner's office making what exists in Canada work, I have not spent much time doing comparative analysis.

Ms. Ya'ara Saks: Thank you.

[Translation]

The Chair: Now we go to Mr. Villemure.

Mr. Villemure, you have the floor for two and a half minutes.

Mr. René Villemure: Thank you very much.

I want to tell the Commissioner that the Organisation for Economic Co-operation and Development (OECD) still thinks Canada is one of the best countries in the world, in that respect.

The whole time I worked in ethics, I was asked why the Commissioner did not impose monetary penalties. I, for one, have always found that ethics is not for sale.

I'd like to hear what you have to say about that.

Mr. Mario Dion: The reason I don't impose monetary penalties is that the Commissioner doesn't have that authority unless it is conferred by the code or by statute, in the case of public office holders.

Your committee is interested in both the code and the act.

Should the Commissioner have that authority? I think so. However, it shouldn't be used arbitrarily. We would need procedural safeguards beyond what we have now before we could impose significant penalties.

Right now, all we can impose is a kind of ticket. It's called an administrative penalty. It's imposed in a fairly summary and simple way, because it's limited to \$500, worst case scenario, for a public office holder. Generally, the penalty is \$250 and sometimes it's only \$100.

If we were to impose much higher penalties, we would have to create a mechanism to do it properly under the Canadian Charter of Rights and Freedoms.

Mr. René Villemure: Do you think it would be a good idea to create a mechanism like that?

Mr. Mario Dion: Personally, I believe we should have an objective external forum that would make decisions on consequences for those who break the rules. In the case of MPs, due to the division of powers, only the House of Commons can punish an MP.

The Conflict of Interest and Ethics Commissioner can recommend penalties. I haven't had to recommend severe penalties, beyond apologies, and so on. I think that's sufficient, and anyway, it can't be changed for constitutional reasons.

With respect to holders of public office, I send a report to the Prime Minister, and the Prime Minister decides what to do with it. In the four and a half years that I've been in office, I haven't heard directly of any consequences arising from the reports I've submitted.

Mr. René Villemure: Actually, the individual faces social consequences simply for having broken the rules.

Thank you very much.

[English]

The Chair: Thank you.

Now we have Mr. Green for two and a half minutes.

Mr. Matthew Green: Thank you.

I think, where the challenge is.... Forgive me if I've missed this, but when your recommendations on regulatees go to the PM, the obvious question is, what happens when it's the PM who's in contravention? Can you speak a bit more about what that forum might look like and how we might be able to provide that improvement? I would agree that it shouldn't be a political decision made by the House, in that regard.

Mr. Mario Dion: To recapitulate, when an MP is concerned, only the House can punish that MP. The commissioner may make a recommendation in a report, and I've done so on one or two occasions. It's sufficient and, constitutionally, it's the only option, in any event.

Under the act for public officials—ministers, parliamentary secretaries, ministerial staff, GICs and so on—I do not have any authority, except for administrative penalties. Should the government and an MP decide they want to introduce a bill to change the act, I will be pleased to express my point of view when they do. I think

it's premature to do so, because we haven't done any serious study of this matter. My role is—

● (1715)

Mr. Matthew Green: Let me ask you—

Mr. Mario Dion: —to implement the act as it is, not to dream of a new act. I'm not in government.

Mr. Matthew Green: I'm dreaming, sir, today, here with you. I appreciate your coming along with me on that ride, because I believe we could do this better. I think about how we spent time during COVID going through a scandal, which ultimately caused somebody to resign and move on. I don't see the connection between the occurrence, scale and scope of the scandal versus what's actually there as a penalty. It would be one that's non-political.

I'll ask you a question with specificity on the estimates.

Are there any other aspects of your operating budget that should be highlighted?

Mr. Mario Dion: No. I think I've done so already regarding the three areas of increases. Everything else is fine and under control. We operate independently from government and from the Treasury Board, so it's perfectly fine.

Mr. Matthew Green: Are you facing any challenges, monetary or otherwise?

Mr. Mario Dion: No.

Mr. Matthew Green: Are you saying there are none at all?

Mr. Mario Dion: No. However, things evolve, of course. I reserve the right. There was a 43% increase in the number of situations where we gave advice last year, so it's possible that, if it continues, we will need some additional resources, but not at this point.

