

**The Social Sciences and Humanities Research  
Council of Canada (SSHRC):  
An exploration of independence and accountability**

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## EXECUTIVE SUMMARY

Although non-ministerial organizations have long been a part of the federal system, there has been increasing use of non-ministerial organizations to deliver services and perform functions once housed in departments. The organizational landscape of the Canadian government now comprises over 400 entities, with the ministerial department constituting an ever-diminishing piece of the machinery of government.

This growth in distributed public governance, as the Organisation for Economic Co-operation and Development terms it, has placed increasing strain on the traditional model of accountability employed in the Westminster system of responsible government. The traditional model asserted that there was “a linear and hierarchical relationship between a public organization, a Minister and Parliament” (Peters, 2006, p. 297). Within this linear hierarchy, ministers were deemed to be personally and fully accountable to Parliament for their departments (d’Ombrain, 2007). Although accountability is at the top of the political and management agenda, there is no longer consistent application of these concepts, even in the context of ministerial departments. The central players—ministers, deputy ministers and Parliament—all seem to be using accountability as a shield (Savoie, 2008). Each player claims to seek to enhance accountability for the good of the system, yet with his or her actions attempts to avoid it by attempting to place responsibility elsewhere.

In the case of non-ministerial organizations, established as such to have more distant relationships with ministers, as captured in the expression “at arm’s length,” the linear and hierarchical relationship does not hold. While there are still direct relationships between the organization and the minister, ministers do not direct and control such organizations. Similarly, while there remain relationships between the minister and Parliament, the minister cannot be held fully accountable for the decisions and operations of such organizations. Instead, legislation creates direct relationships between the organization and Parliament, as well as with ministers. These overlapping, non-linear relationships are set out in legislation, but not always with clarity or precision, leading to confusion around roles and responsibilities.

While the increase in the number and type of these non-ministerial organizations should have sparked debate about the continued use and relevance of the traditional model, instead there has been increased effort to apply the linear hierarchy. The impetus for bringing so-called independent organizations closer into the fold has been the recent scandals—in both departments and arm’s length organizations—related to the management of public money.<sup>1</sup> The concentration of these scandals has diminished public confidence in the government’s ability to account for the management of public funds, and has spawned a number of politically-driven reform efforts in the name of restoring accountability.

The reform initiatives started in the dying days of the Martin minority government, under whose tenure the details of the sponsorship were revealed, and continued under the Harper

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<sup>1</sup> Examples include the so-called “billion-dollar boondoggle” at Human Resources and Social Development Canada, cost overruns at the Canadian Firearms Centre, financial mismanagement in the Offices of the Privacy Commissioner and the Correctional Investigator, and the sponsorship scandal.

minority government, which sought to differentiate itself from the previous regime. Specifically, the Harper government marked its focus on accountability by introducing the Federal Accountability Act (FedAA) as its first piece of legislation. Through the FedAA, a number of new administrative controls and oversight mechanisms were created, primarily in the Financial Administration Act (FAA). For ministerial and non-ministerial organizations, this has resulted in being subject to an increasingly large suite of rules governing spending. The irony is that the scandals driving the creation of the rules were found both by the Gomery Commission (2005) and the Office of the Auditor General (OAG) (2003) to have happened not because of a lack of rules, but because existing rules were not followed. However, in some areas, particularly around grants and contributions funding, the tide is starting to turn. The current government has recently acknowledged that the situation has reached a point where rules have become “a barrier to good government” and where it is time to rebalance (TBS, 2007f).

For many non-ministerial organizations, the shifting of the rules pendulum is nothing new. While at arm’s length from ministers, their independence has never extended to complete freedom from the financial controls set out by the Treasury Board and the oversight provided by an expanding group of “watchdogs.” This is the case with the Social Sciences and Humanities Research Council of Canada (SSHRC), one of the government’s three research granting agencies. As a departmental corporation at arm’s length, SSHRC has traditionally had autonomy in deciding what research projects to fund and in the management of its operations, but has not been exempt from most centralized policies and requirements as Crown corporations and foundations are.

However, while the new financial rules were designed with traditional mainline departments in mind (but which encompassed non-ministerial organizations as well), other initiatives were designed with non-ministerial organizations in mind. With these initiatives, the government has sought to centralize not only financial controls, but control of non-ministerial organizations. This effort was driven, in part, by the involvement of a number of Crown corporations in the sponsorship scandal, which spurred a major review of the governance of Crown corporations. The review, followed by the introduction of the accounting officer concept in the FAA (1985), made it clear that the government was clinging to the linear, hierarchal model wherein arm’s length organizations can only have accountability relationships with ministers. While this has been done in the name of enhancing accountability—having ministers provide increased control and oversight—it actually diminishes accountability because it disregards the legislative distribution of powers approved by Parliament. Moreover, as non-ministerial organizations are drawn closer to ministers, their ability to meet their mandates is compromised, further reducing accountability.

And again in the vein of demonstrating increased accountability, the President of SSHRC and the heads of other non-ministerial organizations are increasingly called upon to provide reports on their management and operations. These calls come from the ministers who are setting the priorities, but also central agencies and agents of Parliament. New requirements for strategic reviews every three years and externally-composed internal audit committees are just the latest additions to the crowded financial and performance environment.

In addition to these general initiatives, which have limited SSHRC's independence and accountability, a number of initiatives specific to SSHRC's status as a granting agency have also proven to be constraints. The government's focus on SSHRC's Council, as first explored in the granting agencies' review (Mitchell, 2006), and subsequently in the federal Science and Technology (S&T) strategy (Industry Canada, 2007), is in many ways not a surprise. The efforts to separate the roles of President and Chair follow those announced for Crown corporations in the FedAA, an initiative posited as an alignment with best practices in the corporate world. Similarly, the efforts to make more appointments from the business and non-governmental sectors align with initiatives with respect to Crown corporations.

But contradictions abound within this environment, wherein the government has emphasized the Councils of the granting agencies as accountability mechanisms, albeit while continuing to appoint members without a competency-based, transparent process. Moreover, trying to position the Council as an accountability mechanism is at odds with its purpose as an advisory council to SSHRC's President. While SSHRC's President also championed this initiative, the presence of a separate Chair provides a means for the Minister of Industry to exercise, if by proxy, additional direction and oversight of the President. The relationship has not negatively impacted SSHRC thus far, but the potential for future problems exist, particularly if the President feels pressured to accept advice that is clearly meant to direct. And because the changes have been made outside the confines of the SSHRC Act, SSHRC cannot turn to legislation to have a definitive declaration of the division of power.

The SSHRC Act (1985), legislation drafted in 1976, creates a large part of the challenge. While the flexibility of the Act has afforded SSHRC latitude with respect to promoting and supporting research and research training in the social sciences and humanities, it also has created confusion and ambiguity. The absence of clearly defined roles and responsibilities has made it possible for the government to position the Council as an accountability mechanism. And given the way the Council is perceived, focusing on the Council and positioning the initiatives as increasing accountability enables the government to be seen as acting to protect SSHRC's independence, while in fact reducing it. The very presence of the Council is somewhat of a contradiction, given that typically, non-ministerial organizations with boards or councils are governed by them. In such situations, as with Crown corporations and some departmental corporations, the board or council is key to the arm's length relationship, since it possesses many of the statutory responsibilities typically held by a minister. But in the case of SSHRC, the Council was not granted those authorities in statute. Instead, these responsibilities rest with the President. Yet Parliament, specifically parliamentary committees, has shown little interest in the activities of SSHRC and other non-ministerial organizations. While this situation is unsatisfactory, the government, through the introduction of its accounting officer concept, has tried to narrow the scope of potential Parliamentary oversight by arguing that heads of agencies, when they do appear before committees, do so only in support of ministerial accountability, regardless of authorities granted to them by statute.

The confluence of the government-wide and SSHRC-specific initiatives has had the most impact on SSHRC's President, who is expected to run the organization in a way that delivers the results expected by the government, but without autonomy at either the policy

or the administrative level. He is subject to increased oversight, except by Parliament, which should be doing so. Instead, players ranging from the Minister of Industry, the deputy minister of Industry Canada, the Vice-President of Council, agents of Parliament, to central agencies, and vehicles such as the FAA and the Policy on Internal Audit all exert pressures. And so too does the academic community whose interests SSHRC was created to serve—and it must be remembered, interests that often diverge from or are critical of the government's. Indeed, it was in recognition of the need to prevent any political interference in the research granting process that SSHRC was given its arm's length status in the first place.

This paper provides a detailed examination of the environment in which SSHRC finds itself, and sets out some options for the consideration of SSHRC's management in seeking to move forward in an increasingly politicized landscape. The objective was not to create a detailed framework, but to outline avenues the President could explore with the SSHRC Council, the deputy minister of Industry Canada, and potentially the Minister of Industry, as well as with his colleagues at the other two research granting agencies.

The options range from those fully within the remit of the organization to undertake to those that would require cooperation with the other granting agencies, the sponsorship of the Minister of Industry, and the approval of the Privy Council Office and the Prime Minister's Office, and ultimately, of Parliament. In the first scenario, SSHRC could embark on internal efforts to clarify roles and responsibilities and demonstrate enhanced transparency and performance. In the second, it could seek legislative amendment to codify the separation of the roles of President and Chair of its Council, as well as its Council membership balance. This would best be accomplished in concert with the other two agencies. A third possibility is that SSHRC could seek to modernize its legislation (again, with the other two granting agencies) to become a service agency. A final scenario is that SSHRC could advocate for the creation of a governance framework for departmental corporations, such as exists for Crown corporations in the FAA.

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## INTRODUCTION

The organizational landscape of the Canadian federal government comprises traditional ministerial departments, as well as numerous types of non-ministerial organizations. These non-ministerial organizations are often referred to as being at arm's length from ministers, in recognition of the fact that certain authority, typically vested in ministers, is delegated to the organizations. These organizations are held at varying distances from ministers, and each type has its own set of sometimes overlapping characteristics.

The number and type of arm's length organizations has grown in recent years; so too has attention with respect to the degree of their independence and accountability. In particular, a series of recent scandals related to financial mismanagement—in both traditional ministerial departments and arm's length organizations—have brought to the fore calls for increased accountability. For arm's length organizations, the public and political pressure for greater accountability has played out in terms of increased control in two domains: increased administrative accountability and increased political accountability. While Crown corporations have received the majority of focus, other parts of the arm's length universe have not escaped the accountability lens, notably foundations and the research granting agencies. In the case of Crown corporations, the desire to reassert control is attributable to direct involvement in the sponsorship scandal. This message is expressed clearly in the government's review of the governance framework of Crown corporations (TBS, 2005d). As the Office of the Auditor General (OAG) (2003) and the Gomery Commission (2005) cited repeatedly, the issues around the sponsorship scandal were not rooted in a lack of rules, but rather the failure to adhere to the rules in place and to exercise authority properly.

It has become increasingly clear that the desire to strengthen the role of ministers is not limited to Crown corporations. Various initiatives and statements by the government, notably those centred on the roles of ministers and accounting officers, have tipped the balance between autonomy and control on the side of control. Efforts in this regard have attempted to situate arm's length organizations within a linear hierarchy of ministerial responsibility and accountability, where the minister holds the key position. These assertions of full ministerial accountability for arm's length organizations do not always respect the statutory division of powers, and undermine the independence and accountability bestowed on these organizations by Parliament. Essentially, accountability is being used as a shield, with ministers both trying to claim control over and distance from arm's length organizations. This is particularly true in terms of results or performance.

At the same time, and again somewhat paradoxically, the government has made renewed, if somewhat unsatisfactory, efforts with respect to strengthening the governance of arm's length organizations as a means of enhancing accountability. In particular, it has made some efforts to improve the quality and competency of the individuals appointed to the boards and councils of arm's length organizations but has not moved to implement a competency-based process. As Aucoin (2007) has pointed out, these forces are not all running in the same direction—enhanced political control of arm's length agencies, at a certain point, runs up against best practices with respect to governance. Moreover, the results- and performance-based management approach does not necessarily align with increased ministerial control or administrative control, but rather flexibility and autonomy.

This paper will examine Ottawa's new accountability environment and consider what it means for the Social Sciences and Humanities Research Council of Canada (SSHRC) in terms of independence and accountability, and specifically, options open to SSHRC's management as it moves forward in the current accountability environment.<sup>2</sup> As a departmental corporation and one of the government's three research granting agencies, SSHRC has traditionally had independence and autonomy in deciding on what research projects to fund and in the management of its operations, but has not, as Crown corporations and foundations are, been exempt from most centralized policies and requirements. In this respect, SSHRC is subject to most of the rules that apply to the operation of mainline departments, as well as the oversight of central agencies and the growing list of agents of Parliament or parliamentary watchdogs as Good (2007) terms them.

