

## Standing Committee on Access to Information, Privacy and Ethics

### Robert Czerny: Opening Remarks, 10 August 2020

Thank you for this opportunity to address you on important matters of proper relationships and conduct of work in Canada's national government. *Merci pour cette occasion de présenter des observations et des recommandations sur des questions importantes d'éthique dans le travail gouvernemental.*

My strong interest in federal government matters dates back nearly half a century. I was a public servant from 1973 to 1994. After that, much of my work as a management and communications consultant was for federal government clients, including Parliament itself. And for the last ten years, I have been very active in the Ethics Practitioners' Association of Canada, *l'Association des praticiens en éthique du Canada*, including 5 years as president. We have workplace and retired members from the public and private sectors; our educational activities have been much appreciated by public servants wishing to reflect on the ethical dimensions of their work. This background allows me to highlight various dimensions of ethical conduct of public servants in relation to Parliament, Ministers and Cabinet. I am not an expert in the Conflict of Interest legislation, structures and procedures, nor the details of the present case. Rather, I hope to elucidate the context of the work done by public servants in a professional and ethical manner. I will end with five recommendations.

First, trust is essential to successful public service. The public must trust the government in order to have smooth, constructive relationships between government and society. Without trust, you can't have peace, order and good government any more than you can have an efficient commercial marketplace. This is why it is essential to keep private interests out of government decision-making and operations; Conflict of Interest, whether real or merely potential or apparent, can destroy the public's trust that government is acting in their interest. Therefore, avoiding the appearance of Conflict of Interest is no less important than avoiding its actual occurrence.

Second, non-partisan public servants and elected representatives must collaborate in the work of government. There needs to be clarity about their complementary roles and operating principles. That relationship was articulated in a careful and inspiring manner in *A Strong Foundation*, a 1996 Report on Public Service Values and Ethics. Besides stating values that you want to find in every workplace and pursuit, such as integrity and respect, it sets out what it means to be a professional in public service within Canada's democratic system.

Third, key mechanisms have grown in this area since 1996, for instance on accountability, conflict of interest of both politicians and public servants, and protecting individuals who disclose wrongdoing from reprisal. There is also a solid set of best practices to encourage ethical conduct in organizations. Some are: articulation of values and codes of conduct; training

and dialogue; counseling and mediation services; and managing conflicts of interest, for instance in small communities where officials frequently have to deal with friends and relations. Ethics officials throughout the federal government have a network in which they share insights on all this, and our Association gives them the opportunity to do the same and learn from experience in other sectors.

Fourth, organizations can have codes of conduct or statements of values or both. Codes of conduct spell out a bottom line of rules and norms. Compliance is then the issue: does this or that behaviour pass or fail a norm, does it obey or contravene a rule, and what are the sanctions or consequences for transgressions? Values on the other hand articulate the aspirations of an organization. The right question here is, how well does this or that behaviour embody our ideals, how could we do better? This is the realm of learning, improvement, and celebrating excellence. To my mind, an organization needs both. Being serious about ethics requires having a bottom line of acceptability and sanctioning what falls below that line. But organizations must aim higher than mere legality; otherwise they won't inspire initiative and excellence in their personnel.

Fifth, what happens in an organization reflects its culture. Culture exists at all levels and is constantly shaped by behaviour at all levels, but the key factor is leadership, the tone at the top. Culture cascades; the ethics of senior leaders is signalled by their actions even more than their words, and filters down throughout the organization.

Sixth, a key spot where the ethics rubber meets the road is in speaking up, in raising an issue that could meet with resistance and could make the speaker unpopular or worse. A researcher and educator in the States named Dr. Mary Gentile discovered that people often know what's right and want to do it but feel awkward about **speaking truth to power**, even if the culture accepts it. So her "Giving Voice to Values" practice involves a person reflecting on their moral courage; developing personal scripts for speaking up; and then rehearsal and practice. Her approach has a worldwide following including some business school and other uptake in Canada. The capacity to **speak truth to power** is needed at every level from junior staff with a supervisor problem to interaction between a Minister and his or her Deputy. (By the way, I have nothing to gain personally in publicizing her work.)

Seventh, speaking up is necessary for cleaning up. Secrecy allows things like bullying and fraud to continue in the dark. However, secrecy is entirely different from confidentiality, which is an absolute necessity for public servants to be able to give honest advice to ministers and for ministers to seek it.

Now my five recommendations. The first two are specific to Conflict of Interest.

1. Lest Conflict of Interest ever be overlooked, it should be standard procedure for all Cabinet meetings that the Chair begins with raising the issue of Conflict of Interest and inviting recusal.

2. There could be a similar process at the departmental level. When helping the Minister to prepare for the next Cabinet meeting, the Deputy Minister's written or personal briefing of the Minister could include a reminder along the lines of "Please assure yourself that you are not in Conflict of Interest regarding these agenda items." (This should be seen as part of a Deputy's support to a Minister.)

3. Requests to a Department from a Minister or Cabinet can be as broad as "Provide feasible options for achieving X" and as narrow as "Conduct due diligence on choice Y for achieving X." In order to give the best possible advice, speak truth to power, and protect Ministers from possible risks, the Deputy's response to a narrow request could add any other pertinent intelligence that departmental staff can generate.

4. Public servants sometimes feel inappropriately pressured when making decisions or providing information or analysis. They should respect their values and ethics code and resist pressures to contravene it. At the same time, other parties should also respect the code and not try to have public servants deviate from it. A statement should be added to the code, addressed to anyone who deals with the public service, to the effect that "It is a violation of this Code to pressure a federal public servant to contravene it." This is compatible with current instructions to ministers and ministerial staff.

5. An ethical culture is sustained by constant dialogue concerning 'the good' as well as specific instruction on norms, values, structures and processes. Senior leaders should provide the 'tone from the top' by supporting and participating in such dialogue and training.

In conclusion: Canada's public service has the capacity to provide expert and ethical service. If that is what Parliamentarians want, they should support it, insist on nothing less, and never ask for anything else. Thank you.