

Office of the Public Sector
Integrity Commissioner
of Canada



Commissariat à l'intégrité
du secteur public
du Canada

**Findings of the Office of the Public Sector
Integrity Commissioner in the
Matter of an Investigation
into a Disclosure of Wrongdoing**

Public Health Agency of Canada

**Case Report
February 2017**

The generic masculine has been used in this report to protect the identity of those concerned.

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The Honourable George J. Furey, Q.C.
Speaker of the Senate
The Senate
Ottawa, Ontario K1A 0A4

Dear Mr. Speaker:

I have the honour of presenting you with the Office of the Public Sector Integrity Commissioner's Report of Findings in the Matter of an Investigation into a Disclosure of Wrongdoing at the Public Health Agency of Canada, which is to be laid before the Senate in accordance with the provisions of subsection 38 (3.3) of the *Public Servants Disclosure Protection Act*.

The report contains the findings of wrongdoing; the recommendations made to the chief executive; my opinion as to whether the chief executive's response to the recommendations is satisfactory; and the chief executive's written comments.

Yours sincerely,

A handwritten signature in blue ink that reads "Friday". The signature is written in a cursive, flowing style.

Joe Friday
Public Sector Integrity Commissioner
OTTAWA, February 2017

The Honourable Geoff Regan, P.C., M.P.
Speaker of the House of Commons
House of Commons
Ottawa, Ontario K1A 0A6

Dear Mr. Speaker:

I have the honour of presenting you with the Office of the Public Sector Integrity Commissioner's Report of Findings in the Matter of an Investigation into a Disclosure of Wrongdoing at the Public Health Agency of Canada, which is to be laid before the House of Commons in accordance with the provisions of subsection 38 (3.3) of the *Public Servants Disclosure Protection Act*.

The report contains the findings of wrongdoing; the recommendations made to the chief executive; my opinion as to whether the chief executive's response to the recommendations is satisfactory; and the chief executive's written comments.

Yours sincerely,

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Joe Friday
Public Sector Integrity Commissioner
OTTAWA, February 2017

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Foreword

This case report of founded wrongdoing, which I have tabled in Parliament as provided for in the *Public Servants Disclosure Protection Act* (the Act) details findings about an Executive at the Public Health Agency of Canada who committed a serious breach of a code of conduct and gross mismanagement as a result of behaviour within the workplace and how this Executive treated employees of the Agency and other government departments.

Each time our Office tables a case report, careful consideration is given to whether to personally name the wrongdoer. This issue is an important one, and it is determined on the specifics of each case. Despite the specific nature of these findings, I do not want this to be dismissed as an isolated case, and naming the individual would, in my view, increase the risk of this happening.

Senior management's actions and responses to this situation were carefully reviewed during the course of the investigation. Recognizing that it is difficult to hold someone directly responsible for the personal behaviour of others, the investigation did not find that senior management committed wrongdoing as defined in the Act. The federal government has put in place measures and processes to help address behavioural misconduct, some of which were adopted by senior management to address the conduct of the wrongdoer in this matter.

Despite making no formal finding of wrongdoing against senior management, I nonetheless feel it is necessary to underscore that, in matters such as these, it is not enough to simply implement a remedial measure without ongoing oversight. This is essential in order to protect and respond to the needs of employees who have been harmed or otherwise adversely affected by the behaviour in question, but also to provide guidance and opportunities for learning and development to the person whose conduct is in question, in addition to discipline, when appropriate.

Another important consideration is the fact that the wrongdoer moved to another public sector organization in the intervening months between our investigation and this case report. It is essential to know that we provided notice of our investigation to the organization, and we have provided them a copy of this case report. Most importantly, we have made recommendations for corrective action to this new employer to avoid a recurrence of the behaviour in question and to address the issue of appropriate discipline.

Given the current government's priority on mental health in the workplace, this report can serve to highlight the importance of ensuring a healthy and respectful workplace as a key element in any mental health strategy. All employees, regardless of their level and function in any organization, deserve and must be treated with respect.