While a relatively small entity in the arm's length universe, SSHRC has not escaped the accountability lens. In addition to the whole-of-government initiatives that have emerged over the past three years, SSHRC was subject to an accountability and value for money review announced in the 2006 budget. Subsequent to this granting agencies' review, the government, in its 2007 Science and Technology (S&T) strategy, committed to taking measures to enhance the governance, accountability and performance of the three granting agencies (Industry Canada, 2007). SSHRC was also considered in the government's review of grant and contribution programs carried out by the Independent Blue Ribbon Panel, which had a mandate to enhance the accountability of grant and contribution programs (Clark & Lankin, 2006). Of its own accord, SSHRC initiated a number of measures to demonstrate increased accountability and transparency. Notably, it commissioned a review of its corporate governance, separated the roles of President and Chair of its Council (with the approval of the Governor in Council), adopted a number of measures to increase the diversity of experience on its Council, and agreed to new terms of reference for its Council. These initiatives will be discussed in terms of their implications for SSHRC's independence and accountability.

The enhanced administrative accountability demanded of SSHRC has not been insignificant in terms of the time, effort and resources required to ensure compliance, but it has not resulted in fundamental change with respect to operations. The enhanced political accountability demanded, however, does have more significant and long-term implications. SSHRC is increasingly subject to ministerial control—in theory and in practice. In particular, the government's interpretation of accountability as a linear, hierarchical relationship between ministers and Parliament is of concern, as it does not reflect the statutory division of powers set out in the SSHRC Act. And while Parliament has been complicit in not exercising its own responsibilities properly, it will be argued that the government's efforts, while couched in the language of accountability, are more about centralizing control and protecting ministers than they are about increasing accountability. For SSHRC, and particularly the President, this has long-term consequences for its independence and accountability, even if they have not been severe to-date. A number of

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<sup>2</sup> While it has funded thousands of research projects, SSHRC has been the subject of little critical attention itself. One notable exception is an unpublished paper on SSHRC's history by former SSHRC Council member Jim Miller, funded by a grant from SSHRC's President's Fund for Innovation and Development.

initiatives launched by SSHRC have actually aligned with those of government, wherein SSHRC has tried to frame the direction in ways that were most advantageous internally.

## **1. Report structure**

Section one provides an overview of the organizational types found within the Canadian federal system, focusing on the characteristics of the various organizational forms and the nature of their independence from ministers. Specifically, this section concentrates on organizational types similar to departmental corporations, which is the category into which SSHRC falls, particularly Special Operating Agencies (SOAs), statutory and other agencies, service agencies and foundations. It also discusses the concept of the ministerial portfolio and its implications for SSHRC.

Section two describes SSHRC, including its legislative framework and history. Taking the SSHRC Act as the foundational document for discussions of SSHRC's accountability and governance systems and structures, this section explains the roles and responsibilities set out by Parliament, comparing and contrasting SSHRC to relevant departmental corporations, namely the other research granting agencies—the Canadian Institutes of Health Research (CIHR) and the Natural Sciences and Engineering Research Council of Canada (NSERC)—and the National Research Council of Canada (NRC). It also examines how other key statutes and policies affect the way in which SSHRC is governed and operated, as well as the key reporting documents which SSHRC produces.

Section three explores the developments that have contributed to the current accountability environment, in particular the sponsorship scandal and the slate of reforms it engendered. The involvement of several Crown corporations in the sponsorship scandal created considerable focus on reforming the governance framework of Crown corporations, and many of these reform initiatives have had implications for other types of non-ministerial organizations, although they do not have overarching governance frameworks. This section also examines other government-wide initiatives, such as the introduction of the accounting officer concept. Finally, the work of the Blue Ribbon Panel, which was established to find ways to increase the accountability of grant and contribution programs, is discussed in the context of SSHRC's programs.

Section four discusses a number of SSHRC-specific governance and accountability initiatives, both those targeted at SSHRC (e.g., Industry Canada's granting agencies' review, the S&T strategy) and those initiated by SSHRC (e.g., separation of the roles of President and Chair, Council terms of reference).

Section five, the conclusion, summarizes the effect of the various initiatives and developments on SSHRC's operations and mandate. It offers concluding comments on lessons learned, and recommends consideration of a number of options.

## **BACKGROUND**

### **1. Machinery of government**

The Canadian federal system is one of distributed governance where executive-level authority is not vested exclusively with ministers. There are two categories of organizations: those responsible to ministers and for which ministers are accountable to Parliament and those independent of ministers and for which ministers are answerable to Parliament (d'Ombraïn, 2007).

Organizations exercising broad powers in areas of fundamental importance (e.g., defence, transport) typically are placed under ministerial control. Ministerial control is seen as imperative, given the amount of discretion afforded the organization by Parliament (Ibid). For a department, this means that the minister has full authority to direct and oversee the organization. The key feature is that the minister is deemed to be accountable to Parliament for the activities of the organization, including those actions taken by public servants. A minister is responsible to take corrective action, when required, and to provide accounts of this action to Parliament.

Organizations exercising more limited powers, notably those focusing on service delivery, as well as those exercising powers deemed inappropriate for ministerial direction, are typically not placed under direct ministerial control. These non-ministerial organizations are often described as being at arm's length from ministers. There has been increasing use of non-ministerial organizations to deliver services and perform functions once housed with departments. Many of these organizations, particularly the SOAs of the early 1990s and, more recently, service agencies, have been created based on the logic of separating policy and administration. In this view, service-oriented agencies fulfill an administrative role, not a policy role, and thus do not require direct ministerial control. While a minister retains certain powers, other powers typically in the hands of ministers are delegated; it is through this delegation that the non-ministerial organization achieves greater operational independence. Hence, instead of being fully accountable to Parliament for Crown corporations and other arm's length agencies, a minister is answerable for areas under the authority of the non-ministerial organization (e.g., funding or regulatory decisions). In the latter regard, a minister can only provide factual information to Parliament, not justify or defend decisions taken by arm's length agencies.

The vast majority of the 400-plus organizations in the federal government fall into the category of arm's length organizations; they are known as agencies, Crown corporations, tribunals, commissions, councils, etc. The Financial Administration Act (FAA) (1985), through its various schedules, groups these organizations into the following categories (in order of decreasing ministerial control/increasing independence): departments (Schedule I); statutory and other agencies, including agents of Parliament (Schedule I.1); departmental corporations (Schedule II); and, Crown corporations (Schedule III). Briefly, the key characteristics of the major organizational types are as follows:

- Departments are created through legislation and have mandates covering broad areas of public policy (e.g., environment, heritage, transport). SOAs are a sub-set of departments.

- Statutory and other agencies serve narrow, operational purposes most typically related to administration, supervision, advising, regulation or adjudication.
- Departmental corporations deliver services, perform or support research, or serve as regulators. As corporations, they typically have an external element in their governance model, whether an advisory council or board of directors. Key departmental corporations for the purposes of this study include the two other research granting agencies, as well as NRC. Service agencies are a sub-set of departmental corporations.
- Crown corporations typically operate following a private sector model, with boards of directors, but usually have a mixture of commercial and public policy objectives.

The government's guide for heads of agencies acknowledges the variety in the statutes establishing arm's length agencies, as well as the mandates of these agencies (PCO, 1999). It also recognizes that the duties and obligations of heads of agencies varies considerably, although as CEOs they have in common the "responsibility for the conduct of the work of the agency and the effective functioning of the organization" (Ibid, section I, ¶4).<sup>3</sup>

In terms of the delegation of powers by Parliament, there is little consistency. In some cases, the head of the agency is vested the power to carry out the agency's functions (i.e., powers of direction and control, in addition to management responsibility); in others, this power is vested in a board or council. There is a great deal of confusion with respect to the delegation of authority, with government's guide indicating in the introduction that powers are "normally vested in the individual that heads the agency" (Ibid, Section I, ¶2) and later in the document that "agencies are frequently structured on a corporate model in which decision-making powers are vested in a board or commission" (Ibid, Section III, ¶4). The notion of non-ministerial organizations having boards or councils at the heart of their governance and accountability structure is echoed by Aucoin and Jarvis (2005) in stating that the "statutes that establish arm's length agencies vest powers directly in the boards of directors of these agencies" (p. 18). However, as will be discussed in section two, this is not the case for SSHRC, although it was believed to be so by many stakeholders. To add to the confusion, comparable departmental corporations, including CIHR and NRC, operate on a completely different model than SSHRC (and NSERC).

According to the guide, ministers almost always have some statutory responsibilities, the most common of which is to receive an agency's annual report and to cause it to be tabled in Parliament (PCO, 1999, Section V, ¶4). In most cases, ministers will recommend appointments to the Governor in Council, should the agency have a board or council, and will approve the estimates submitted to Parliament. Ministers may have the authority to refer a matter to an agency for inquiry or study or other powers of direction. They are considered fully accountable to Parliament for these powers.

However, as will be discussed in detail in section three, in the quest for greater accountability, the government has sought to centralize not only financial and administrative control, but to centralize political control of non-ministerial organizations.

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<sup>3</sup> Published in 1999, the guide pre-dates the Federal Accountability Act (FedAA) and the introduction of the accounting officer concept.

This has manifested in the government viewing arm's length organizations as accountable to ministers, as opposed to Parliament, thus providing the framework for increased ministerial control and oversight. d'Ombrain (2007) contends that such an understanding does not respect institutional independence or take into account the conventions and practices of the Westminster system. For non-ministerial organizations, it represents the erosion of their status at arm's length, and as will be argued in section three, a true breakdown in accountability.

## **2. Departmental corporations compared to other organizational types**

The question of what accountability means in the context of the differing types of non-ministerial organizations is complex and compounded by the lack of consistency within the categories. This section of the paper will compare the attributes of the various types of non-ministerial organizations to departmental corporations.<sup>4</sup>

The fifteen departmental corporations are listed in Schedule II (FAA, 1985), along with the three service agencies, and certain regulatory tribunals.<sup>5</sup> However, not all regulatory entities are captured in Schedule II—most are in Schedule I.1. To further complicate the organizational design, some of the organizations listed in Schedule II, including SSHRC and the other granting agencies, are also listed in Schedule V—Separate Employers, but not all (FAA, 1985). The twenty-seven separate employers, which include departmental corporations and the three service agencies, tribunals, agents of Parliament, and one Crown corporation, have a certain degree of freedom with respect to human resources management.

Departmental corporations share some elements with both statutory and service agencies. Like statutory and service agencies, they are specialized entities, often with the same kind of administrative, research, advisory or regulatory function as statutory agencies. Unlike statutory agencies and departments, legally departmental corporations are considered corporate bodies, as are Crown corporations. Departmental corporations have a decision-making function deemed to require a degree of independence, whereas the autonomy of statutory agencies is described in the context of “delivering on their mandate” (TBS, 2007e). This would seem to put the emphasis on the service element of statutory agencies.

The focus on delivering on the mandate is also part of the description of the accountability framework of statutory agencies provided by the Treasury Board, where it is stated: “Heads of Agencies are responsible for the operations in delivery of mandate, not Ministers” (Ibid). Furthermore, the document referred to the “answerability of the minister,” defining it as “political accountability” (Ibid). The inclusion of the phrase “for all activities of the organization, including those pertaining to day-to-day operations” (Ibid) suggests that the minister is accountable, not merely answerable, as is the case for service agencies and

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<sup>4</sup> Crown corporations will be discussed in sections two and three.

<sup>5</sup> With a budget of \$319 million and nearly two hundred employees, SSHRC falls between very small departmental corporations, such as Assisted Human Reproduction Canada, and large ones, such as the National Research Council of Canada (SSHRC, 2008c).

departmental corporations. The confusion continues in the section describing the reporting relationships for departmental corporations and service agencies, where it is noted that the head of the agency reports to the minister, notwithstanding the fact that some of these organizations have boards of directors (Ibid). Again, this supports the government's new interpretation of accountability, where the accountability bestowed by Parliament in statute is diminished.

