



Legislative Assembly of Ontario

Annual Report

2001 - 2002

Office of the Integrity Commissioner

Ontario

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Office of the
Integrity Commissioner



Bureau du
Commissaire à l'intégrité

The Honourable Coulter A. Osborne, Q.C.
Commissioner

L'honorable Coulter A. Osborne, C.R.
Commissaire

June 18, 2002

**The Honourable Gary Carr
Speaker of the Legislative Assembly
Room 180, Legislative Building
Queen's Park
Toronto, Ontario
M7A 1A2**

Dear Mr. Speaker:

It is an honour and a pleasure to present the Annual Report of the Office of the Integrity Commissioner for the period April 1, 2001 to March 31, 2002.

This Report is submitted pursuant to section 24 of the *Members' Integrity Act, 1994*.

Yours very truly

A handwritten signature in black ink, appearing to read 'Coulter A. Osborne', written in a cursive style.

Coulter A. Osborne

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COMMISSIONER'S REMARKS

This is the first Annual Report of this office since my appointment as Integrity Commissioner on September 17, 2001. It is the thirteenth Annual Report issued by this office, and covers the April 1, 2001 to March 31, 2002 period. I was Integrity Commissioner for about one half of that period.



The Honourable Coulter A. Osborne

At the outset I want to recognize the contributions to the work of this office of my Executive Administrative Officer Ms. Lynn Morrison and my Administrative Assistant Ms. Claire Miller. Both are competent and dedicated to their work. Ms. Morrison, having worked in this office with three Integrity Commissioners over a period of thirteen years, has developed a productive and helpful ongoing relationship with members' Queen's Park and constituency office staff. That relationship is of considerable assistance to the work of this office and, I would add, to members and their staffs who are in contact with this office from time to time.

I am grateful to all members of the Legislative Assembly for their continuing support of this office and for their cooperation in the timely filing of their statutorily required financial disclosure statements and the required meeting following that filing. It is my hope that over time, most members will file their financial disclosure statements on-line.

On February 27, 2001 the Office of the Integrity Commissioner moved from its Bloor Street premises to 415 Yonge Street. Consistent with my predecessor The Honourable Gregory Evans' recommendations, the Office of the Integrity Commissioner continues to be small. That, as Mr. Evans aptly noted, best ensures confidentiality and the efficient response to inquiries by members.

My primary responsibilities include responding to members' inquiries, investigating complaints about alleged breaches of the provisions of the *Members' Integrity Act, 1994*, receiving and reviewing members' financial disclosure statements and preparing public disclosure statements. My responsibilities as Integrity Commissioner are to the public and the Legislature. Unlike the

circumstances that prevail federally, I am not an ethics or integrity counsellor. I am an officer of the legislature, not a counsellor to the Premier or any particular member of the government or opposition. My jurisdiction is defined in a statute, not in a cabinet directive.

In accordance with the provisions of the *MPP Compensation Reform Act (Arm's Length Process)*, 2001 which received Royal Assent on June 29, 2001, the Integrity Commissioner is required to review the salaries of members at appropriate intervals. The first review under that *Act* was completed on August 27, 2001 by the Honourable Gregory Evans who recommended staged salary increases for members until the completion of the quadrennial review recommended by his Report. That review will not take place until 2005. Thus, absent exceptional circumstances, or a change in the legislation, no further review of members' salaries will be undertaken until 2005.

The principles which constitute the foundation of the *Members' Integrity Act, 1994* are set out in its preamble which includes a reference to the duty of members to represent their constituents in such a way as to promote public confidence in each member's integrity. Members who act in accordance with the *Act's* basic principles and, of course, its specific provisions will avoid being placed in a position where their public duties are jeopardized by their private interests.

That said, the *Members' Integrity Act's* underlying principles and its specific provisions which address what members and Ministers can and can not do work both to deter inappropriate conduct and also, I would hope, to provide some degree of public confidence in the integrity of members of the legislature and the Executive Council. While I have no hesitation in saying that I am confident that members are consistently conscious of their responsibilities under the *Act*, it is equally clear that the public does not share that confidence. Indeed, a recent credible poll revealed that in the public eye a substantial percentage of federal and provincial politicians are viewed as corrupt. This is discouraging. In the end, all politicians suffer from misconduct allegations affecting elected officials whether they be federal, provincial or even municipal. It seems to me that members could well afford to turn up the light on the microscope when examining their own conduct. Much of the behaviour that one sees in question period which consistently emphasizes rhetoric and evasiveness over substance, is, I think, understandably viewed with suspicion by the public as a manifestation of unenlightened juvenile behaviour. The same might be said of contrived 'photo-ops' and the use of gimmicks in and out of the legislature.

I think it is worth noting that the coat of arms of the Legislative Assembly contains the inscription "audi alterem partem". This suggests a controlling obligation to listen to competing views, an obligation which too often seems to be swept away in a tide of partisanship.