Joe Friday, Public Sector Integrity Commissioner

Mandate and Background

The Office of the Public Sector Integrity Commissioner of Canada contributes to strengthening accountability and increases oversight of government operations by providing:

- public servants and members of the public with an independent and confidential process for receiving and investigating disclosures of wrongdoing in, or relating to, the federal public sector, and by reporting founded cases to Parliament and making recommendations to chief executives on corrective measures; and
- public servants and former public servants with a mechanism for handling complaints of reprisal for the purpose of coming to a resolution including referring cases to the Public Servants Disclosure Protection Tribunal.

The Office is an independent organization created in 2007 to implement the *Public Servants Disclosure Protection Act* (the Act).

Section 8 of the Act, defines wrongdoing as:

- (a) a contravention of any Act of Parliament or of the legislature of a province, or of any regulations made under any such Act, other than a contravention of section 19 of this Act;
- (b) a misuse of public funds or a public asset;
- (c) a gross mismanagement in the public sector;
- (d) an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of a public servant;
- (e) a serious breach of a code of conduct established under section 5 or 6; and
- (f) knowingly directing or counselling a person to commit a wrongdoing set out in any of paragraphs (a) to (e).

The purpose of investigations into disclosures is, according to the Act, to bring the existence of wrongdoing to the attention of the organization's chief executive and to make recommendations for corrective action.

The Act was created to provide a confidential whistleblowing mechanism in the federal public sector. The disclosure regime established under this Act is meant not only to identify wrongdoing when it occurs, and to take corrective action to ensure the wrongdoing stops, but also to act as a general deterrent throughout the federal public sector. This is why legislation requires that founded cases of wrongdoing be reported to Parliament. This is a powerful tool of transparency and public accountability.

The Disclosure

In May 2014, an investigation was initiated into allegations that an Executive, who at the time of the disclosure was an Acting Director General at the Public Health Agency of Canada (PHAC or Agency), created a toxic work environment through harassment, bullying and poor interpersonal conduct.

For the purpose of reporting on the findings of the investigation, the allegations are grouped as follows:

- 1) verbal abuse of staff and other public servants; and,
- 2) physical display of anger, including outbursts of violent rage.

These allegations, if founded, would constitute wrongdoing under paragraphs 8(c) and (e) of the Act, gross mismanagement and a serious breach of a code of conduct respectively. The decision to commence this investigation followed a comprehensive analysis of the information provided in an anonymous disclosure made to the Office.

About the Organization

The Public Health Agency of Canada was created to deliver on the Government of Canada's commitment to help protect the health and safety of all Canadians. Its activities focus on preventing chronic diseases, like cancer and heart disease, preventing injuries and responding to public emergencies and infectious disease outbreaks.

Results of the Investigation

The investigation found that:

- **The Executive committed a serious breach of the Agency's Code of Conduct and committed gross mismanagement by:**
 - Engaging in the verbal abuse of staff, other employees of the Agency and of other government organizations; and,
 - Displaying physical anger towards staff, including outbursts of violent rage.

Overview of the Investigation

The investigation was initiated on May 6, 2014 and led by Senior Investigator, Gail Gauvreau with the assistance of Raynald Lampron, both of my Office. The investigators conducted a thorough investigation which included the review of documentary evidence including emails and employee records. In total, 42 witnesses were interviewed during the investigation. These witnesses included current and former staff, comprising of both senior and support personnel.

In accordance with the requirements of the Act, PHAC and its personnel fully cooperated in the investigation.

Given that a high ranking official was alleged to have engaged in acts of wrongdoing that affected numerous employees, the investigators examined the circumstances that could have allowed such behaviour to happen and continue for a prolonged period of time.

In keeping with the obligations under the Act, my Office provided the Executive in question and PHAC with full and ample opportunity to respond to the allegations through interviews, as well as the provision of a preliminary investigation report upon which they commented.

In arriving at my findings, I have given due consideration to all information received throughout the course of the investigation, including the information provided by PHAC and the Executive.

PHAC agreed with the preliminary findings regarding the Executive's conduct. PHAC also identified the measures that were taken by Senior Management to address the situation. The Executive vigorously denied all allegations.

The Executive left PHAC in 2014 to work for another government department. My Office provided the Preliminary Investigation Report as well as the results of the investigation to the new employer for information and any follow-up action that may be required as a result of my findings of wrongdoing, including disciplinary or other corrective measures.