Such an interpretation works perfectly well in the case of those statutory agencies which have boards (e.g., Atlantic Canada Opportunities Agency (ACOA)), since the function of those boards is purely advisory.<sup>6</sup> This is close to the way in which the advisory boards of SOAs operate, and to the way in which the SSHRC Council is now operating, as will be explored in section four. SOAs are a means of providing service delivery in a more flexible fashion; hence they are not required to comply with centrally-prescribed policies in the way that departmental corporations must do so. The degree of freedom is clearly spelled out in a framework agreement (TBS, 1998). SOAs operate within the confines of their parent departments, with the CEO reporting to the deputy minister, who in turn reports to the minister. For the deputy minister, the responsibility to provide strategic leadership is similar to the minister's role for the entire department. Legal authority is retained by the minister, who provides accounts to Parliament. Many SOAs have management advisory boards to provide advice either to the CEO or the deputy minister, but there is no decision-making or directive power. Their only responsibility is to provide good advice to the CEO or deputy minister. With respect to the management advisory board, since members are not appointed by the Governor in Council they are not accountable to ministers.

Service agencies are a newer organizational type than SOAs, with the creation of the Canada Revenue Agency (CRA), the Canadian Food Inspection Agency (CFIA) and Parks Canada since the late 1990s. CRA is most relevant to this study because it has an external body involved in its governance. CRA has a board of management, specifically called so as to distinguish it from a board of directors. Unlike the management advisory boards of SOAs, CRA's board of management is established in legislation, which sets out its responsibilities and accountabilities, as well as those of the Minister of National Revenue and CRA's Commissioner (the head of the agency). Significantly, CRA, although a Schedule II agency, is not subject to Treasury Board policies except those that pertain to financial management, by virtue of subsection 30(2) of the CRA Act (1999). Given that the board of management is responsible for overseeing the administration and management of CRA by the Commissioner, this places substantial administrative power in the hands of the board of management. In some respects, the board plays a challenge function otherwise exercised by the Treasury Board Secretariat. Or, viewed differently, it acts more like the board of directors of a Crown corporation. However, unlike with Crown corporations, the board of management is not fully responsible for all the activities of the agency since it is not involved in the administration and enforcement of tax legislation.

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<sup>6</sup> d'Ombra (2007) cited the regional economic development agencies, such as ACOA, as non-desirable forms of government. He indicated that they were established as statutory agencies with boards to foster "an appearance of independence," but that this merely muddies accountability since the relevant ministers are fully responsible for the agencies. Hence, they are departments in all but (schedule) name only.

The question of the board of management's accountability is less clear. One section of CRA's website indicates that the board is accountable to Parliament through the Minister of National Revenue (CRA, 2006a); another section indicates that the minister is responsible for CRA and accountable to Parliament for its activities (CRA, 2006b). While the Treasury Board (2007e) described heads of agencies, including the Commissioner, as reporting to ministers, it did not acknowledge the board of management's role in overseeing the Commissioner and providing direction to him/her in certain areas. In returning to sections 6 and 17 of the CRA Act (1999), it is evident that the Minister of National Revenue is clearly responsible for the agency. Both Aucoin and Jarvis (2005) and d'Ombrain (2007) clearly believe that CRA, even with its board of management, is fully subject to ministerial direction and control, with d'Ombrain going so far as to suggest that the use of the board of management was simply a vehicle to avoid being subject to Treasury Board requirements. The role of the Minister of National Revenue with respect to CRA is unique, in that there is essentially a one-to-one relationship—he or she is responsible for nothing other than the agency. In the case of CFIA and Parks Canada, the responsible ministers are first and foremost the ministers of traditional departments; the agencies are elements of those ministers' portfolios.

Like service agencies, foundations are a new organizational type, adding yet another layer of complexity to the machinery of government. Much of the literature around the machinery of government does not discuss foundations, as they were conceived outside the traditional scope of ministerial responsibility and accountability. In establishing foundations, the government pointed to the levels of public distrust in government as a rationale for creating structures outside of the parliamentary and ministerial arenas (Aucoin, 2003). As an extension of this, few foundations have been established by legislation, as departmental corporations are, limiting even the opportunity for parliamentary input on their creation.

As a result of changes introduced in the 2003 budget (Finance Canada, 2003), following OAG reports in 1999 and 2002 decrying the limited accountability of foundations and the lack of ministerial and parliamentary oversight, foundations have been required to submit corporate plans and annual reports to ministers and to Parliament, if created by legislation. However, accountability is still limited since there can be no ministerial or parliamentary intervention unless a foundation deviates from its mandate or the terms and conditions of its funding agreement (i.e., funds projects deemed to be outside its scope).

Foundations are particularly relevant to this study because a number of them operate in the research/postsecondary education area, specifically the Canada Foundation for Innovation (CFI) and Genome Canada. There is a strong degree of alignment with the granting agencies, particularly in terms of being created to deliver a focused service and the selection of projects and activities on the basis of merit (TBS, 2007c). The OAG (2002) has made a direct comparison of foundations to SSHRC. Aucoin (2003) has argued that the foundations in the research arena have the same public policy objective as the granting agencies—and complete freedom from the budget process. Whereas the granting agencies receive funds on an annual basis from Parliament, CFI and Genome Canada receive one-time endowments designed to finance their operations over a fixed period of time. The funding, once transferred, becomes the property of the foundation—it cannot be reduced or

eliminated by Parliament. With funding security, foundations can guarantee multi-year funding for projects, whereas the granting agencies must do so with the proviso that funds are subject to budgetary approval. An evaluation conducted by KPMG suggested that the government should use a more structured framework to determine whether to create foundations (TBS, 2007c).

### **3. Ministerial portfolios**

CFIA and Parks Canada, as well as SSHRC and other non-ministerial organizations (including Crown corporations, but excluding foundations), are often described as being part of a ministerial portfolio. The term does not appear in the FAA or the FedAA, but it is used in the guides for ministers and accounting officers.

The portfolio concept seeks to group all the non-ministerial organizations for which a certain minister is deemed to be the responsible minister. As described in the guide for ministers, portfolios build on “existing statutory roles under a Minister's authority and his or her leadership role as assigned by the Prime Minister” (PCO, 2007a, p. 2). The minister serves as the “captain” of the portfolio in order to “achieve good governance, coherent coordination of policy, legislation and programs, excellence in delivery of programs and services, and meaningful accountability to the public, through Parliament, for the activities of the full portfolio” (Ibid, p. 7). Deputy ministers play a role in helping ministers ensure portfolio coordination, but heads of agencies and the CEOs of Crown corporations are expected to “seek out opportunities to contribute to the overall functioning of the portfolio” (Ibid, p. 8).

These concepts of coordination, the role of the deputy minister as the principal policy advisor, and the “team” approach wherein the minister is the captain and the agencies players, can be seen in a letter sent by Jim Prentice (2007) to the heads of the agencies and the CEOs of the Crown corporations in the Industry portfolio upon his appointment as Minister of Industry.<sup>7</sup> He noted that he would host periodic meetings with the deputy minister and the heads of agencies and Crown corporations to develop “a common sense of our objectives, policies and operations, and their contribution to the government’s overall agenda” (Ibid). Secondly, and more importantly, he noted that he had asked his deputy minister and “principal policy advisor,” to meet with the agency heads individually to “discuss policy initiatives and management issues” (Ibid) and to ensure that policy advice is integrated with his priorities for the portfolio.

At a practical level, the head of each agency is being asked to interact with the deputy minister. While this is not a dramatic shift in practice, on a theoretical level it does represent a shift in the independence and accountability of the agencies, since it equates the heads of non-ministerial organizations with the heads of SOAs. Moreover, asking heads of agencies to interact with the deputy minister places them firmly in the bureaucratic sphere and removes an element of their independence. It can be argued that the independence of the agencies might be protected in light of fewer interactions with the minister, although the OAG (2000) has noted that structured interactions are beneficial, at least in the case of

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<sup>7</sup> This includes SSHRC and NSERC, but not CIHR, which is in the portfolio of the Minister of Health.

Crown corporations. The promise of more frequent and structured interaction provides a venue for dialogue that has often been missing, as will be discussed in section four. It is clear that Prentice (2007) places himself in the primary position, particularly in referring to the agency heads' "accountability to me." There is no mention of accountability to Parliament, which is in keeping with the hierarchy outlined by the government in the guide for ministers—the minister is the only player with accountability to Parliament—and all other players answer to Parliament (PCO, 2007a). This supports the claim that it has become routine to describe ministers as accountable for "all shapes and sorts of government organizations" (d'Ombrain, 2007), even when Parliament has delegated authority elsewhere.

# **SOCIAL SCIENCES AND HUMANITIES RESEARCH COUNCIL OF CANADA: GOVERNANCE AND ACCOUNTABILITY FRAMEWORKS**

## **1. Legislative framework**

In this section, the legislative framework of SSHRC will be outlined, with focus on the legislative debates and intent of the SSHRC Act. The powers outlined in the legislation will be compared and contrasted to those granted in the Acts governing comparable departmental corporations, namely CIHR, NSERC and NRC. Since there is no overarching legislative governance framework for departmental corporations in the way that there is for Crown corporations, each individual Act is the key to understanding the division of powers, and thus the nature of the corporation's independence and accountability to Parliament.

The SSHRC Act (1985) establishes SSHRC as a corporation “consisting of a President and not more than twenty-one other members” (section 3), meaning that the 22 members are the corporation. There is no distinction made between the organization and the Council—the only term used is “Council.”

SSHRC's mandate is “to promote and assist research and scholarship in the social sciences and humanities; and, to advise the Minister regarding such matters related to research as the Minister may refer to the Council for consideration” (Ibid) (section 4). The mandate is set out in very broad terms with respect to goals and policy, which is consistent with the Acts of many organizations, both ministerial and non-ministerial. As Peters (2006) has pointed out, to some extent, this is useful, as it allows organizations “to evolve in response to changing conditions and demands” without having to seek legislative amendment (p. 314); however, it does leave a great deal of latitude for interpretation, both on the part of the responsible minister and the organization itself. The objectives for SSHRC, as set out by Hugh Faulkner, the Minister of State, during the debate on the legislation, were to:

- (i) encourage excellence in research; (ii) provide a base of advanced knowledge in universities; (iii) assist in the selective concentration of research activities; (iv) aim for a regional balance in science capacity; (v) maintain a base capacity for research training; (vi) encourage curiosity-oriented research; (vii) encourage research with a potential contribution to national objectives. (House of Commons, 1976)

Point seven of this framework has proven to be a source of tension over the years, as will be explored in section four.

SSHRC was created from the Canada Council for the Arts (Canada Council), a Crown corporation. At the same time, NSERC was created from NRC. The SSHRC and NSERC Acts are mirror images: they were based on the legislation of the Medical Research Council (MRC), which had been split from NRC in 1969. MRC later became CIHR, an organization that has a much different governing framework and structure than either SSHRC or NSERC. The organizational design of NRC played a large role in shaping SSHRC, although it did retain some of the features from the Canada Council. The rationale for the split was presented as being reflective of “the growth in the size and quality of the social sciences and humanities in this country and the new perception of their importance to the attack on socioeconomic problems, to national sovereignty, and to our cultural development” (Ibid). When the government finally did decide to separate the social

sciences and humanities from the arts, it maintained the arm's length organizational form. As the Minister of State noted during the legislative debate:

...we are fully committed to retain the peer review system; we will not jeopardize the expertise and independence with which the councils support, and scholars perform, research. At the same time, we have sought to provide mechanisms by which eminent scholars in the discipline being supported will oversee the granting process and will advise the government as to how university research may more effectively support national goals. (Ibid)

It is clear that the government envisioned a certain degree of independence for the organization, but also compliance with government priorities. The Minister of State's comments also indicate a certain degree of external oversight, but of the granting process and not management *per se*. The primary mechanism by which eminent scholars would oversee the granting process and advise the government on how university research could support national goals was through the establishment of a Council of twenty-two members (including the President). The members of the Council, who are appointed by the Governor in Council, may serve for up to three years and the President for up to five (SSHRC Act, 1985) (section 5(2)). Unlike many Governor in Council appointees, members serve without remuneration (Ibid) (subsection 7(2)), except in cases where they take on responsibility for service beyond their normal duties of attending meetings and serving on committees. This is significant because their "volunteer" status reflects both their level of responsibility and their lack of liability.

The SSHRC Act (1985) does provide some detail on SSHRC's governance structure and the roles and responsibilities of the key players. Like with the mandate of the organization, the detail provided is limited: it provides flexibility but little day-to-day guidance. Beyond the establishment of the Council and an executive committee of the Council, the Act says little about the structure or organization of SSHRC (subsection 11(1)). The only positions named in the Act are that of the President, the Vice-President of Council and the Minister, who can be any member of the Privy Council, as designated by the Governor in Council for the purpose of the Act (Ibid) (section 2).