Soon after my appointment it became apparent to me that there was a problem with respect to the scope of members' participation in charitable undertakings and activities. At one time it was the view of this office and a not insignificant number of members that actual participation (beyond being an honorary participant) in a charitable activity was inappropriate because members represented all charities in their constituencies, not any particular charity. In discussing this general issue with members when I met with them last Fall it quickly became clear that members' views on this subject were diverse. Indeed, some members who favoured the no

involvement in charitable activities policy recognized, after discussing the subject, that they in fact were involved in assisting some charities in fundraising activities. In the end, I decided to relax the policy with respect to members' participation in charitable activities. At almost the same time we were asked to assist in drafting an amendment to the *Members' Integrity Act, 1994* concerning the charitable activities. The proposed amendment would permit members to engage in charitable activities in a reasonable manner if members do not seek to further their or another's private interest.

The proposed amendment to the *Members' Integrity Act, 1994* received the support of all parties. It also has my support. Unfortunately, the amendment was not dealt with in the legislature before the legislature was prorogued in December 2001. It is my hope that this amendment will reappear on the legislative agenda.

As I gained experience with the *Members' Integrity Act, 1994* as a working code of conduct, not surprisingly some shortcomings were revealed. For example, the *Members' Integrity Act, 1994* does not clearly set out all of the obligations of a member of the Executive Council who is not an elected member of the Legislative Assembly. Furthermore, the *Members' Integrity Act, 1994* does not specifically address the issue whether I have jurisdiction to deal with a complaint by a "member" against "another member", concerning an alleged breach of the *Members' Integrity Act, 1994*, if the targeted member was a member at the time of the alleged misconduct, but is not a member when I receive the request to inquire into the former member's conduct. These, and other parts of the *Members' Integrity Act, 1994* which could benefit from some clarification by the legislature will, I hope be discussed with this office and resolved before our next Annual Report.

OVERVIEW

A. *NEW COMMISSIONER*

During the period covered by this Report, The Honourable Gregory T. Evans served as Acting Integrity Commissioner from March 5, 2001 to September 16, 2001 by Order-in-Council issued pursuant to subsection 23(6) of the *Members' Integrity Act, 1994*. Commissioner Evans served as the first Conflict of Interest Commissioner in Ontario (now known as the Integrity Commissioner) from June 29, 1988 to November 30, 1997.

By Order-in-Council 1702/2001, dated June 27, 2001, The Honourable Coulter A. Osborne was appointed Integrity Commissioner commencing September 17, 2001.

Mr. Osborne attended the University of Western Ontario from 1952 to 1955, during which time, he was a member of the Western Mustangs basketball team. In 1956, he was a member of the Ontario senior championship team and the Canadian Olympic Basketball Team at the 1956 Melbourne Olympics. In 2000, Mr. Osborne revisited Australia to participate in carrying the torch at the Sydney Olympics.

After his call to the Bar in 1959, the Commissioner practised in Kitchener, Ontario until his appointment to the Supreme Court of Ontario in 1978. During his tenure on the Supreme Court of Ontario, he was appointed the Commissioner on Inquiry into Motor Vehicle Accident Compensation in Ontario in 1987. Mr. Osborne subsequently served on the Court of Appeal from 1990 and in June, 1999, was appointed the Associate Chief Justice of Ontario.

Mr. Osborne is married to his wife, Barbara, and has three children, and his hobbies include tennis, golf and squash.

B. *NEW PREMISES*

In February, 2001, the Office of the Integrity Commissioner moved to a new location. Shortly thereafter, the landlord asked that we move once more and we are now located at:

Suite 1803, 415 Yonge Street,	416-314-8983 (voice)
Toronto, Ontario, M5B 2E7	416-314-8987 (fax)

C. *DISCLOSURE STATEMENTS*

During the past fiscal year, the Office of the Integrity Commissioner launched an electronic filing system available to all members for purposes of filing Private Disclosure Statements.

Members were given the option of filing on-line or manually. Although relatively few members took advantage of the opportunity to file electronically, with their assistance, we were able to identify ways to improve upon the system and by the Fall of 2002, a more efficient, user-friendly electronic filing system will be available to the MPPs. It is our hope that over time all members will file on-line.

On December 17, 2001, 103 Public Disclosure Statements were filed with the Clerk of the Legislative Assembly in accordance with s.21(6) of the *Members' Integrity Act, 1994*, and all members were in compliance with the *Act*.

The Public Disclosure Statements are available for examination by the public and copies are available through the Clerk of the Legislative Assembly. It is our intention to have Public Disclosure Statements available on the website by the end of the calendar year.