Summary of Findings

Serious Breach of a Code of Conduct

In determining whether an action or omission comprises a "serious" breach of a code of conduct under paragraph 8(e) of the Act, the following defining elements are taken into consideration:

- The breach represents a significant departure from generally accepted practices within the federal public sector;

- The impact or potential impact of the breach on the organization’s employees, clients and the public trust is significant;
- The alleged ‘wrongdoer’ occupies a position that is of high level of seniority or trust within the organization;
- There are serious errors which are not debatable among reasonable people;
- The breach of the code of conduct is systemic or endemic;
- There is a repetitive nature to the breach(es) of the code of conduct or it/they have occurred over a significant period of time; and,
- There is a significant degree of willfulness or recklessness related to the breach of the code of conduct.

Gross Mismanagement

The expression “gross mismanagement” is not defined in the Act. The factors that my Office considers in investigating an allegation of gross mismanagement under paragraph 8(c) of the Act include:

- matters of significant importance;
- serious errors that are not debatable among reasonable people;
- more than minor wrongdoing or negligence;
- management action or inaction that creates a substantial risk of significant adverse impact upon the ability of an organization, office or unit to carry out its mandate;
- the deliberate nature of the wrongdoing; and
- the systemic nature of the wrongdoing.

In determining that the conduct and actions of the Executive were serious enough to constitute gross mismanagement and a serious breach of a code of conduct, the following factors were taken into account:

- frequent tirades and outbursts of violent rage;
- unprofessional language which included shouting and screaming, use of profanity and threatening body language;
- overall poor inter-personal skills, described as rude, aggressive, and bad-mannered;
- the deliberate nature of the wrongdoing;
- the frequency of the problem behaviour;
- the Executive’s functions and responsibilities;
- the impact of the wrongdoing on the wellness of other employees; and
- the impact of the wrongdoing on the public interest and trust in the public service.

The results of the investigation show that the Executive committed a serious breach of the Public Health Agency of Canada's Values and Ethics Code and gross mismanagement by exhibiting behaviour that was abusive of staff.

Verbal Abuse

- One of the reoccurring complaints regarding the Executive's behaviour heard during the investigation was his difficulty in controlling his temper when speaking with subordinate staff. Witness accounts of the Executive's yelling or speaking rudely to employees and to public servants from other government departments and agencies were numerous and described as a daily occurrence.
- The Executive engaged regularly in loud shouting directed at staff during meetings and in front of other personnel. The Executive was described as being volatile at meetings, with staff not knowing when the next "explosion" would be. This behaviour was often followed by apologies. Many witnesses reported being reduced to tears or having witnessed others crying as a result of the Executive's actions.
- The problematic behaviour also extended to the use of profanity that was considered by staff as inappropriate and intimidating.
- One witness described an event as: *"...it was strong enough to make you go "Oh Boy", it was scary, very, very scary. It was quite severe anger."*
- One witness recounted a time when the Executive *"yelled at (name withheld) for half an hour in front of the entire team."*
- Evidence given by witnesses was consistent. They indicated that one direct report in question was routinely *"targeted"* by the Executive. By *"targeted"*, witnesses described how this employee would be asked questions in a terse or angry manner or how the Executive would repeat sarcastically the responses given by this individual. Asked for examples, witnesses stated that the Executive would say things such as: *"(explicit deleted), what were you thinking!", "Is that the best you can think of?"* and *"Don't you know the answer to that?"*
- Overwhelmingly, witnesses described how the Executive belittled and criticized the work of employees in a manner that was demeaning to them.
- The Executive's position is that he did not shout or scream at people but admitted that he had raised his voice in frustration on one or two occasions but denies that it was an everyday occurrence. The Executive stated being passionate about work and that people misconstrued this passion for anger.
- Witnesses stated that there were times when the Executive did speak passionately about a subject but that there was a clear distinction between times when words were spoken angrily and when they were spoken in a passionate manner.