The responsibilities outlined in the SSHRC Act (1985) are few; with respect to the responsibilities of the individuals named above, only the responsibilities of the Vice-President are outlined fully, namely to assume "all powers of the President" in the event of absence, incapacity or a vacancy of the position (subsection 6(2)). The President is referred to as the "chief executive officer of the Council," with "supervision over and direction of the work and staff of the Council" (Ibid) (section 10). The President is also responsible for submitting to the responsible minister a report "relating to the activities of the Council for that fiscal year, including the financial statements of the Council and the report thereon of the Auditor General of Canada" within four months of the end of the fiscal year (Ibid) (subsection 20(1)). The President also, by virtue of the Act's silence, assumes the role of Chair of the Council. The only responsibility of the Minister is to cause the annual report to "be laid before Parliament with fifteen days" (Ibid) (subsection 20(2)). Other roles played by the Minister, although not stated in the Act, include recommending the appointment of the President and Council members to the Governor in Council, setting the budget envelope as presented in the Estimates, and approving the annual corporate plan (the Report on Plans

and Priorities (RPP)). The Minister also holds the power to introduce amendments to the SSHRC Act. The extent of the policy direction to be provided by the Minister is not set out formally, and this is one of the main challenges for SSHRC. This contrasts with the situation for Crown corporations, for which Part X of the FAA sets out more clearly the ways in which responsible ministers interact with corporations, namely their boards of directors. Indeed, Part X states that the responsible minister recommends individuals for appointment, approves the corporate plan and operating budget, and has the ability to issue binding policy directives (FAA, 1985). Ministers are now also expected, although it is not enshrined in the FAA, to issue annual statements of priorities to the boards of Crown corporations in order to more clearly and transparently factor into the corporate planning process, as opposed to through the appointments process or by resorting to the use of a policy directive. Aucoin (2007) has questioned why the statements of priorities exist outside the framework of the FAA, arguing that they dilute the statutory division of powers. They do, though, provide a more structured vehicle for dialogue than exists currently for departmental corporations.

## **2. SSHRC Act compared to the CIHR and NRC Acts**

The SSHRC Act (1985) does not state explicitly that the Council has any responsibility to oversee the President or the management of the organization, unlike the way in which the FAA (1985) specifically provides for same by the boards of directors of Crown corporations, or the NRC and CIHR Acts for the Councils of those organizations. There is no discernable pattern here: NRC is like SSHRC in that its Council constitutes the corporation, yet its Council has the authority to “control and direct” management (NRC Act, 1985) (paragraph 5(1)(b)), unlike that of SSHRC. CIHR’s Governing Council, on the other hand, is not the corporate entity, and like that of NRC, is “responsible for the management of the CIHR” (CIHR Act, 2000) (section 14).

Both CIHR and NRC have recently had external reviews of their governance: CIHR by an International Review Panel (IRP) in 2006 and NRC by the OAG in 2004. In conducting its review, the OAG (2004) used CIHR as a point of comparison, noting that it provided “an example of the government’s current practices when establishing a Governing Council” (pp. 7-8) (section 1.28). In doing so, the government clearly departed from the model it adopted when creating SSHRC and NSERC, using a model closer to that of Crown corporations although without the separation of the roles of President and Chair. There was no discussion, though, of harmonizing the Acts of the three agencies when CIHR was created in 2000.

The mandate of CIHR is more detailed and specific than that of SSHRC, as follows: “to excel, according to internationally acceptable standards of scientific excellence in the creation of new knowledge and its translation into improved health for Canadians, more effective health services and products and a strengthened Canadian health care system” (CIHR Act, 2000) (section 4). The mandate of NRC is closer to SSHRC’s, namely to “undertake, assist or promote scientific and industrial research” (NRC Act, 1985) (paragraph 5(1)(c)). Members of CIHR’s Governing Council are remunerated for their service, as opposed to members of the SSHRC Council. This is a small, but key, distinction, as it places the members of CIHR’s Governing Council closer to directors of Crown

corporations, who are also remunerated (in keeping with their additional responsibility and liability). The NRC Act (1985), however, does not allow for remuneration.

The IRP (CIHR, 2006) concluded that CIHR's Governing Council lacked clarity on its role, acting at different times as an advisory committee, a committee with executive functions and a board. It advocated that the Governing Council take steps to adhere to private sector standards, including consideration of splitting the roles of President and Chair. The IRP went so far as to suggest that the Governing Council may wish to "have the ability to appoint the CEO" (Ibid, p. 28), a prerogative not possessed by the boards of Crown corporations but one advocated by the Gomery Commission (2006).

The OAG (2004) also found that members of NRC's Council did not clearly understand their responsibilities. NRC management confirmed for the OAG that the Council acted more like an advisory body, and had done so historically, in contravention of its legislative mandate (Ibid).<sup>8</sup> The OAG recommended that its Council adopt a formal mandate statement outlining its responsibility to approve corporate strategic plans, monitor progress against those plans, and approve budgets, as well as accountability reports or annual reports (Ibid). These functions are similar to those detailed in the CIHR Act.<sup>9</sup>

In 2006, SSHRC commissioned Deloitte (2006) to review its governance; it found the same confusion about roles and responsibilities, noting "accountabilities and decision-making authorities are not consistently understood by all stakeholders nor consistently documented and widely communicated" (p. 16). However, unlike the NRC Council, which was failing to meet its legislative mandate, the SSHRC Council was taking on responsibilities for which it had no authority. By and large, it fulfilled a program advisory role, but with a focus on the development of programs and program budgets, as opposed to the oversight of the granting process as envisioned initially by the Minister of State.<sup>10</sup> While this operating mode was confirmed by Deloitte, the review also found that the Council was viewed as a governing body by its members, SSHRC staff and stakeholders (Ibid). The Council typically made decisions regarding the broad allocation of SSHRC's annual grants and scholarships budget, although it did not set strategic directions for the organization or monitor performance. Similarly, it did not evaluate the performance of the President, but it would often direct the President to produce specific information or study certain areas. This would often occur in Council committee meetings, whose members would direct staff, an authority granted to the President by section 10 of the SSHRC Act. Council did not have any input into or review any of the other reporting documents, including the annual report to Parliament.

Much of the confusion can be attributed to the fact that the Council exists without a clearly defined legislative role. Indeed, while many observers and the government believe that executive-level authority can only be found with ministers or with boards, this is not the case

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<sup>8</sup> According to Doern (2000), NRC's Council in the mid-1980s acted more like a governing board.

<sup>9</sup> The CIHR Act (2000) elaborates the specific responsibilities of the Governing Council, including developing strategic directions, evaluating performance and approving the budget (section 14).

<sup>10</sup> In the early years of SSHRC, the Council did play a significant role in overseeing the peer-review process, as envisioned by the Minister of State, to the point of approving decisions on grants and scholarships awarded by the organization.

with SSHRC. Correspondingly, SSHRC's independence or arm's length status does not hinge on the presence of what is fundamentally an advisory body, although the Council is a legislated part of its governance structure. Over the past two years, a great deal of effort and emphasis has been directed at the Council, on the issues of its role and its membership. These efforts, which have been made by both SSHRC and by the government, will be discussed in section four. While greater operational clarity now seems to exist, at least between the President and members, signals from the government indicate a lesser degree of understanding.

### **3. Other policies and reporting requirements**

Several other statutes come into play with respect to authority, accountability and responsibility, notably the FAA. Although the SSHRC Act (1985) sets out the powers of the President as having "supervision over and direction of the work and staff of the Council" (section 10), SSHRC is designated as a separate employer under Schedule V of the FAA as a result of an Order in Council from 1986 delegating the authorities under subsection 7(1) of the FAA with respect to human resources management (PCO, 1986). This means that SSHRC is not subject to many of the provisions of the Public Service Employment Act and to Treasury Board policies governing human resources management. Instead, the President has the authority to determine staffing and training requirements, classify positions, establish pay scales, etc. (Ibid). However, the Treasury Board oversees the collective bargaining process, meaning it constrains the President's ability to set pay scales.

However, the SSHRC Act does complicate the human resources landscape. Notwithstanding section 10, the Act also contains provisions placing the power to "appoint such officers and employees as are necessary for the proper conduct of the work of the Council" and to "prescribe the duties of those officers and employees and the conditions of their employment" (subsections 14(1) and 14(2)) with the Council and not the President. It is unclear how the President can hold the authority granted to him and the Council the authority granted to it. It is also unclear how these provisions could have been conceived, given that the Council holds no authority over the President and that Council members have no fiduciary duty to the organization. It should also be noted that not even in organizations where the board is a governing board, such as at NRC and CIHR and Crown corporations, do the boards make staffing decisions. At a more practical level, given the requirement that the Council only meet twice a year (Ibid) (section 9), it is clear that the provision could not have been well thought out. In practice, SSHRC has tried to address the situation by having the President make appointments, and having those appointments ratified (often after the fact) by the Council's executive committee.

SSHRC is subject to the majority of policies established by the Treasury Board in its capacity as the government's management board. These policies are applicable because SSHRC, like other departmental corporations under Schedule II of the FAA with the exception of CRA, is considered a department for that purpose. In terms of financial practices, it can be argued that SSHRC is subject to more rigorous control than mainline departments, given that it has been subject to annual audit of its financial statements by the OAG since 1978, as per section 19 of the SSHRC Act (1985). In SSHRC's first

Management Accountability Framework assessment in 2006-07, SSHRC was assessed as strong with respect to the effectiveness of its financial management and control framework (TBS, 2008a). This rating is notable since it speaks to SSHRC's compliance with the measures set out in the FAA and the Treasury Board Policy on Transfer Payments related to the management of grants and scholarships made to researchers and students, to be discussed in section three. This finding contrasts sharply with the assessment of the OAG (2003) with respect to the organizations implicated in the sponsorship scandal.

In terms of annual reporting, in addition to its report to Parliament, which contains the audited financial statements, SSHRC is required by the Treasury Board to submit a Departmental Performance Report (DPR), outlining its performance with respect to the strategic objectives set out in the RPP. Both the RPP and DPR are submitted by the Minister of Industry, whereas the annual report is submitted by SSHRC's President and tabled by the Minister—a subtle, but important difference. However, it is acknowledged that Members of Parliament devote little time or show little interest in their contents, which constitutes a failure on the part of elected officials to provide the oversight expected of them (Aucoin & Jarvis, 2005; Bakvis et al., 2007; Good, 2007; Savoie, 2003). This has led Savoie (2008) to conclude that Members of Parliament have essentially abdicated their responsibilities in this regard to agents of Parliament, particularly the Auditor General, and to the media. To be fair, however, as Clark and Swain (2005) and Good (2007) have noted, DPRs are never balanced, with few departments willing to publicly admit failures or even lessons learned.<sup>11</sup> Indeed, an environment where failure is pounced upon and immediately labelled scandal, it is easy to see how ministers' self-preservation instinct kicks in.<sup>12</sup>

While there is little evidence that the performance reports are used in the parliamentary context, the Treasury Board continues to add dimensions and requirements to them. The information in the RPP and DPR must be presented according to the Treasury Board's Management, Resources and Results Structure (MRRS) policy. The policy is designed to be the key vehicle for supporting results-based management, as it outlines how an organization's programs and activities relate to its strategic outcomes, known as a Program Activity Architecture. The MRRS policy is a key component of the Treasury Board's new Expenditure Management System, which includes strategic reviews of program spending by departments and agencies. As part of a strategic review, a department or agency must review all of its non-statutory spending. It must demonstrate how its programs align to its mandate and government priorities, as well as results achieved and whether value for money is delivered. At a minimum, five per cent of spending must be identified for re-allocation. Since SSHRC has no statutory spending, its review will encompass 100 per cent of its total program spending. Given its role as portfolio agency of Industry Canada, as well as its role in the horizontal science and technology priority, SSHRC's review must take into account these considerations and be conducted in close collaboration with Industry Canada. Although the Minister of Industry and SSHRC's President must "sign-off" on the review, the deputy minister of Industry Canada is expected to be engaged as well. This supports the

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<sup>11</sup> As an example, SSHRC's most recent DPR indicated that SSHRC "met all expectations" for five program activities and "met some expectations" for two program activities (SSHRC, 2007d).

<sup>12</sup> E.g., the "billion-dollar boondoggle" centred on less than \$65,000 in funds that could not initially be accounted for.

notion of the deputy minister as a leading player in integrating and coordinating the work of portfolio agencies, as discussed earlier.