D. MISCELLANEOUS FORMS

Section 6 of the *Act* provides:

- (1) A member of the Assembly shall not accept a fee, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office.*
- (2) Subsection (1) does not apply to,*
 - (a) compensation authorized by law;*
 - (b) a gift or personal benefit that is received as an incident of the protocol, customs or social obligations that normally accompany the responsibilities of office.*
- (3) Within 30 days of receiving a gift or personal benefit referred to in clause (2) (b) that exceeds \$200 in value, the member shall file with the Commissioner a disclosure statement in the form provided by the Commissioner, indicating the nature of the gift or benefit, its source and the circumstances under which it was given and accepted.*
- (4) Subsection (3) also applies to gifts and benefits if the total value of what is received from one source in any 12-month period exceeds \$200.*

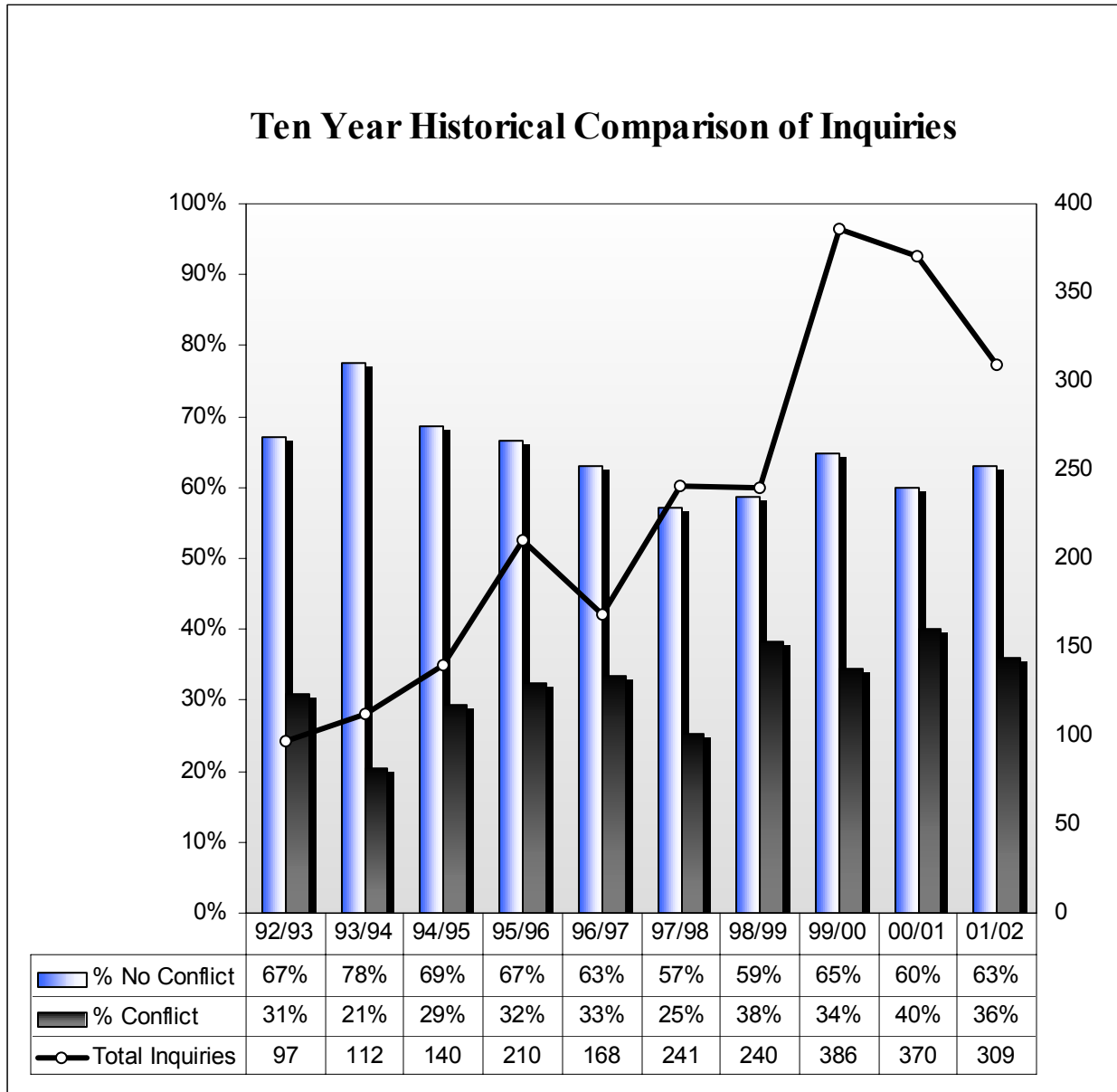
Section 20(4) of the *Act* provides:

The member shall file a statement of material change with the Commissioner, in the form provided by the Commissioner, within 30 days after a change in the income, assets or liabilities of the member or his or her spouse and minor children or an event that causes a person to become or to cease to be a member of the member's family, if the change or event would reasonably be expected to have a significant effect on the information previously disclosed.

Statements of Gifts and Benefits and Statements of Material Change are also available on our web site and can be filed on-line or downloaded and filed manually.

INQUIRIES

A. STATISTICS



Not all annual percentages total 100%. The difference represents miscellaneous inquiries which were withdrawn or were not within the Commissioner's jurisdiction.