Physical Display of Anger

- Many witnesses described how the Executive often had difficulty controlling his anger and that aggressive behaviour was shown towards colleagues, threatening and intimidating them, often reducing them to tears. The overwhelming evidence from witnesses is that the Executive was often out of control and through frequent tirades and outbursts of anger, routinely and significantly frightened many employees.
- In addition to the verbal abuse described in the previous section, several witnesses stated that the Executive displayed angry body language, including slamming hands down on the desk, throwing files or paper, leaping upright and leaning forward towards staff in an angry and aggressive posture.
- Witnesses, including the character witness submitted by the Executive, provided testimony of first-hand accounts of these outbursts of anger.
- As an example:

“[The Executive] advanced [a] chair right up to me with I would say less than half an inch I would say to our patella, our knee caps, and [he] had my email [...] just went totally and utterly out of control...I have never seen an explosion like that [he] absolutely went ballistic...just totally decimated my whole character...like total rage, [the Executive’s] blood pressure was up I am sure, [he] was red, [his] eyes were bulging [...] [he] was completely out of control. To the point where I thought is [he] going to hit me...This went on for about 15 minutes... [he] just really couldn’t handle the email so then [he] threw me out and as I was leaving [he] took the email and smashed it.

I took my things and went quietly out of [the Executive’s] office but as soon as I was by [his] windows, I ran all the way back to my desk.”

- One of these witnesses testified that shortly following this encounter, at a group meeting, the Executive acted as if nothing had happened. The witness stated that it was the norm: *“rage followed by a very dramatic statement such as ‘I feel for you in my heart.’”* This witness stated being so upset by that encounter, he ensured that the incident was reported to one of the Agency’s Assistant Deputy Ministers.
- Another witness described how the Executive had moved towards him with clenched fists and stated that he had also observed the Executive moving towards other employees in an aggressive posturing. He further commented that he saw the Executive bang his fists on tables when he was angry and that staff were very much aware of anger displayed in meetings. Other incidents were also reported to one of the Agency’s Assistant Deputy Ministers about the Executive’s behaviour.

Inappropriate Behaviour Followed by Apologies

- Inappropriate episodes of violent outburst as described above followed by apologies were a common occurrence with the Executive. This speaks to a pattern of cyclical abuse on the part of the individual. Reoccurring evidence presented by witnesses was that the Executive would be verbally abusive or act inappropriately and then apologize for the behaviour. They stated that the Executive would then repeat the cycle. A number of people compared the individual's treatment of them to that of partner abuse.
- One witness stated that even though he had talked to the Executive about how this cycle of abuse followed by an apology made him feel, he recalled several incidents where the pattern was repeated. A few weeks after an apology, the Executive was back criticizing the witness with statements such as: *"You're incompetent, send me every single version from number one, you're incompetent..."*
- Another witness provided an e-mail addressed to him from the Executive in which he himself acknowledged his own problematic behaviour:

As always, I appreciate your candor, I have reflected on my own behaviour and am not proud of the way I have acted so you're right to call me on it. Over the last week and a half, I have undertaken a significant shift, realizing the effect my approach and behaviour has had on others [at the Agency]. I believe I have turned a corner and am now back on track.

- The witness to whom this email was addressed stated that nothing about the Executive's behaviour changed afterwards. There were other similar e-mails of the same nature.

Management's Responsibilities

In situations where a high level official, such as this Executive, engages in acts of wrongdoing as described in this report, that affect numerous employees, it is also necessary to examine the circumstances that allowed such behaviour to happen and continue for a prolonged period of time. In this case specifically, the investigators considered whether PHAC senior management responded adequately to reports over a period of time that the Executive was abusing and harassing staff.

It was determined that senior management was aware of the Executive's behaviour. Prior to our investigation, corrective measures taken by senior management to address employee complaints consisted of discussing the issues with the Executive and having the individual complete an Emotional Intelligence course and a harassment prevention course. As well, the

Executive publicly apologized at an all-staff meeting in addition to volunteering to undertake a “360” assessment.

Senior management did take several concrete steps to address the complaints made against the Executive and it appeared to them that the situation was permanently resolved.

Despite management efforts and training provided to him, the Executive’s inappropriate behaviour continued leading to an anonymous disclosure being made to my office.