The strategic review exercise moves the Treasury Board from assessing new spending to assessing departments and agencies' total non-statutory spending, giving it greater scope. Even new spending proposals will be reviewed with greater scrutiny, given the amount of information that the Treasury Board will have. It remains to be seen whether departments and agencies will view the exercise as one that ensures alignment of activities to their mandate and priorities, potentially reducing reporting burdens in other areas, or simply another central requirement to be attended to, on top of the business of running programs. Furthermore, this initiative comes on the heels of the legislative requirement to conduct reviews of the "relevance and effectiveness of its grants and contributions programs" every five years, as announced in the FedAA (TBS, 2007d), and it is uncertain how the two activities will work together.

## GENERAL ACCOUNTABILITY REFORMS

### 1. Sponsorship scandal and the Federal Accountability Act

This section will consider the larger accountability environment, beginning with the sponsorship scandal and the reform initiatives set in motion as a response. Many of the reforms, particularly those in the form of new rules (e.g., amendments to the FAA), apply to SSHRC directly, as well new policies and requirements pertaining to internal and external audit. Other initiatives, such as the review of the governance framework of Crown corporations, are useful in providing context for the government's perspective on arm's length organizations.

On its first day in office in December 2003, the Martin government announced a series of initiatives in response to the sponsorship scandal. The measures were described as part of the government's "commitment to restoring trust and accountability in government" (TBS, 2004a). When the OAG (2003) released its report on the sponsorship scandal, it concluded that disregard for contracting rules was ubiquitous, and that mismanagement was compounded by the failure of oversight mechanisms meant to detect and prevent fraud. On the same day the report was released, the government announced a second set of measures, including plans to establish an independent commission of inquiry into sponsorship and advertising activities. Other key measures included reviewing the governance framework for Crown corporations, and studying the responsibilities and accountabilities of ministers and senior public servants (TBS, 2004b).

The Commission of Inquiry into the Sponsorship Program and Advertising Activities (known as the Gomery Commission) released its findings in November 2005, followed by recommendations designed to prevent future mismanagement in February 2006. Like the OAG, the Gomery Commission (2006) found that the problems inherent with the sponsorship scandal were "exceptional deviations" (p. 115). Not surprisingly, the Commission did not call for the creation of new rules or new oversight bodies. While the Commission advocated for a rebalancing of the relationship between Parliament and the government to repair links in the "chain of accountability" (Ibid, p. 114), its list of recommendations was fairly short. The recommendations focused on such issues as the role of Parliament in holding the government to account, the responsibility and accountability of deputy ministers (including heads of agencies), and the Treasury Board's role as a management board.

The Commission devoted one of its recommendations to the House of Commons Standing Committee on Public Accounts, noting that it requires additional resources to support Members of Parliament in reviewing the estimates and studying management issues (Ibid). The Commission saw a value-added role for the committee in providing a non-partisan approach to the review of administrative and management issues, noting that it proved this in studying the accountability of deputy ministers in 2005 (Ibid). However, it acknowledged that the committee employed a partisan approach during its investigation of the sponsorship scandal, and this is an inherent challenge in a partisan environment. The Commission argued that deputy ministers should account for responsibilities given to them

by statute, stating that Parliament did not intend for ministers to be accountable for areas delegated to others (Ibid).

## 2. Accounting officers

Through the FedAA, the FAA was amended to establish deputy ministers and heads of Schedule I.1 and Schedule II organizations, but not the Chairs or CEOs of Crown corporations, as accounting officers who would “be accountable before” but not “to committees” (FAA, 1985) (paragraph 16(4)(1)). The concept was positioned “within the framework of the appropriate minister’s responsibilities and his or her accountability to Parliament” (Ibid) (paragraph 16(4)(1)), suggesting that the government does not believe that deputy ministers and heads of agencies have an accountability relationship to Parliament.

The issue of the authority, responsibility and accountability of deputy ministers has been of concern for many years, with many commentators arguing that the traditional understanding, whereby deputy ministers provided accounts to Parliament (i.e., to committees, namely the House of Commons Standing Committee on Public Accounts) on behalf of their ministers, was no longer sufficient.<sup>13</sup> Supporters of change argued that deputy ministers had statutory responsibility for certain matters, particularly financial administration and human resources management under the FAA and the Public Service Employment Act, and should have to account to Parliament directly for same (Aucoin & Jarvis, 2005). These management issues also fall under the responsibility of the heads of non-ministerial organizations.

The government had long argued that any attempt to divide policy and administration would weaken accountability and the trust between ministers and deputy ministers, insisting that only the Prime Minister and ministers should be directly accountable to Parliament (TBS, 2005e).<sup>14</sup> However, in the FedAA, the position of accounting officer was created, wherein deputy ministers and heads of agencies would have a legal responsibility to appear before House of Commons and Senate committees to “answer questions on management responsibilities set out in section 16.4 of the Financial Administration Act” (PCO, 2007b, p. 1). The guide explains that accounting officers are accountable *before* committees, but not *to* them (my emphasis). Accounting before is interpreted to mean answerable to, which is consistent with the “long-standing practice whereby deputy ministers appear before parliamentary committees to provide information and explanations regarding matters of departmental management and thereby support the accountability of their Ministers for these matters” (Ibid, p. 5). No explanation is provided with respect to heads of agencies, whose appearances often properly extend beyond providing information and explanations for management, and into policy decisions. The lack of detail may be an admission that the government cannot truly reconcile the accounting officer concept with respect to heads of agencies.

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<sup>13</sup> This issue is of concern going back to the 1960s, when the Glassco Commission argued that deputy ministers and heads of agencies were the responsible and accountable managers in government.

<sup>14</sup> This review only considered the role of ministers with respect to deputy ministers (and vice versa), but not heads of agencies.

However, in trying to position the concept of the accounting officer within the framework of ministerial responsibility, the government has created a number of contradictions, all of which create accountability gaps. On the one hand, the guide for ministers states that ministers are fully accountable for non-ministerial organizations, which does not respect the powers bestowed by Parliament, as follows:

Accountability to Parliament for all matters pertaining to the portfolio, including management, rests with the Minister. Even where particular responsibilities or authorities are assigned by statute to the deputy minister (or other deputy head)... the Minister is accountable to Parliament for the sound management of the organization and proper exercise of authorities by officials. (PCO, 2007a, p. 12)<sup>15</sup>

Other sections of the guide suggest that both ministers and non-ministerial organizations are answerable, but not accountable, leaving Parliament with no one to hold to account (Aucoin, 2007). In this scenario, while ministers “do not have direct responsibility for addressing issues raised by Parliament, they must nevertheless answer to Parliament (i.e., provide the necessary information and explanations) and ensure that the non-departmental body concerned does address those issues, as appropriate” (PCO, 2007a, p. 21). Furthermore, in such cases, the guide states that “all non-departmental bodies have a responsibility to answer to Parliament. Heads of non-departmental bodies and their officials appear before parliamentary committees and do so in accordance with the principles of ministerial responsibility and the political neutrality of public servants” (Ibid, p. 21).

### **3. Crown corporations**

Crown corporations are the only component of the arm’s length universe to have an overarching governance framework. Part X of the FAA (1985) sets out that the board of directors of a Crown corporation is responsible for the management of the business, activities and other affairs of the corporation (section 109). Essentially, the board oversees the management of the corporation and holds its senior management accountable for performance; in turn, the minister holds the board accountable for performance, on which it reports to Parliament through the minister. The Treasury Board review of the governance framework of Crown corporations conducted in the wake of the sponsorship scandal frames the division of responsibilities differently, citing the implementation of the policy guidance provided by government as a board’s main responsibility (TBS, 2005d). The government essentially articulated a view of the arm’s length relationship as board control over a corporation’s administration and management (i.e., boards having “operational autonomy”) (Ibid).

The question of accountability in the context of Crown corporations was one of the major themes of the review. The review was clear that the government viewed accountability only in terms of the linear hierarchy, where: the minister accounted to Parliament (for the responsibilities outlined above); the board accounted to the minister (for stewardship of the corporation); and the CEO accounted to the board (for the management and performance of the corporation) (Ibid). This interpretation suggests that the “accountable to Parliament, through a minister” formulation used in Part X of the FAA (1985) has little weight in the

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<sup>15</sup> Heads of agencies are captured in the term “deputy head.”

current environment. A variation of the same line is used in the SSHRC Act with respect to the organization's annual report.

Paradoxically, at the same time as the role of the minister was strengthened, the review sought to strengthen the role of the board of directors as a means of overseeing and controlling management. Peters (2006) has indicated that this "hybrid model" represents an effort to balance autonomy and ministerial control (p. 319), but that it lacks adequate mechanisms for holding members accountable for their own performance. Certainly, much more emphasis has been placed on the selection of members, with the assumption that the quality of the selection process will lead to the appointment of qualified, competent and high-performing members. The Gomery Commission (2006) and the OAG (2000) also supported such an approach, with the OAG suggesting that boards should produce "board skills profiles." It did so based on its finding that when the government used a skills profile to make an appointment, the person appointed "better met the board's needs" (Ibid, p. 12) (section 18.40). The Gomery Commission (2006) went much further, suggesting that once initial directors had been named by the government, boards should be responsible for appointments.

Neither the review of the governance framework of Crown corporations nor the FedAA went that far. Instead, while the need for a "competency-based, professional and transparent" process was noted, the degree of control sought was evident: the process must be "consistent with the ability of the government to exercise its responsibilities as owner" (TBS, 2005d, pp. 29-30). The review did recommend that profiles and criteria be published, namely through a central website and through the *Canada Gazette* (Ibid). While this was a step in the right direction, it would be mitigated by the non-transparent selection process. The website has been created, but it merely lists vacancies, not processes and criteria; the site is managed by the Public Appointments Commission (PAC). PAC was established in the FedAA to oversee and report on the selection process for Governor in Council appointments. However, the Prime Minister's selection of Gwyn Morgan as PAC's Chair was not accepted by the House of Commons Standing Committee on Government Operations and Estimates, effectively ending the work of the Commission before it ever began (CBC, 2006). PAC does continue to exist at the secretariat level, but there is little evidence that there has been progress made in advancing a competency-based process. This is significant, as will be discussed in section four, because the government has taken a demonstrated interest in the composition of the SSHRC Council.

#### **4. External and internal audit**

The FedAA (2006) introduced a series of measures with respect to external and internal audit: the former pertaining to the powers of the OAG and the latter to the audit function within departments and agencies.<sup>16</sup> This followed amendments to Part X of the FAA, as recommended in the review of Crown corporations, requiring audit committees to be established (TBS, 2005d). The importance of the role played by audit committees in

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<sup>16</sup> The OAG was given the authority to inquire into the use of funds by individuals, institutions and companies in receipt of over \$1 million from the government, whether the funds were provided through transfer payments or contracts, essentially permitting the office to "follow the money" (TBS, 2007d).

ensuring stewardship and providing oversight was underscored by the OAG (2000), in stating: “It represents the ‘engine’ of a well-functioning board” (p. 19) (section 18.80).

The Treasury Board released a new Internal Audit Policy suite in October 2005. The introduction of the Policy on Internal Audit, which had been signalled in the wake of the sponsorship scandal, was a key element of re-building the internal audit function and capacity within departments and agencies. The government positioned the policy not only as a crucial part of providing “accountable, transparent and effective management” but as an “underpinning for effective and credible governance at the departmental and government-wide levels” (TBS, 2005a). Of the requirements, those with respect to audit committees have had the most significant implications for SSHRC. Departments and agencies are required to establish “an independent departmental audit committee that includes a majority of external members who are not currently in the federal public service” (TBS, 2005c) (paragraph 5.3.2) and are expected to “ensure that the deputy head has independent, objective advice, guidance, and assurance on the adequacy of the department's control and accountability processes” (TBS, 2005b) (subsection 4.1).

The Directive on Departmental Audit Committees outlines the composition and processes for the selection of audit committee members. The committees must have a majority of external members by April 1, 2009, but the Treasury Board's preferred model is to have “committees comprised entirely of external members with the deputy head as an ex-officio member” (Ibid) (paragraph 4.3.1). Members are to be selected by the deputy minister or head of agency and the Comptroller General, and approved by the Treasury Board (Ibid) (paragraph 4.3.2).