Inquiries Received April 1, 2001 to March 31, 2002

Received from	Number Received	Conflict	No Conflict	No Jurisdiction
Member	299	110	184	5
Spouse	0	0	0	0
Trustee	1	0	1	0
Caucus	0	0	0	0
Executive Council	1	1	0	0
Committee	0	0	0	0
Former Minister	8	0	8	0
TOTAL	309	111	193	5

B. SELECTED INQUIRIES UNDER SECTION 28

The following summary of inquiries reflects advice provided by the Commissioner in the past fiscal year. These examples are not exhaustive and are abbreviated due to space limitations. The summaries are intended to raise the awareness of members and their staffs and bring to their attention potential issues with the expectation that this office will be contacted for advice and guidance when such issues arise. In view of the confidentiality requirements under s.24(2) of the *Act*, it should be noted that each inquiry is based on its own disclosed facts and that the opinion is based on those facts.

INQUIRY NO. 1

Issue:

A member has been asked to comment on and become involved in negotiations on behalf of the staff of a District School Board. Can the member become involved?

Opinion:

As long as the staff are represented by a union, it is inappropriate for an MPP to become involved in representing the staff as such involvement may be interpreted as an attempt to interfere with or influence procedures set out in the applicable collective agreement, contrary to the *Members' Integrity Act*.

INQUIRY NO. 2

Issue:

Can a member sign a document as a Commissioner of Oaths or Notary Public?

Opinion:

Section 1 of the *Commissioners for Taking Affidavits Act* specifically provides that by virtue of the office of member of the Legislative Assembly, an MPP is a Commissioner for Taking Affidavits. However, a Notary Public has greater powers in terms of what may be signed under the *Notaries Act*, and such powers include the signing of affidavits. Only barristers and solicitors are notary publics by virtue of their office. All other Canadian citizens must apply for the appointment. Unless the member has specifically received a Notary Public appointment, he or she cannot sign the document as a notary public.

INQUIRY NO. 3

Issue:

A constituent offering wine and beer fermentation services, is under investigation by the Alcohol and Gaming Commission of Ontario. The constituent has requested a meeting with the member to discuss the intent of a policy regulating this business.

Opinion:

The “intent” of a policy which has been enacted by the government is a matter of interpretation by either the agency responsible for the policy or the courts. As this constituent’s business is under investigation by the Alcohol and Gaming Commission, it would be inappropriate for the member to become involved as such action may place him in a conflict position.

INQUIRY NO. 4

Issue:

A member/Minister has drafted a letter of congratulations to a constituent who has contributed to the development of an area in the constituency and ended the letter on constituency letterhead, “Please let me know if there is anything my Ministry can do to be of assistance in this endeavour.”

Opinion:

The last sentence in the letter is inappropriate as the member is mixing constituency business with Ministry business. The responsibilities of a Minister must be kept separate from his or her responsibilities as an MPP. The letter may be written on constituency letterhead, however, any reference to the Ministry is inappropriate.

INQUIRY NO. 5

Issue:

A constituent who has an issue with the Family Responsibility Office, has provided the member with an authorization to release any information on the constituent’s file to a member of the local press.

Opinion:

As the matter involves the Family Responsibility Office and the member is not familiar with all the facts, it is inappropriate for the member to discuss the details of a specific case with the press,

despite the authorization. However, if the press is interested in discussing the FRO generally, the member is entitled to do so.

INQUIRY NO. 6

Issue:

A constituent has an interim restraining order against him by his ex-wife and children and has requested the member's assistance in having the court hearing expedited. The ex-wife has agreed to lifting the interim order for purposes of family counselling, and the constituent's lawyer has filed the necessary papers, however, the hearing will not take place for two months.

As the constituent is already represented by counsel, the member informed the constituent that it would be inappropriate for him to become involved, at which time the constituent indicated he would fire his lawyer.

Opinion:

Although the Legislature and the judiciary are both branches of the provincial government, they are separate and independent and in accordance with parliamentary convention, any encroachment in either direction is strictly forbidden. Our democratic system of government is comprised of three branches – Executive, Legislative, and Judicial. Each is supreme within its own jurisdiction. A court case is a judicial proceeding with specific provisions for appeals. Legislators should never communicate with a judge or other judicial officer with respect to a matter which is or which has been before the courts. Any involvement by the member may be interpreted as an attempt to interfere with or influence the process before the court, contrary to s.4 of the *Members' Integrity Act*.

INQUIRY NO. 7

Issue:

A Minister is invited to be the keynote speaker at an out-of-town event which falls under the Minister's jurisdiction. A Ministry stakeholder is hosting the luncheon and has offered to cover the cost of accommodation for the Minister.

Opinion:

As the event is considered Ministry business and the luncheon host is a Ministry stakeholder, acceptance of the offer would be inappropriate. The Minister's expenses should be paid by the Ministry.