Mr. Matthew Green: The right has been reserved, Mr. Dion.

Thank you for your service, and I appreciate your being before us here today.

The Chair: Thank you.

We're going to do one more round and I'm going to cut the times a little in order to make sure we finish this meeting on time with respect to members who are travelling this evening.

We'll go now to Mr. Kurek for, let's say, four minutes.

Mr. Damien Kurek (Battle River—Crowfoot, CPC): Thank you very much, Mr. Chair.

Commissioner, thank you for your work.

Let me note that I very much appreciate the work your office does in helping to make sure that MPs are able to fulfill their obligations. The availability of your staff has been fantastic, so thank you for that. I appreciate that.

Mr. Mario Dion: Thank you.

Mr. Damien Kurek: My first question is this: Has your office ever been contacted by law enforcement for the purpose of evidence collection?

Mr. Mario Dion: That is privileged information, I'm afraid. I cannot answer that.

Mr. Damien Kurek: Thank you.

Mr. Dion, is there a precedent to reopen an investigation that you or one of your predecessors previously closed if new evidence came to light?

Mr. Mario Dion: There isn't, to my knowledge. I would have to check, but I'm 99% certain that it has certainly not happened in the four and a half years I've been there.

Mr. Damien Kurek: With your understanding of the act, do you have the ability to reopen an investigation where you have already tabled a report in Parliament if, for example, new evidence came to light?

Mr. Mario Dion: Mr. Chair, I have already expressed my view on that. I don't believe I have the authority to do that. There is no express authority anywhere in the act. It is my view that I do not have that authority. If confronted with the issue, then of course I would have to consult with my lawyers, but that is my view.

Mr. Damien Kurek: Thank you very much.

My colleague Mr. Bezan referenced public interest as being a reason not to pursue charges when it comes to the information that was revealed in an ATIP of the investigative material related to the RCMP investigation.

In your work as commissioner, have you used similar logic—not pursuing an investigation or consequences from somebody's actions because of the public interest?

Mr. Mario Dion: No, I have not ever.

Mr. Damien Kurek: Thank you for that.

I am curious about the penalties. Certainly over the course of time that I have been a member of Parliament, having run in two elections now, when folks ask about ethics violations, especially as there have been some very high-profile ones, and what the penalty is, when I outline some of the details in the act, \$500 is not significant in the eyes of many Canadians. I would agree with them.

Do you think it's monetary penalties or do you think other metrics should be involved to ensure that there is a disincentive for public office holders to break the rules?

• (1720)

Mr. Mario Dion: Section 19 of the act says that abiding by the act is a condition of employment. The government as an employer, faced with a situation where I have found a contravention of the Conflict of Interest Act, has the power to basically impose disciplinary sanctions, up to and including removal. Section 19 is very clear about that. As the employer, the government can make that decision based on the facts of the case.

Mr. Damien Kurek: Thank you very much.

I would simply note that this regime is incredibly important. I've certainly heard from constituents who have had their trust shaken in the institutions of our government by the actions of some, including

that of the Prime Minister, so thank you very much, Commissioner, for your work. As this committee is able to review things like penalties and other aspects of the act, I look forward to engaging with you, hopefully, as some of my other colleagues have said, for your suggestions as to how we can make sure that ethics are part of the government.

Thank you.

The Chair: Now we will go to Mr. Bains for four minutes.

Mr. Parm Bains (Steveston—Richmond East, Lib.): Thank you, Mr. Chair.

Thank you, Mr. Dion, for being here with us today.

Your most recent report, on April 1, noted that 49 MPs from all parties are outstanding with their compliance reports. Can you speak to why that happens, how it compares with previous Parliaments and why it's important to complete this work?

Mr. Mario Dion: I am pleased to report that, first of all, the situation is better today than it was when we published that report last week, I believe on Wednesday. The situation is getting better. We are down to less than 10 MPs who have yet to initiate the process with us. A certain number of MPs just have to sign the draft statement we have sent to them. They have 60 days to do so under the code. I don't understand it, but many MPs decide to do so on the 60th day. They could choose to do it on the first day, the second day, the third day...but it's human nature, I guess.

Many MPs have only to sign on the dotted line and it will be over. We're at over 90% in terms of real completion at this point in time. It's better than it was in 2019, much better.