PHAC was unsuccessful in ensuring a healthy and harassment-free environment for employees working in the affected branch. Management’s failures in this regard were not the result of any single person’s actions, but they occurred because of two important factors:

- there were no further complaints received from employees after their initial remedial actions which led management to believe that the situation had been resolved; and,
- there was a lack of mid- to long-term follow-up by management to monitor the situation.

It is reasonable to expect that the Agency would have continued monitoring the Executive’s management of employees and followed-up pro-actively with the employees who had initially complained. Senior management did not demonstrate an appropriate level of leadership and control over the situation beyond the initial response to the complaints.

Conclusion

The information gathered during this investigation revealed that the Executive committed wrongdoing as defined at paragraphs 8(c) and (e) of the Act. The Executive committed a serious breach of the Public Health Agency of Canada’s Values and Ethics Code and gross mismanagement by verbally abusing staff and other public servants and by engaging in physical displays of anger, including outbursts of violent rage.

Commissioner's Recommendations and Departmental Response

In accordance with paragraph 22(h) of the Act, I have made recommendations to the Chief Executives of both PHAC and the Executive's current organization concerning the measures to be taken to correct the wrongdoing. I am satisfied with the Chief Executives' responses to the recommendations and with the measures taken to date to address the wrongdoing identified in this report. My recommendations and the responses follow.

It is recommended that the Executive's current department proactively monitor the workplace environment for which he is responsible to ensure that the problematic behaviour identified in this report is no longer occurring. The Department should also consider the need for disciplinary and corrective measures given nature of the wrongdoing.

The Executive's current workplace environment is being proactively monitored to ensure no recurrence of any wrongdoing. Given the nature and the severity of the findings, as his current employer it has been determined that disciplinary and corrective measures are appropriate.

I recognize that PHAC senior management took initial measures to address complaints made against the Executive. However, it is reasonable to expect, in light of the seriousness of the situation, that the Agency would have continued monitoring the Executive's management of employees and followed-up pro-actively with him, as well as with the employees of the section. The follow-up that was conducted, in my view, was not adequate, given the nature of the Executive's problematic behaviour.

Without making a specific finding of wrongdoing against PHAC in this regard, I am of the view that PHAC management did not demonstrate an appropriate level of leadership and control over the situation. Ultimately, PHAC was unsuccessful in ensuring a healthy and harassment-free environment for employees.

My findings of wrongdoing are directed solely against the Executive, nonetheless, there remains an obligation on the part of all concerned to ensure the well-being of employees and the efficient operations of PHAC. Although some meaningful steps were taken by management immediately in the aftermath of the complaints made against the Executive, such as ensuring that the individual received appropriate training, much more could and should have been done. In keeping with PHAC's responsibilities to provide a respectful and healthy workplace:

It is recommended that PHAC senior management review their practices and procedures to address the shortfalls identified in this report with regard to management’s response to misconduct in the workplace.

In addition, it is recommended that PHAC review and implement, as required, Section 6.1.1 of the *Treasury Board Policy on Harassment Prevention and Resolution* (the Harassment Policy) that specifically entrusts chief executives with the duty to undertake preventative activities to foster a harassment-free environment.

PHAC senior management takes the responsibility of creating a respectful and healthy workplace free of harassment very seriously. Since April 2015, the following measures have been taken to help PHAC foster a culture of respect and inclusivity.

Implementation of the Multi-Year Mental Health and Wellness in the Workplace Strategy

PHAC has recently marked Year 2 of the implementation of the Multi-Year Mental Health and Wellness in the Workplace Strategy (the Strategy), which was endorsed at the senior management executive table in April, 2015. The Strategy focuses on marketing and promoting a healthy workplace wellness culture whereby employees are provided with tools, training, and resources to build awareness, knowledge and skills in preventing and proactively addressing mental health and workplace wellness issues. The Strategy also includes the implementation of the National Standard for Psychological Health and Safety in the Workplace (the Standard). Under the umbrella of the Strategy, PHAC has implemented a number of measures to ensure a respectful and harassment-free workplace for its employees. Specifically, we will continue to offer a steady stream of courses, workshops, webinars, roundtable discussions and tools to employees and managers, including moving forward on the suite of mandatory workplace wellness trainings such as the Building Blocks of Respect in the Workplace, Creating a Respectful Workplace and Values and Ethics in the Workplace.