INQUIRY NO. 8

Issue:

A constituent is initiating his final appeal with the Workplace Safety and Insurance Appeals Tribunal and is requesting that the member, a Minister, advise the Tribunal that the constituent is "*an upright and honest citizen who deserves fair consideration of his Appeal.*"

Opinion:

As the member is a Minister, it is an accepted convention that there are limitations on the ability of a Minister to act on behalf of constituents as far as quasi-judicial tribunals are concerned. The practice has evolved whereby Ministers do not deal directly with public servants, but go through the office of the Minister responsible.

Parliamentary convention prohibits all Ministers from personally appearing or advocating on behalf of a private party with any agency, board or commission. Ministers always wear the cloak of ministerial responsibility. Thus a Minister's action in contacting an agency, board or commission to support a private party's position may be considered by the agency, board or commission as an action of the Minister, intended to influence the decision. This is so even if the Minister contacting the agency, board or commission does so in his/her capacity as an MPP.

The Tribunal is required to follow certain policies and procedures. For the member to become involved by writing a letter as requested by the constituent is inappropriate as such action may be interpreted as an attempt to interfere with and/or influence the process, contrary to the *Members' Integrity Act*.

INQUIRY NO. 9

Issue:

Ontario Place has offered complimentary all-day passes to a member for use by his constituents and friends when visiting Toronto.

Opinion:

Ontario Place is an agency which falls under the Ministry of Tourism, Culture and Recreation and accepting the passes does not violate the *Members' Integrity Act*, as such activity is considered a marketing tool for Ontario Place.

INQUIRY NO. 10

Issue:

A member/Minister has been requested by a number of constituents to take action regarding a matter before the Ontario Municipal Board with respect to an adult entertainment facility. The member would like to write a letter to the editor of a local newspaper in this regard. The OMB hearings have concluded, however a decision remains outstanding.

Opinion:

As the member is also a Minister, there is no way that his actions, whether verbal or written, and whether in the member's position as an elected member of the Legislature or as a Minister can be considered by the recipient as other than actions by a Minister and thus could reasonably be considered as attempting to influence or interfere with the decision.

In addition, the decision of the Ontario Municipal Board is pending and until such time as that decision is released, the letter to the editor is inappropriate as it may also be interpreted as an

attempt to influence or interfere with the decision of the OMB, contrary to the *Members' Integrity Act*.

Even if the member was not a Minister, it would be inappropriate to interfere with this quasi-judicial process.

INQUIRY NO. 11

Issue:

Cabinet was considering issues with respect to a profession of which a Minister's spouse is a member. Should the Minister declare a conflict of interest and avoid discussions and voting on the matter?

Opinion:

Section 2 of the *Members' Integrity Act, 1994*, states:

2. *A member of the Assembly shall not make a decision or participate in making a decision in the execution of his or her office if the member knows or reasonably should that in the making of the decision there is an opportunity to further the member's private interest or improperly to further another person's private interest.*

“Private interest” is defined under s.1 of the *Act* as:

“private interest” does not include an interest in a decision,

(a) *that is of general application,*

(b) *that affects a member of the Assembly as one of a broad class of persons...*

As the spouse is one of a broad class of persons in the profession practicing in Ontario, discussions and/or voting on the issue does not place the Minister in a conflict of interest. During the Cabinet meeting and for clarification purposes, the Minister should consider putting on the record that the spouse is a member of that profession.

INQUIRY NO. 12

Issue:

A member inquired as to the appropriateness of appearing in a promotional advertisement for a local financial institution in the constituency.

Opinion:

Appearing in advertisements for commercial enterprises is not considered a responsibility of an MPP. As most constituents are aware of the member's position as an elected politician, appearing as an ordinary citizen who is a member of the financial institution may be interpreted as favouring one institution over another. As the local MPP, the member represents all businesses in the riding.

The member was referred to the preamble of the *Members' Integrity Act*:

3. *Members are expected to perform their duties of office and arrange their private affairs in a manner that promotes public confidence in the integrity of each member, maintains the Assembly's dignity and justifies the respect in which society holds the Assembly and its members.*

4. *Members are expected to act with integrity and impartiality that will bear the closest scrutiny.*

INQUIRY NO. 13

Issue:

A member has been approached by local city officials to ask a mediator in a labour dispute to call the parties back together with a view to ending a strike.

The member also inquired as to whether the Minister of Labour could be approached to do something about the strike.

Opinion:

The member is entitled to bring the matter to the attention of the Minister of Labour for consideration, however, it would be inappropriate to approach the mediator directly, as such action may be interpreted as an attempt to interfere with or influence the collective bargaining process, contrary to the *Members' Integrity Act*.

INQUIRY NO. 14

Issue:

A member has been asked by constituents to call doctors or clinics with the request that a particular constituent be taken on as a patient.

Opinion:

Although there is a shortage of doctors in the constituency, it would be inappropriate for the Member to request doctors or clinics to accept a particular individual as a patient, as such action may be interpreted as an attempt to exercise inappropriate influence on the doctors or clinics contrary to s.4 of the *Members' Integrity Act*.