Unlike many departments, for whom the introduction of the requirement will constitute a major change in operations, SSHRC has had an audit committee of its Council since 1978. However, like the Council itself, the committee's role was not necessarily clear, nor did its members have the necessary expertise to take on the functions typically associated with audit committees. Subsequent to the introduction of the new policy, SSHRC sought an interpretation from the Office of the Comptroller General as to whether Council members would be considered external members, but were advised that Governor in Council appointees would be considered internal to the organization. In some regards, this is surprising, given that the appointment process is out of SSHRC's control and that the audit committee is, like the Council, essentially an advisory or assurance body to the President; however, given the fact that Council members would be advising the President on matters typically under the remit of boards of directors or governing councils, it is not. Significantly, audit committee members will be remunerated, whereas Council members are not, thus effectively diminishing the commitment expected and role accorded the latter as an accountability mechanism. The audit committee members will likely devote more time to SSHRC business than SSHRC Council members, which in some regards, diminishes the role of Council members.

## **5. Grant and contribution programs**

In June 2006, in response to a FedAA commitment, the President of the Treasury Board announced the creation of an Independent Blue Ribbon Panel on Grant and Contribution

Programs (known as the Blue Ribbon Panel) to “recommend measures to make the delivery of grant and contribution programs more efficient while ensuring greater accountability” (TBS, 2006). With \$26 billion spent annually by some fifty departments and agencies on grant and contribution programs and the newly-enshrined legislative requirement for review of this spending every five years, the panel’s task was not a small one. Of the thirty departments and agencies providing funding through grant and contribution programs, SSHRC ranked twelfth (NSERC ninth and CIHR tenth) (Clark & Lankin, 2006).

The final report was unequivocal that there was a need for fundamental change in the way in which departments and agencies administered grant and contribution programs (Ibid). The Blue Ribbon Panel’s recommendations were based on the conclusion that the existing framework for grants and contributions was rooted in a management culture of fear, where accountability was constructed in terms of eliminating failure, rather than ensuring performance (Ibid). This, of course, is consistent with the management culture of the government writ large, as discussed earlier.

The Blue Ribbon Panel cited the granting agencies as exceptions to the rule, noting that their programs did “not suffer from the many of the problems confronting other grant and contribution programs” (Ibid, p. 8). It called the system of oversight used by the agencies “rigorous” (Ibid, p. 7). This system is made possible in large part through a Memorandum of Understanding (MOU) with the recipients of grant funding—the universities, colleges, not-for-profit organizations and research hospitals which hold funds in trust for researchers.<sup>17</sup> In addition to clarifying the roles and responsibilities of each party with respect to the money invested in research, the MOU also harmonized some of the policies and procedures of the three agencies, thus reducing the administrative burden for recipient institutions (NSERC, SSHRC & CIHR, 2008a). The MOU established that the granting agencies have a responsibility to deploy the public resources allocated to them in an effective way (i.e., through peer review) and to account for how the resources are used and the outcomes achieved (Ibid). The agencies entrust the institutions to provide the “physical, organizational, policy and procedural infrastructure for the conduct of research” (Ibid, section 3). The MOU does acknowledge that establishing such systems imposes costs on all sides and that choices must be made regarding the nature of controls imposed (Ibid). The MOU is a thus tailored, mutually-acceptable system of financial management and accountability between the parties involved in the research enterprise. It is not a binding contract, but instead represents an accountability arrangement based on clear roles and responsibilities, agreed-upon expectations, and most crucially, trust.

The new Policy on Transfer Payments will take effect on October 1, 2008. It has kept the same categories of grants and contributions as in the former policy; grants will continue to be awarded on the basis of pre-established eligibility criteria, without requirements for accounting or audit, but recipients may be requested to report on results achieved, as recommended by the Blue Ribbon Panel (TBS, 2008b). While there is no change in this regard for SSHRC, the new policy does seek increasing harmonization, integration and standardization of programs, within and between departments and agencies, and streamlined application processes and reporting requirements for applicants. A similar

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<sup>17</sup> Developed in 2002, the MOU was updated in 2008 with the release of eight new schedules.

directive came for SSHRC, NSERC and CIHR in the S&T strategy (Industry Canada, 2007).

The government considers the Policy on Transfer Payments to be a centrepiece in its efforts to simplify the “web of rules,” as described by the President of the Treasury Board in May 2007, when he stated:

The Prime Minister’s expression ‘web of rules’ has come to symbolize what happens when rules become a barrier to good governance. In government, this happens when our response to a crisis is to pile on more rules—rules that become difficult to follow and slow things down, rules that blur accountabilities, and in the end, rules that encourage people to stop using their judgement... We’ve now come to the point where we need to rebalance. (TBS, 2007f)

But as Clark and Lankin (2006) have pointed out, making the shift to such a streamlined system will require a great deal of leadership and commitment at the political level, in particular, to accept the occasional failure. If recent history is a guide, this is unlikely to be the case, although the administrative control framework of the FAA will mitigate risk. On the performance side, failures are more challenging to mitigate, and in the research world, more likely, because as noted by Clark and Lankin (2006), it can be difficult to assess the outcomes and even the direction of research.

### *5.1 Results and impact of programs*

SSHRC has taken up the challenge of better assessing the outcomes of the research it funds as one of its three priorities for the period 2008-11 (SSHRC, 2007e). The difficulty in moving from familiar indicators (e.g., journal articles, citations) to encompass the ways in which research helps to “change thinking and behaviour” has been acknowledged (Ibid. p. 8).

A key to this effort will be capturing systematic evidence and reporting on the impact of investment in research training. This is increasingly becoming the core of SSHRC’s strategy, rather than evidence pertaining to the impact of research itself (i.e., outcomes pertaining to the generation of new knowledge, development of new policies or programs). The decision to focus on better understanding and articulating the impact of investment in research training stems from the value of the investment in research training, which totals nearly seventy per cent of SSHRC’s granting budget (SSHRC, 2007c).<sup>18</sup> As the current President indicated in his first annual report, while it is known anecdotally that those trained with SSHRC funding go on to contribute in all sectors of society, better measures of their contributions are needed for SSHRC to be able “to demonstrate how research funding provides opportunities for individuals to gain experiences that prepare them for careers across society” (Ibid, p. 3). Until recently, with the launch of the full evaluation of SSHRC’s doctoral fellowships program and of the Canada Graduate Scholarships program,

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<sup>18</sup> Only 32 per cent of SSHRC’s granting budget (totalling \$100 million) is spent on research training directly, that is, through scholarships and fellowships awarded to students. The remaining amount is spent indirectly through the grants awarded to researchers, who use some of their funding to support students (SSHRC, 2008a).

little work had been done to assess the impact of the direct funding provided to students. In particular, since SSHRC does not systematically track recipients of fellowships and scholarships after their funding ends, it has little data as to whether the students actually complete their degrees and what careers their training assists them in pursuing. Gaffield has made a point of convincing researchers of the necessity of joining in the effort to measure the impact of their work and to connect it to the larger issues in society. In an article in the *Globe and Mail*, he stated: “We are asking the public to support us. I think they have every right to know what public money is being spent and why” (Church, 2007).

This emphasis on performance as a means to demonstrate accountability is certainly in keeping with broader governmental and corporate trends and with the way in which the role of deputy ministers and heads of agencies is positioned. With respect to non-ministerial organizations, it represents an attempt to “depoliticize” the accountability process, according to Peters (2006, p. 326), since it offers the opportunity to move beyond considering individual events that can be used as fodder for embarrassing ministers during Question Period in the House of Commons. However, a number of other commentators have remarked on the challenges of performance management in the government context (Bakvis et al., 2007; Clark & Swain, 2005; Good, 2004). And while there is little dispute that public entities should be well-managed, and little to criticize in SSHRC’s efforts to be more transparent in terms of its spending, the process cannot be completely depoliticized, particularly given the government’s role in establishing and funding areas of priority research, as will be discussed in section four.

## SSHRC-SPECIFIC ACCOUNTABILITY INITIATIVES

### 1. Granting agencies' review

The message of demonstrating accountability through performance was also transmitted by the government in the S&T strategy (Industry Canada, 2007). This issue of performance measurement and results was also one of the four themes of the accountability and value for money review of the granting agencies announced in the 2006 budget (known as the granting agencies' review) (Finance Canada, 2006). The review was conducted by Jim Mitchell of Sussex Circle for Industry Canada.<sup>19</sup>

As part of the granting agencies' review, SSHRC was required to conduct twenty-three "self-studies" in the areas of "accountability, governance and priority-setting" and "program structures, delivery and results/impact." The information provided was submitted to Industry Canada, and formed the basis of Mitchell's report, along with interviews with senior members of the research community and government officials at the agencies and Industry Canada. Mitchell (2006) concluded that the research funded by SSHRC and NSERC "represents an essential and increasingly important contribution to almost every dimension of Canada's national life, and notably to the growth of an internationally competitive economy and a strong, diverse society" (p. 1). He also noted that the contribution

has not received the attention it deserves, in part because (a) the councils have not done a good enough job of publicizing their own achievements or (b) of aligning research investments to results, and because (c) measuring the true results of research is a complex, long-term enterprise. (Ibid, p. 2)

Mitchell (2006) argued that SSHRC and NSERC's efforts to place increased emphasis on making connections with society (i.e., dissemination of research results, international connections and partnerships, closer engagement with government departments) have been positive, and that the government should encourage the agencies to continue in that direction by engaging with them more closely at the program, policy and strategic levels and by providing continued funding. Specifically, Mitchell (2006) indicated that the government should work with SSHRC and NSERC to articulate a clearer relationship, including a statement of priorities to inform the agencies' research agendas, and to develop accountability measures and performance measures.<sup>20</sup> On the other hand, it can be argued that the S&T strategy (Industry Canada, 2007) has set out the government's priorities (the environment; natural resources and energy; health and related life sciences and technologies; and, information and communications technologies), and the recent funding for SSHRC, NSERC and CIHR has aligned with the S&T priorities. It should be noted, though, that the agencies were not directly involved in establishing those priorities. To-date

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<sup>19</sup> It focused on SSHRC and NSERC only since CIHR had been the subject of an international review in 2006. It was clear from CIHR's review that the challenge of evaluating impact is not unique to SSHRC (CIHR, 2006).

<sup>20</sup> This suggestion appears to be taken from the review of the governance of Crown corporations, which recommended that ministers produce annual statement of priorities, sharing them first in draft form for the board of directors so that there can be a dialogue about expectations before a final copy is transmitted (TBS, 2005d).

no re-alignment of existing funding with the S&T priority areas has been sought; however, the results of the strategic review exercise—to which NSERC and CIHR are also subject to this year—may change this.

Eight recommendations are found in the granting agencies' review. With respect to performance measurement and results, it was recommended that SSHRC and NSERC develop relevant performance measures, as well as a plan for annual reporting of same (Mitchell, 2006). Implicit in this is a criticism of the measures and reporting found in SSHRC's RPP and DPR, the weaknesses of which have been acknowledged by SSHRC. Mitchell also confirmed the desire of those interviewed to engage more fully in finding meaningful performance and results measure, which would include measures specific to the production of knowledge and to the development of talent. Both SSHRC and NSERC can point to the funding of young researchers, and the recruitment and retention of scholars through initiatives such as the Canada Research Chairs program. SSHRC is also running an Impacts Initiative program, which seeks "to contribute research knowledge on measurement techniques, principles and best practices to the federal government discussion and to help Canadian social science and humanities researchers contribute their know-how to the broader international effort" (SSHRC, 2007b).

The impacts issue is not unique to the Canadian research enterprise, and progress will not be made overnight. Any efforts to capture data for whatever are ultimately deemed more relevant and appropriate performance measures will need to be balanced against other reporting requirements placed on recipients. If the promise of the efforts made around the "web of rules" holds, in particular those pertaining to grant and contribution programs through the new Policy on Transfer Payments, both parties will be freed up from accounting for every dollar spent and thus more able to account for long-term benefits. Viewing performance reporting as a shared responsibility may help; this is the view taken in the new MOU schedule on reporting on performance and outcomes (NSERC, SSHRC & CIHR, 2008b).

## **2. Science and Technology strategy—Funding**

There is another issue related to performance management, and that is targeted or strategic research; research focused on certain areas of strategic interest or relevance to the government and society at large. Mitchell (2006) has noted that "one obvious measure of the value of research is *relevance* to the economic and social challenges the country" (p. 28), but the process of identifying the issues requiring focused research and funding that research has been fraught with tension over SSHRC's thirty-year history.