Building a Respectful Workplace

The Respect in the Workplace Office

In September, 2015, the Respect in the Workplace Office (RWO) of the Corporate Services Branch (CSB) was restructured and rebranded within the Human Resources Services Directorate (HRSD). At its core, the RWO focusses on the prevention and resolution of harassment in the workplace. The RWO leads the organization in the promotion, prevention and building awareness in creating a respectful workplace. This renewed emphasis is realized through the delivery of the mandatory training titled, Building Blocks of Respect in the Workplace and

Creating a Respectful Workplace. *These workshops are tailored to target the audience, be it, employees or managers, where each group learns strategies to foster a culture of respect and civility, with an aim at preventing harassment in the workplace.*

In partnership with senior management, the RWO will continue to organize future respect in the workplace learning and engagement opportunities and will continue to market and promote the prevention of harassment in the workplace.

The Agency also commits to further emphasize to its Executive community the expectations and responsibilities to maintain an harassment-free workplace. This could be achieved by "heightening" the existing objective on their Performance Management Agreement pertaining to respect and people management.

The National Respect in the Workplace Week Annual Campaign

In October 2016, PHAC employees and managers participated in the organization's first National Respect in the Workplace Week Annual Campaign. This campaign was a vehicle to reach all PHAC employees across Canada with the same, consistent message; one that emphasized that PHAC is focussed on respectful behaviours and will make every effort to strengthen civil, non-discriminatory, and harassment-free behaviours within our organization. This was evident through the clear and direct messaging that was shared by myself, as the President, and as well, by PHAC's Workplace Wellbeing Champion. We took this opportunity to share with employees at all levels, how important respect and civility are in the workplace, and how paramount it is to foster positive behaviours in the workplace, for the wellbeing of our employees. At this same time, we also shared with staff, the resources that can aid them in addressing workplace issues, namely, the Respect in the Workplace Office and the Ombudsman, Integrity and Resolution Office (OIRO).

Access to Information on Building Respect and the Prevention and Resolution of Harassment

In the summer, 2016, HRSD released a remodeled intranet site for the Prevention and Resolution of Harassment. Employees and managers now have easy access to resource material related to early prevention and resolution of workplace issues such as harassment and bullying; which recourse mechanisms are available to formally address harassment in the workplace; and who their contact persons are in the organization. The new site also includes key information for managers in the prevention of conflict and in the promotion respect in the workplace.

Advancing Workplace Wellbeing at PHAC

In April 2011, PHAC identified a Workplace Wellbeing Champion who has worked with senior management in developing our Triple Point Plan (the Plan). The Plan is a key element of our Wellness Strategy, and is instrumental in profiling Branches, people and initiatives through

monthly communications with employees, supporting the practice of positive mental health by connecting and engaging with employees, and proactively supporting learning through a new series of learning events.

The Plan has engaged employees in a number of ways, one of which was the workshop for Civility and Respect in the Workplace, which was held to raise awareness of incivility and its causes, and to discuss strategies to inspire respectful behaviours.

Labour Relations Support

In addition to working directly with line managers, Labour Relations provides regular quarterly or monthly updates to each Branch Head, as well as quarterly updates to the President, on sensitive and complex labour relations cases. This ensures ongoing follow up and senior management oversight on these types of files, as well as ongoing management awareness and involvement regarding workplace concerns or misconduct in the workplace.

Ombudsman, Integrity and Resolution Office (OIRO)

Furthermore, as of February 2016, the creation of the OIRO is now providing independent, safe and confidential services where employees at all levels can raise, discuss and resolve workplace issues without fear of reprisal. This Office also provides guidance and informal conflict management services, promotes understanding of values and ethics in the workplace and provides internal disclosure services. While OIRO supports the resolution of individual concerns it also acts as a communication channel and brings forward information and observations to the Agency's senior management to allow them to properly address systemic and organizational issues.

We are hopeful that by way of current and new support mechanisms in place the Agency will be in a position to respond to the shortfalls in practices and procedures to address misconduct in the workplace and emphasize preventative activities to foster a harassment-free environment.