INQUIRY NO. 15

Issue:

A private company has requested that a member supply the names of non-profit organizations in the constituency for purposes of volunteering services to such organizations.

Opinion:

Providing the names as requested is not considered one of the responsibilities of an MPP. In addition, such action may be interpreted as promoting one business over others in the community.

INQUIRY NO. 16

Issue:

A flier was distributed advertising a luncheon to be hosted by the member and featuring a Minister and two professionals as guest speakers. The actual host is the local Chamber of Commerce, and a cost is involved. The member now wants to advertise the event in the local newspapers.

Opinion:

The member's name should not have appeared in the flier as the host of the event as the local Chamber of Commerce is the host and the member's role is that of Moderator. It would, therefore, be inappropriate for the member to place an ad in the paper at constituency office expense, promoting the event. As the event is an information session for the constituency, the member may consider placing the flier in the constituency office window on the condition that there is no reference to the member hosting the event.

INQUIRY NO. 17

Issue:

A member/Minister prepared a letter of support for Big Sisters of Toronto, addressed to the organization, with respect to their application for funding from a program under the Ministry of Citizenship.

Opinion:

The Minister is entitled to write a letter of support, however, writing the letter directly to the Big Sisters for purposes of attaching it to the funding application is inappropriate as the Minister does not have control over the use of the letter. In order to avoid a potential conflict of interest, the letter should more appropriately be addressed to the Minister of Citizenship.

INQUIRY NO. 18

Issue:

A constituent, who had dealt with a member numerous times, left with the member's constituency office a cheque in the amount of \$10,000 payable to a law firm indicating that he had faxed the law firm advising they could pick up the cheque at the member's constituency office. The constituency assistant was unsuccessful in trying to return the cheque to the constituent.

Opinion:

The member should contact the lawyer requesting that the cheque be picked up or make arrangements for the law firm to accept delivery of the cheque. The member should then advise the constituent that they were not prepared to be involved in the matter any further.

INQUIRY NO. 19

Issue:

A Minister's spouse received a letter from a constituent organization requesting that the spouse "use your influence to help..." in having the "...Ontario legislature pass a recommendation."

Opinion:

Assuming the letter was well intended, it is misguided in that it inappropriately seeks the assistance of the spouse in influencing government policy through the Minister for the benefit of an organization and to assist the organization through what the writer refers to as a "recommendation" from the Ontario Legislative Assembly in an application to the Court.

Both requests are inappropriate in that if implemented, they would offend s.4 of the *Members' Integrity Act* which provides:

A member of the Assembly shall not use his or her office to seek to influence a decision made or to be made by another person so as to further the member's private interest or improperly further another person's private interest.

It is an accepted convention that there are limitations on the ability of a Minister to act on behalf of constituents. Parliamentary convention prohibits all Ministers from personally appearing or advocating on behalf of a private party with any agency, board or commission. In addition, parliamentary convention prohibits Ministerial staff from appearing or advocating on behalf of a private party with any agency, board or commission which falls under the jurisdiction of the Minister's portfolio. Ministers always wear the cloak of ministerial responsibility. There is no way that their actions, or those of their staff, whether verbal or written, and whether in the member's position as an elected member of the Legislature or as a Minister, can be considered by the recipient as other than actions by a Minister, and thus could reasonably be considered as attempting to interfere with and/or influence a decision, contrary to s.4 of the *Members' Integrity Act, 1994*.

Those coming into contact with Ministers' spouses must recognize that it is inappropriate to ask that the spouse exercise some kind of influence on public policy through the Minister, and the constituents should be so advised.

INQUIRY NO. 20

Issue:

A Minister was asked to participate in a charitable fundraising activity encouraging television viewers to bid on a variety of items.

Opinion:

The Minister may participate in the auction on the following conditions:

- (1) Such solicitation is done in a reasonable manner and without undue influence;
- (2) The Minister does not seek to further any private interest that could conflict with his or her duties as a member of the Assembly or of the Executive Council; and

- (3) The Minister is not in a position to confer or deny a benefit to any donors, unless authorized by the Integrity Commissioner.

INQUIRY NO. 21

Issue:

As a birthday present, a Minister received two tickets to a Toronto Raptors' game having a total value of \$950.

Opinion:

As the tickets were received from a Ministry stakeholder, and the gift is not an incident of the protocol, custom or social obligation accompanying the responsibilities of the Minister (as set out in s.6 of the *Act*), it is inappropriate to accept the gift and the tickets should be returned.

INQUIRY NO. 22

Issue:

A constituency assistant helped solve a problem for a constituent and in return, received a bouquet of flowers.

Opinion:

Although the constituency assistant's responsibilities include assisting constituents with issues involving the government, gifts of this nature are an expression of appreciation with a nominal value and are often difficult to return because of the nature of the gift or the embarrassment which may be caused to the donor. Acceptance of the flowers is not a violation of the *Members' Integrity Act*, however, the constituency assistant should stress to the donor that it should not be repeated.