Over the past two federal budgets, the three granting agencies have received additional funding devoted to strategic research, whereas in the 2006 budget, the additional funding received was not specifically earmarked (Finance Canada, 2006). In 2007, the funding for SSHRC was earmarked for research in the areas of management, business and finance, and for NSERC in the areas of environmental science and technologies, natural resources and energy, and information and communication technologies, and for CIHR in the areas of health and related life sciences (Finance Canada, 2007). For NSERC and CIHR, these areas were taken from the Council of Canadian Academies' (CCA) 2006 study entitled "The

State of Science & Technology in Canada.” Commissioned by Industry Canada, the study was aimed at assessing Canada’s strengths and capacity in terms of science and technology (CCA, 2006). While it was beyond the CCA’s mandate to recommend priorities for funding, the government essentially used the report as the basis for the priority areas announced in the S&T strategy and the funding allocations that followed in the 2007 budget, except in the case of SSHRC as the report did not identify any social sciences and humanities research disciplines as areas where Canada was or had the potential to be a world leader.

The strategy has made it clear that the government seeks more focused investments from the granting agencies, a task which would be made easier with greater dialogue and earlier identification of societal priorities upon which the agencies could then structure their research programs.<sup>21</sup> In this regard, the directions of the 2008 budget pointed SSHRC towards research “that contributes to a better understanding of how the environment affects the lives of Canadians and of the social and economic development needs of northern communities” (Finance Canada, 2008, p. 120). This area, while certainly aligned with larger government priorities regarding the north, does depart from the areas in the S&T strategy.<sup>22</sup> Similarly, the targeted funding for NSERC in announced in the 2008 budget was for areas of research not referenced in the S&T strategy. Hence, it is not entirely clear how SSHRC should orient itself with respect to the strategy.

While targeted funding represents an increase to the annual funding of the agencies, potentially freeing up money for research in other areas, the selection of the targeted areas is of great concern to members of the research community. In commenting after the release of the 2008 budget, Noreen Golfman, President of the Canadian Federation for the Humanities and Social Sciences, noted “(w)e fear this kind of thematic targeting could ultimately compromise the quality of basic research in Canada” (Charbonneau, 2008). This issue has been a source of tension since the early years of SSHRC’s existence, although those interviewed by Mitchell (2006) indicated that they regarded strategic research as “totally legitimate” (p. 28). They did note a need for “an appropriate balance between strategic and investigator-driven research,” with dialogue between the government and the agencies on priorities for research ((Ibid, p. 29).<sup>23</sup>

Recently, SSHRC has tried to defuse this situation by breaking down distinctions between so-called curiosity-driven or investigator-driven research and strategic research.<sup>24</sup> Much of the strategic research is funded through “Joint Initiatives,” where SSHRC and another organization jointly create, fund and administer a program (in varying degrees) on a

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<sup>21</sup> The strategic review exercise will point to ways in which SSHRC can be more focused with its investments, although additional direction from the government through the budget process will likely inform the effort.

<sup>22</sup> While SSHRC has long had programs to support research about the north and Aboriginal peoples, they have not been focused on the environment *per se*.

<sup>23</sup> This was noted in CIHR’s (2006) fifth-year review, where the IRP stated “appropriate balance between these various forms of research funding ... is a critical determinant of the future success of Canadian health research” (p. 16).

<sup>24</sup> Miller (2006) noted that this was tried by SSHRC’s second President, William Taylor, who argued in 1982 that in his own field of archaeology, what would be considered basic research by one would be considered strategic research by another.

specific policy-oriented topic. For SSHRC (2001), Joint Initiatives are attractive in an environment of limited funding, since every dollar invested by SSHRC leverages nearly \$1.50 from the partner, thus enlarging the pool of funding available to researchers. For the partner, the benefit is the ready-made access to a pool of researchers and the quality assurance provided by the peer-review process.

These partnerships are often, but not exclusively, with other government departments or agencies; e.g., Human Resources and Social Development Canada, Citizenship and Immigration Canada. Some Joint Initiatives have been with private-sector partners such as the Conference Board of Canada and Crossing Boundaries; some have been with foundations such as CFI. And while this type of horizontal collaboration is demanded of government organizations in an age of “wicked” policy challenges, it brings its own set of challenges, particularly in reconciling horizontal accountability with the vertical accountability of the traditional model (Bakvis et al., 2007; Langford & Roy, 2007; Savoie, 2004). Bakvis et al. (2007) have correctly pointed out how this challenge has been overlooked in the current accountability environment, but it is not surprising given all the efforts to hold to a linear, hierarchical model of ministerial control. In SSHRC’s case, there has been no interest from the Minister of Industry in this area, other than emphasizing collaboration amongst the granting agencies, in terms of programming, policies and procedures, as set out in the S&T strategy (Industry Canada, 2007).

Langford and Roy (2007) have offered more specific commentary in the case of public-private partnerships, which stretch the interpretation of the traditional model even further. In many respects, SSHRC would be well-served to establish a framework for such arrangements along the lines of its MOU with the recipient institutions of its grants and scholarships funding, covering why and when it would collaborate and setting out criteria for the accountability of the arrangements, as suggested by Bakvis et al. (2007) and Langford and Roy (2007). This is made even more essential because SSHRC (2008b) has made it clear through its new partnerships strategy that it seeks to develop “new programs and partnerships in light of budget increases for federal priority areas in management, business and finance, and the environment and northern communities.”

### **3. Science and Technology strategy—Governance and accountability**

The S&T strategy made specific commitments with respect to the governance and accountability of the granting agencies; namely, separating the functions of the President and Chair and filling vacancies on the Councils with individuals from the business and community sectors to ensure that “the composition of granting council governing bodies reflects Canada’s broad economic and national interests” (Industry Canada, 2007, p. 68). It is interesting that the only direction provided by the government with respect to governance pertained to the roles of the President and the Vice-President, as opposed to the role and responsibilities of the Council itself or the role and responsibilities of the Minister of Industry. Similarly, while the composition of the Councils was discussed, there was no indication of the process to be used to select and appoint members.

### 3.1 *Role of the President and Chair*

With respect to commitments regarding the President and Chair, SSHRC had actually effected the separation of the functions prior to the release of the strategy. Upon his appointment as President in September 2006, Gaffield indicated his desire to make the change (Research Money, 2006).

The separation of the roles is certainly in keeping with trends in the private and public sectors, particularly in terms of Crown corporations, as recommended by the OAG (2000). It was one of the primary recommendations of the Deloitte (2006) review. This issue was also addressed by Mitchell (2006), who noted that interviewees revealed a preference for the split, arguing that having a separate Chair would be an “asset to the organization” (p. 31). There was some concern that the change could weaken accountability (Ibid). At issue was whether such a change could potentially leave the President caught between a Council that assumed, but did not actually possess more authority (i.e., a Council, under a Chair, that would behave like a governing board, but without the legal authority to do so), and the Minister of Industry. Mitchell (2006) appropriately noted that such a scenario was possible regardless of whether the separation of roles was made inside or outside the confines of the SSHRC Act.

Mitchell (2006) posited several options regarding the role of the Council and separation of the roles of President and Chair: 1) making SSHRC a Crown corporation; 2) legislative change to make the 22-member Council a board (as opposed to the corporate body); and, 3) legislative or non-legislative changes to separate the functions of President and Chair and have the Council operate more like a governing board, while remaining the corporate body.<sup>25</sup> A modified version of the last option is what SSHRC landed upon, with changes to the by-law, not the SSHRC Act.<sup>26</sup>

SSHRC was lauded for its efforts in the S&T strategy, where it was stated: “By enhancing the role of its external Vice-President of its council, SSHRC is increasing its openness to the views of the community and oversight of the President and staff” (Industry Canada, 2007, p. 67). When SSHRC received Governor in Council approval of the changes to its by-law enabling the Vice-President to serve as Chair, the government implicitly indicated its support for the notion of enhanced oversight of the organization. Similarly, the government’s appointment of a member of the Council from the private sector as Vice-President also supports the notion of enhanced oversight, but from a community larger than the academic community.

This change does help the Council achieve the external oversight articulated by the Minister of State during the legislative debates (House of Commons, 1976), and it also supports Aucoin and Jarvis’ (2005) notion that some degree of external oversight is always

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<sup>25</sup> Mitchell (2006), in advancing the idea of SSHRC becoming a Crown corporation, noted that “(m)aking SSHRC and NSERC into Crown corporations would be somewhat of an innovation, but not impossibly so. The nature of their work (i.e., the awarding of grants for research, and related programming) arguably lends itself to greater distance from a Minister rather than less” (p. 33).

<sup>26</sup> These amendments were made by Council at its October 2006 meeting, and ratified by the Governor in Council in February 2007.

presumed with departmental corporations. However, the external oversight provided by the Vice-President and the Council, particularly as it pertains to the performance of the President and the organization itself, does not align with the SSHRC Act, and it is notable that the change was made outside of the Act. The position of the Vice-President, as provided for in the SSHRC Act, does not hold any statutory authority with respect to oversight or the corresponding responsibility to account for same. In this respect, it is easier to position the change for CIHR, since the Governing Council does have authority to direct and oversee the President. This would be in keeping with the recent actions with respect to Crown corporations, where the government amended the Acts of several Crown corporations to provide for separate Chairs (TBS, 2007b).<sup>27</sup> However, while widely acknowledged to be a best practice in this situation, making such a change for CIHR would require legislative amendment, since the CIHR Act (2000) clearly designates the President as the Chair (subsection 9(1)).

Following the approval of the by-law amendment, SSHRC (2007a) articulated the role of the Vice-President as that of a “leader in council.” This means while the Vice-President, in carrying out his responsibilities as Chair, may interact with the Minister of Industry, it is understood, at least in an informal way, that Vice-President has no direct relationship or accountability to the Minister, other than as an appointed member of the Council. The interactions of the Vice-President with the government have been positioned as being “in collaboration with the President” (Ibid). This is very different than the role of the Chair of a Crown corporation, who would have the responsibility for interaction with the responsible minister. Hence, mixed messages are provided, and the potential for confusion increased.

### 3.2 *Role of the Council*

Subsequent to the agreement on the role of the Vice-President, the Council developed and adopted a terms of reference, as advocated by Deloitte (2006) and by the OAG (2004) as a “best practice” in the review of NRC, as discussed in section two. The terms of reference are positioned in terms of the President’s responsibility for the organization, with the preamble referring to strengthening:

the President’s ability to lead the organization with the conviction that comes from independent advice, and, with the support of Council, to confidently account to the Minister and to Parliament for the decisions made, the resources expended and the results achieved. (SSHRC, 2008c)<sup>28</sup>

The terms of reference indicate that the Council will advise the President on strategy, risk management, performance management and stakeholder relations with the goal of ensuring that SSHRC’s priorities and programs support high-quality research, training and knowledge mobilization, and enable a strong, vibrant research community in the social sciences and humanities. (Ibid)

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<sup>27</sup> The government has not indicated a desire for change at NRC, although the NRC Act (1985) also clearly makes the Council a governing board.

<sup>28</sup> Prior to this, no official mandate statement existed, although several efforts had been made to produce one in the 1980s.

Significantly, although the Council's role is elevated to the strategic plane from the operational plane, it is clear from the detailed list of duties that the President remains responsible for the direction and control of the organization. In particular, the Council participates in the development of and endorses "strategic direction, annual priorities and broad-based allocation of resources" (Ibid) as opposed to approving them—a subtle, but meaningful, difference when compared to the boards of Crown corporations or the Governing Council of CIHR and the Council of NRC, as discussed. This interpretation of the Council's role—more of an advisory council to the President, albeit one appointed by the government—is perhaps closer to the intent of the SSHRC Act than the view expressed by Mitchell (2006), who advocated that the "council function in every practical sense as a governing council; i.e., focus on issues of strategy, direction and priorities, and on setting objectives for the President and the management team" (p. 43). It should be remembered that the government did not take up any of Mitchell's recommendations with respect to the role of the Council. This may be interpreted as: 1) the government believed that the necessary changes, including having the Council operate at a more strategic level, if not at an executive-governance level, could be achieved through a separation of roles and the appointments process; or, 2) the government believed that the Council should not act as a governing council, but as an strengthened advisory council to the President.

While not guided by the Council, it is likely that the President will have to take into account very seriously the views of the Council, particularly given the emphasis on having a Council "composed of more business and community representation to ensure that the composition of granting council governing bodies reflects Canada's broad economic and national interests" (Industry Canada, 2007, p. 68). In some respects, it is somewhat surprising that the government expressed its desire to have a more "corporate Council" (i.e., more members from the private sector), given that the Council is moving away from being an operational decision-making body into being a strategic advisory body. In this regard, the previous experience of members from the private sector on corporate boards would be of some value in helping to keep discussions at a high level, but not availed of in the traditional sense of setting direction and holding management to account. This is essentially how the management boards of SOAs operate. Yet unlike the members of boards of SOAs, the members of the Council are appointed by the Governor in Council, and accountable to the Minister of Industry, not the President, for the quality of the advice provided. It does, however, align with CIHR Act (2000), which states that in making appointments, the Governor in Council should "consider appointing women and men who reflect the highest standards of scientific excellence and women and men who reflect a range of relevant backgrounds and disciplines" (subsection 7(4)).