Mr. Parm Bains: Thank you.

You talked about parliamentary approval of \$7.3 million in 2022-23, an increase of roughly \$425,000 over the previous year's main estimates for your office. How will these additional funds enhance your office's work?

Mr. Mario Dion: Many of the employees who work in my office are what we refer to as “knowledge workers”. It takes years sometimes to learn their jobs, to learn how to properly do the work. A large segment of this expenditure is for a reasonable economic increase of 3.5% to their salaries on April 1, 2022, and also the payment of slightly more for fringe benefits as decided by the Treasury Board.

It's retention through a decent pay increase, which is far less than inflation but is still a good sign from the employer, i.e., me, that we value their services. That's where we will put that money. We will also put that money toward a staff survey, to make sure that they continue to be happy in their work and they provide good services.

We have a service standard that says, if you get in touch with us and you want advice, we'll do it within three days. Last year, it was met 95% of the time, and I would like it to stay that way. Therefore, I don't want to lose the precious advisers who provide those services.

That's what we're doing. We're trying to have a working environment that fulfills their professional aspirations, so they don't look elsewhere for a few dollars more.

● (1725)

Mr. Parm Bains: Thank you for your time and for your service.

Do I have any more time, Mr. Chair?

The Chair: You have time for a very brief comment or perhaps a brief yes-or-no question. You have about 30 seconds.

Mr. Parm Bains: I will just say thank you for your service, and thank you for all the information you provided today, Mr. Dion.

Mr. Mario Dion: Thank you.

The Chair: I will thank you, Mr. Bains, for helping to keep us on schedule.

I will go now to Monsieur Villemure for two minutes.

[Translation]

Mr. René Villemure: Thank you, Mr. Chair.

I could go on talking to the Ethics Commissioner for hours.

In my opinion, the answers given so far have been clear, straightforward and on the money.

I hope we will be fortunate enough to have Mr. Dion for many years to come. I find that what he's brought to the table is leading us in the right direction.

Mr. Dion, do you think we can influence the culture in a community by our actions, for example?

Mr. Mario Dion: Yes, I think we've begun to influence the culture in a community.

Based on the numbers in our annual reports, it seems that people take us seriously. Well, at least they take us more seriously than they did four or five years ago. When I say "take us seriously", I mean they know that we exist, they have a better understanding of who we are, and they fulfill all their obligations, among other things.

However, in my opinion, the key lies in attending educational activities. That's not happening right now.

Mr. René Villemure: We will certainly recommend that activities be held and that, ideally, they be mandatory.

I commend you for your efforts to keep your staff well informed. As you said, it takes several years to train people in this field and it's not easy. I think we need to value competence much more.

I have no more questions, but I appreciate everything you've done.

Mr. Mario Dion: Thank you very much.

[English]

The Chair: Mr. Green, you will have the last round here, for a couple of minutes.

Mr. Matthew Green: Thank you very much.

How often do you launch examinations on your own initiative?

Mr. Mario Dion: It's about 60% of the time. Since I've been there, we've done 21 reports, and two-thirds were on my own initiative.

Mr. Matthew Green: Do the resources of your office have an impact on the number of cases you can examine on your own?

Mr. Mario Dion: No, we've always had enough resources to do it. I have never failed to investigate something I wished I could investigate because of the resource consideration. Never.

Mr. Matthew Green: That's a great answer. Thank you, Mr. Dion.

According to your strategic plan for 2018-21, your office was to focus on some key priorities, including the modernization of technology. Is the modernization completed?

Mr. Mario Dion: I referred to our new case management system, which will be launched this year. It's well advanced. We're at the 80% mark. However, we want to do it well, with a good education program both within and for users as well, including MPs.

Mr. Matthew Green: Thank you very much, Mr. Chair.

Those are my questions.

The Chair: Thank you very much.

Thank you, Commissioner, for—

Mr. Matthew Green: Can I save another minute for another meeting?

The Chair: No, you may not. You might have had that minute already at a previous meeting.

I wish to thank Commissioner Dion for his time and his responses to questions today. If we had more time, I might have had a few questions from the chair, but since we don't, I will simply adjourn the meeting with our thanks.

The meeting is adjourned.

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