INQUIRY NO. 23

Issue:

A non-profit agency asked constituency staff to maintain a charitable donation box in the constituency office.

Opinion:

Members are entitled to permit these types of items in the office on the condition that the members do not seek to further their own private interest or improperly further another person's private interest.

The member may wish to consider that the local constituency office represents all constituents and may well be asked to provide a similar service for many organizations. In addition, should the money be stolen, it cannot be recovered under the Legislative Assembly insurance policy.

INQUIRY NO. 24

Issue:

A constituent's medical license lapsed during an illness. The doctor has now been offered a position with a Medical Centre, however, he cannot practice until recertified, and has asked the local member to try to "circumvent the recertification process" and write a letter of support.

Opinion:

It is necessary that the process for recertification of doctors be followed. Should the member provide a letter of this nature, such action may be interpreted as an attempt to interfere with or influence that process, contrary to the *Members' Integrity Act, 1994*.

INQUIRY NO. 25

Issue:

A member inquired as to whether it would be appropriate to release a constituency "Action Sheet" that documents the contacts made on a particular file.

Opinion:

Records held by MPPs are excluded from coverage under the *Freedom of Information and Protection of Privacy Act* and therefore, MPPs have no obligation in this regard under the *Act*. However, it is suggested that MPPs apply the basic privacy principles, being sensitive as to whether or not disclosure is appropriate, and using Part III of the *Freedom of Information and Protection of Privacy Act* for guidance.

INQUIRY NO. 26

Issue:

A Minister has been asked to accept a directorship with a community organization.

Opinion:

Section 10 of the *Members' Integrity Act* states:

A member of the Executive Council shall not,

...

- (a) *hold an office or directorship, unless holding the office or directorship is one of the member's duties as a member of the Executive Council, or the office or directorship is in a social club, religious organization or political party.*

As the appointment is not considered one of the duties as Minister or as a member of the Executive Council, acceptance of the appointment would contravene s.10 of the *Act*.

INQUIRY NO. 27

Issue:

A Ministry has successfully completed a project with a business partner and the Minister would like to make a joint public announcement with the business partner. The Ministry has also posted

a Request for Proposal (RFP) for the delivery of another project and it is possible the same business partner may submit a proposal.

Opinion:

Although it is not known whether the business partner will bid on the new RFP, it is quite possible and making a joint announcement at this time, prior to the closing of the new RFP, may jeopardize or be seen to jeopardize, the business partner's position with respect to a potential bid under the new RFP. A joint announcement may also be interpreted as showing favouritism to one vendor over others who may be bidding on the RFP, thus compromising the RFP process.

If the Minister wishes to make an announcement now, such announcement should be made without the business partner. However, caution needs to be exercised when preparing the announcement. The alternative is, of course, to make the announcement after the RFP closes and the successful bidder is announced.

INQUIRY NO. 28

Issue:

Can a member quote from a criminal court transcript on behalf of a constituent, to clarify a misunderstanding by the Children's Aid Society?

Opinion:

As there is a misunderstanding on the part of the Children's Aid Society and the letter being written is to clarify the misunderstanding, quoting from the court transcript does not place the member in a conflict of interest on the condition there is no ban on publication.

INQUIRY NO. 29

Issue:

Can a member accept a membership in the Royal Ontario Museum?

Opinion:

As the Government of Ontario is a sponsor of the Royal Ontario Museum, acceptance of the membership is considered a marketing tool for the Province and does not violate the *Members' Integrity Act, 1994*.

INQUIRY NO. 30

Issue:

A constituent has requested copies of faxes regarding his file and received by the constituency office from the Family Responsibility Office.

Opinion:

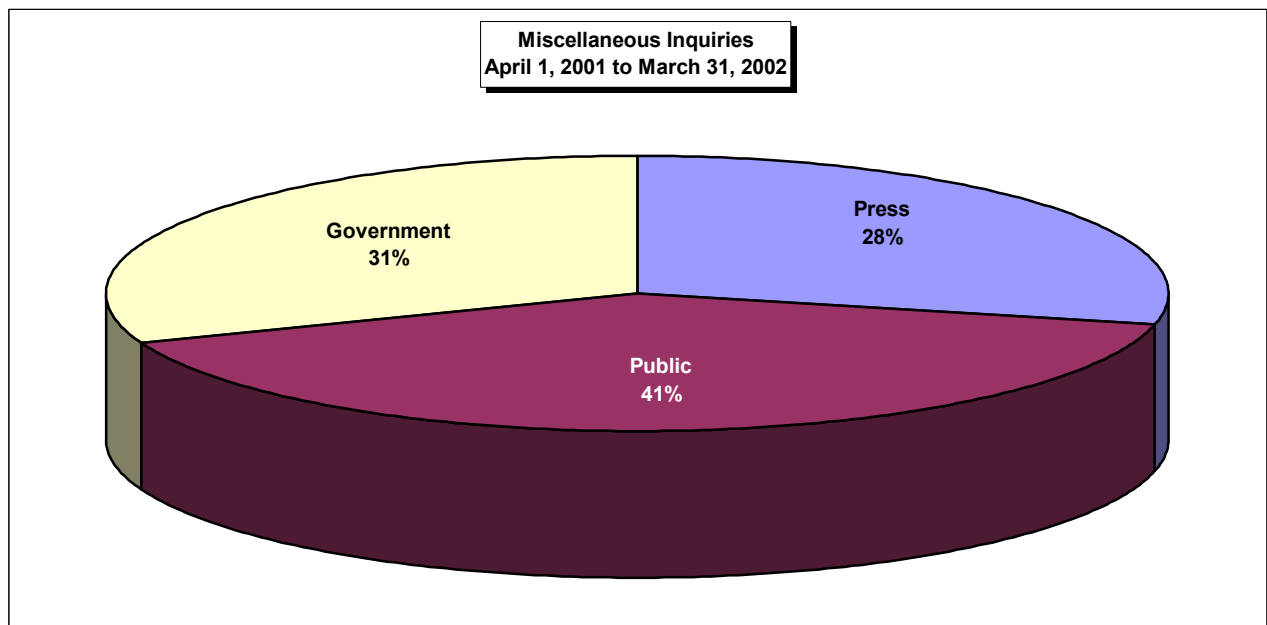
Any documentation the Family Responsibility Office has sent to the constituency office may be provided to the constituent and such action does not place the member in violation of the *Act*.

However, the ultimate decision belongs to the member and will be based on his or her specific policy in such matters.

C. MISCELLANEOUS INQUIRIES

During the reporting period of this Report, 175 miscellaneous inquiries were received from all levels of governments, the public and the media.

A variety of questions were raised including inquiries with respect to the actions of various government agencies and employees; conflict of interest guidelines for government agencies; complaints with respect to MPPs from members of the public; general interpretation questions regarding the *Members' Integrity Act* and the *MPP Compensation Act*; policies and procedures of the Office, and requests for copies of the Annual Report.



REFERRED QUESTIONS

Section 30 of the *Members' Integrity Act, 1994*, provides as follows:

30. (1) *A member of the Assembly who has reasonable and probable grounds to believe that another member has contravened this Act or Ontario parliamentary convention may request that the Commissioner give an opinion as to the matter.*

(2) *The request shall be in writing and shall set out the grounds for the belief and the contravention alleged.*

(3) *The member making the request shall promptly give a copy of it to the Speaker, who shall cause the request to be laid before the Assembly if it is in session or, if not, within 10 days after the beginning of the next session.*

(4) *The Assembly may, by resolution, request that the Commissioner give an opinion as to whether a member has contravened this Act or Ontario parliamentary convention.*

(5) *The Executive Council may request that the Commissioner give an opinion as to whether a member of the Executive Council has contravened this Act or Ontario parliamentary convention.*

(6) *The Assembly and its committees shall not conduct an inquiry into a matter that has been referred to the Commissioner under subsection (1) or (4). 1994, c. 38, s. 30.*

During the reporting period of this Annual Report, the following two inquiries under s.30 were received and reports were issued by the Commissioner. Complete texts are available on our website at <http://integrity.oico.on.ca> under "Commissioner's Reports", and hard copies are available upon request.

- (1) Report dated May 16, 2001 -- The Honourable Michael Harris, Premier of Ontario with respect to the Rail Cycle North and Adams Mine Project.
- (2) Report dated February 8, 2002 -- The Honourable James M. Flaherty, Deputy Premier and Minister of Finance with respect to a one-time tax-free payment of \$100 per child under age seven.

A third Referred Question was received from Mr. Michael Colle, MPP, Eglinton-Lawrence with respect to the conduct of Mr. Ernie Eves, as former Deputy Premier, and Minister of Finance and member of the Legislative Assembly. Mr. Colle contended that Mr. Eves had breached sections 2 and 15 of the *Members' Integrity Act, 1994* by introducing and defending the *MPP's Pension Act, 1996*. As of the date of this Annual Report, the Commissioner's Report regarding Mr. Eves is pending. It will be available on the website upon release.

FINANCIAL INFORMATION

A. 2001/2002 STATEMENT OF EXPENDITURES

Salaries and Benefits	\$408,871.71
Transportation and Communications	6,673.64
Services	136,977.00
Supplies and Equipment	<u>8,353.62</u>
	<u>\$560,875.97</u>

B. PUBLIC SECTOR SALARY DISCLOSURE ACT, 1996

This statement is provided under the *Public Sector Salary Disclosure Act*. The former Commissioner was the only employee in the Office of the Integrity Commissioner to receive a salary in excess of \$100,000 during the period, January 1, 2001 to December 31, 2001.

<u>Employee</u>	<u>Payment</u>	<u>Taxable Benefits</u>
Robert C. Rutherford	\$143,066.04	\$0