The recent slate of appointments made by the government certainly increased the diversity of the Council membership.<sup>29</sup> This movement, like that of the effort to separate the roles of President and Chair, was championed by the President upon his appointment, who indicated that he wished to have a more diverse Council in terms of the membership representation (Research Money, 2006). It had also been cited by Deloitte (2006) as an area for enhanced focus. As discussed earlier, the appointments issue has long been an area of concern for the OAG (2000), particularly with respect to the boards of Crown corporations. It was also

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<sup>29</sup> In May and August 2008.

cited in the OAG's (2004) report on NRC, and the actions undertaken by SSHRC correspond exactly to the recommendations made about NRC's Council, including creating a skills profile.

While SSHRC has put great effort into the appointments process of late, developing and sharing a competency matrix with the government in keeping with the OAG's (2004) recommendation and launching a "call for expressions of interest" in August 2007, it is questionable as to what these efforts have achieved.<sup>30</sup> Given the advisory nature of the Council, it is on some level questionable as to why such effort is being placed on the process; however, from SSHRC's perspective, it can be argued that the President would still benefit from the best advice possible and therefore SSHRC should try to continue to influence the process to meet its own needs. It also remains to be seen what mechanisms will be employed in the future, particularly whether PAC will develop processes for organizations such as SSHRC and what sort of priority the Council membership will receive, particularly when compared to other organizations in the Industry portfolio with governing bodies, such as NRC and the Business Development Bank of Canada.

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<sup>30</sup> The call was unusual in that it was not a call for nominations *per se*, since the ability to make appointments rests with the Governor in Council. Interested individuals were advised of this fact, with SSHRC indicating that it had launched the call so that the President could provide advice to the Minister of Industry on individuals to recommend to the Governor in Council. SSHRC took this approach in the absence of direction regarding appointments and with the number of vacancies on its Council growing. SSHRC did provide copies of the competency matrix to Industry Canada, as well as to the Prime Minister's Office, in keeping with recommendations of the OAG (2004).

## CONCLUSION AND RECOMMENDATIONS

This paper set out to assess the impact of recent government-wide and SSHRC-specific governance and accountability measures on the organization's independence and accountability, as well as to provide options for the consideration of SSHRC's management as SSHRC moves forward in the current accountability environment.

The government-wide reform efforts reflect the government's desire to exercise increased control—both politically and administratively—over arm's length organizations. Paradoxically, these reforms, which reflect a lack of trust in elements of the state apparatus deemed to have too much independence, have been launched to restore public trust in government. Accountability has become a shield for the government—through the regime of administrative control, the government hopes to be protected from financial scandal, but in the event of a scandal, it can claim distance from the operations of the non-ministerial organization and place blame on the head of the agency. Similarly, through the regime of enhanced ministerial control, where only ministers account to Parliament, the government hopes to achieve certain policy, program and political objectives, but to distance itself from performance if necessary. Indeed, many of the efforts centred on arm's length organizations actually reduce accountability, since they fail to respect the statutory division of powers set out by Parliament. These reforms have had the most serious effects for Crown corporations—the component of the arm's length universe once at greatest distance from ministerial control—which were the subject of a review in light of the sponsorship scandal. More recently, the introduction of the accounting officer concept, which applies to the heads of arm's length organizations (other than Crown corporations), has clearly indicated that the government views the heads of agencies, including the President of SSHRC, as subordinate to ministers and with no accountability relationship to Parliament, even if one is clearly stated in the FAA or other Acts of Parliament.

In the case of SSHRC, the statutory division of powers is set out by the SSHRC Act (1985), making it the starting point for discussions of independence and accountability. As with many of the Acts of Parliament that establish Canada's system of distributed public governance, the SSHRC Act leaves much open to interpretation and debate. The result is that concepts of authority, responsibility and accountability are not always clear or well-understood. The confusion is compounded when one tries to situate SSHRC in the context of other arm's length organizations, particularly other departmental corporations. There is no overarching governance and accountability framework, or even commonality among all three granting agencies, with CIHR differing significantly from NSERC and SSHRC.

The governance and accountability of the three agencies was, however, the subject of several recommendations in the government's S&T strategy. These recommendations, like the overarching government efforts, sought to increase ministerial control by enhancing the oversight to which the Presidents of the granting agencies would be subject, namely having individuals other than the Presidents serve as Chair of the Councils of the agencies. Yet, neither the SSHRC nor NSERC Acts provides for separation of the roles of President and Chair, and the CIHR Act explicitly precludes it. Moreover, the Acts are not consistent in how they describe the roles of the Councils. In the case of SSHRC, the Council does not have any responsibility or authority for oversight of the President, yet the Council Vice-

President, and by extension, the entire Council, is being asked to do this. The S&T strategy also set out the government's objective to have more business and community representation on the Councils of the agencies, which is aligned with the CIHR Act, and in which case makes sense, given how CIHR's Council is described in legislation as a Governing Council. In addition to these publicly-articulated initiatives, the Minister of Industry has been very clear about his view of the accountability of heads of agencies in the Industry portfolio. For the Presidents of SSHRC and NSERC, this means accountability to him. The government has also, through the targeted funding announced in recent budgets, sought to increase control over the operations of SSHRC, NSERC and CIHR.

SSHRC has tried to respond to these so-called accountability enhancements by launching a series of internal initiatives to clarify expectations, promote transparency and improve performance. The adoption of a formal terms of reference for the Council has served to reinforce its legislated mandate as an advisory body to the President, similar in concept of operations to the boards of statutory agencies, such as that of ACOA, or to the boards of SOAs. The terms of reference has also reinforced the legislative responsibility for the President to deliver to organize and manage SSHRC so as to enable it to deliver on its mandate, including protecting the peer-review process from any political interference. However, it is less clear how SSHRC's support for the separation of the roles of President and Chair serves to assist it in maintaining its independence and accountability, although the President views it as doing so. The change does not respect the legislative intent of the SSHRC Act, and it seems to work at cross-purposes with the initiative to clarify the role of the Council as an advisory body. Moreover, it serves to diminish the President's independence and strengthen the control of Minister of Industry. Thus far, the impact of this change has been limited, given the relationship between SSHRC's President and its Council Vice-President; however, the potential remains for this to change, particularly given that it is the government which controls the Council appointment process. The appointments process was also another area in which SSHRC aligned with the government, although the notion of promoting accountability by emphasizing changes to a Council with little statutory authority also seems to work at cross-purposes. Furthermore, as was seen with the reforms introduced to Crown corporations, the primacy of the minister was emphasized, even as the need for expert and experienced board members was discussed. With respect to performance, SSHRC has been aligned with the government about the need to better demonstrate the impact of investment in research. While there are a number of efforts underway in this area, many of them will take years to bear fruit, and it remains to be seen how the independence-accountability dynamic will play out with respect to performance. Should SSHRC succeed in its efforts to develop more robust performance measures and information, it may be able to argue for the need to maintain a certain distance from ministerial control; should it not, it may find itself under greater control, both of the political and administrative nature.

Given the nature of the current political environment, and in light of Parliament's lack of attention to whether statutory authorities are properly exercised by those entrusted to carry them out, a number of avenues are open to SSHRC. These range from those that can be led and carried out by SSHRC to those requiring the approval of Parliament.

SSHRC can continue to position the recent changes as supportive of its own interests, and build upon the fact that its Council Vice-President was appointed by the government to develop greater relationships with the deputy minister of Industry Canada and the Minister of Industry, particularly around research priority areas, as suggested by Mitchell (2006). SSHRC could also seek to have the deputy minister and the Minister become advocates for it with central agencies, perhaps being able to seek reductions from some Treasury Board policies and requirements, based on its track record with respect to financial management. It may go so far as to seek to develop a framework agreement with the Minister of Industry, as SOAs have, or to receive non-binding annual statements of priorities similar to those of Crown corporations, as opposed to waiting for the federal budget and any announcement of targeted funding to see what direction the government wants the organization to take. Both of these, it should be noted, are informal, non-legislative tools, and thus in keeping with the recent changes, particularly the separation of the roles of President and Chair. However, they run the risk of being too dependent on the individuals involved. Should the Minister, the deputy minister or the President change, the arrangements might not hold. A further risk is that SSHRC would be seen increasingly as an SOA, which would limit its credibility in dealing with other government organizations and the academic community, given that SOAs are creatures of departments and fully subordinate to deputy ministers. Moreover, the changes would not be fully transparent, as they would be made outside of the legislative arena, and at some point SSHRC may be challenged that the non-legislative changes it has made to-date do not respect the intent of the SSHRC Act. It should be remembered that one of the points of criticism about foundations is that the majority of them have been created without the opportunity for parliamentary review and approval.

Alternatively, SSHRC could seek to formally enshrine in legislation what is currently happening outside the legislative confines; that is, increased oversight of the President by the Council, particularly the Vice-President. In this scenario, the SSHRC Act would be amended as to align it with the CIHR Act, with the addition of the separation of the roles of President and Chair. In such a scenario, the Acts of the three research granting agencies would all be updated and would align in terms of description of mandate and governance and accountability structures. The SSHRC Council would exercise authority as a Governing Council, with powers many mistakenly believed it to already possess. This would, of course, require the Minister of Industry to sponsor legislation (for SSHRC and NSERC), in cooperation with the Minister of Health (for CIHR). It would also require the approval of the Privy Council Office, the Prime Minister's Office, and a majority of the Members of Parliament. Given that legislative amendment is needed to effect the separation of the roles of President and Chair of CIHR and to allow the Council Vice-Presidents of SSHRC and NSERC to exercise the function of Chair, this avenue might be attractive politically. Moreover, it would allow for incongruities in the SSHRC Act to be removed, such as the sections regarding the Council's role in human resources. The challenge with this scenario is that the CIHR Act places authority and accountability with the Governing Council which are not currently being respected, given the government's interpretation of ministerial responsibility and accountability; hence, one of the major risks of this scenario is to create even more confusion and ambiguity for the SSHRC President and Council members than already exists.

To avoid this, SSHRC could seek legislative amendment (again, with CIHR and NSERC) to align its Act with that of CRA and become a service agency. Given that the CRA Act fully positions the agency under ministerial control, this would perhaps be a more politically-palatable solution, although it would formally remove a degree of independence from the granting agencies. It would have the benefit of removing SSHRC from being subject to Treasury Board policies except those that pertain to financial management, but it would likely not be well-received in the academic community given that the Minister would have to account for, and thus approve, decisions on grants and scholarships.

A more drastic change would be for SSHRC to seek the creation of a governance and accountability framework for departmental corporations. With the number of departmental corporations and the variety of ministerial portfolios into which they fall, this would require a substantial campaign even to raise awareness and find champions; however, given the government's preoccupation with centralization, there may be merit in at least suggesting this option. There would seem to be little merit in trying to applying Part X of the FAA (i.e., transform SSHRC into a Crown corporation, as suggested by Mitchell (2006)), since recent reforms have diminished the independence and accountability of Crown corporations.

On a different level, but equally drastic, SSHRC could seek to have its next President appointed from the public service. Given the highly-prescribed environment into which the Presidents are placed, it may serve SSHRC better to have a President who, because of a long experience in the public service at the most senior levels, is better able to navigate centralized requirements and controls and operate within a context where heads of agencies are under ministerial control. In this case, SSHRC would have to ensure that other members of its executive team had strong connections to the academic community, essentially reversing its current management structure.

Finally, it is recommended that SSHRC work with CIHR and NSERC to maintain the integrity of peer-review process, which is truly at the heart of its independence, and which has thus far escaped any of the reform efforts. In the interim, it is suggested that SSHRC continue its internal efforts with respect to governance and performance, with the exception of those related to the Council membership renewal, as the effort expended in the public call for nominations far exceeded the return. It will be particularly important to ensure that new Council members properly understand their role, that of the Council as whole and that of the President. It will also be important for the President to be vigilant to ensure that the Council adheres to its terms of reference, and that it does not return to former practices of involving itself in areas not appropriate for its consideration or action. Such a course of action would increase clarity, if not true accountability. More substantive changes such as legislative reform are not advised in light of the current situation, although given the length of time necessary to engage in the process, SSHRC's President could start a dialogue with his colleagues at the other agencies to assess their interest in such an initiative and potentially in working out some of the details to eventually propose more formally.

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