

Office of the Public Sector  
Integrity Commissioner  
of Canada



Commissariat à l'intégrité  
du secteur public  
du Canada

# 2016-17

## ANNUAL REPORT



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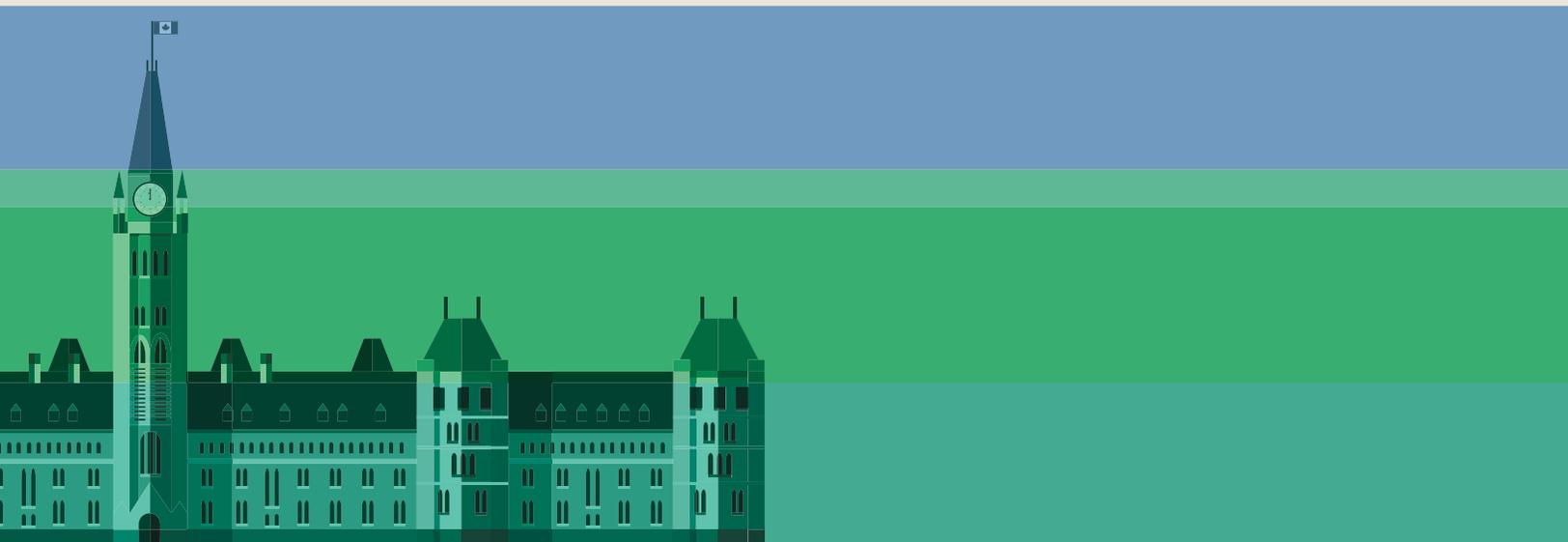
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The Honourable George J. Furey  
Speaker of the Senate  
The Senate  
Ottawa, Ontario K1A 0A4

Dear Mr. Speaker:

I have the honour of presenting you with the Office of the Public Sector Integrity Commissioner's tenth annual report for tabling in the Senate, pursuant to section 38 of the *Public Servants Disclosure Protection Act*.

The report covers the fiscal year ending March 31, 2017.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Friday", written over a light blue horizontal line.

Joe Friday  
Public Sector Integrity Commissioner

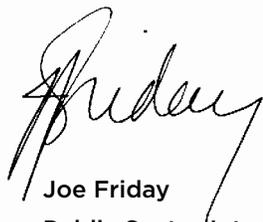
The Honourable Geoff Regan, P.C., M.P.  
Speaker of the House of Commons  
House of Commons  
Ottawa, Ontario K1A 0A6

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Joe Friday  
Public Sector Integrity Commissioner

# PUBLIC SERVANTS DISCLOSURE PROTECTION ACT

The federal public administration is an important national institution and is part of the essential framework of Canadian parliamentary democracy;

It is in the public interest to maintain and enhance public confidence in the integrity of public servants;

Confidence in public institutions can be enhanced by establishing effective procedures for the disclosure of wrongdoings and for protecting public servants who

disclose wrongdoings, and by establishing a code of conduct for the public sector;

Public servants owe a duty of loyalty to their employer and enjoy the right to freedom of expression as guaranteed by the *Canadian Charter of Rights and Freedoms* and this Act strives to achieve an appropriate balance between those two important principles.

- Excerpt from the Preamble  
*Public Servants  
Disclosure Protection Act*

# OFFICE OF THE PUBLIC SECTOR INTEGRITY COMMISSIONER OF CANADA

## OUR VISION

PSIC is a trusted organization where anyone can disclose wrongdoing in the federal public sector and/or make a complaint of reprisal in a confidential and safe manner. PSIC is recognized as an employer of choice where its employees are delivering high quality services and act in the public interest.

## OUR MANDATE

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.

## OUR VALUES

The Office operates under a set of values that defines who we are and how we interact with our clients and stakeholders:

### RESPECT FOR DEMOCRACY

We recognize that elected officials are accountable to Parliament, and ultimately to the Canadian people, and that a non-partisan public sector is essential to our democratic system.

### RESPECT FOR PEOPLE

We treat all people with respect, dignity and fairness. This is fundamental to our relationship with the Canadian public and colleagues.

### INTEGRITY

We act in a manner that will bear the closest public scrutiny.

### STEWARDSHIP

We use and care for public resources responsibly.

### EXCELLENCE

We strive to bring rigour and timeliness as we produce high-quality work.

### IMPARTIALITY

We arrive at impartial and objective conclusions and recommendations independently.

### CONFIDENTIALITY

We protect the confidentiality of any information that comes to our knowledge in the performance of our duties.



**This Annual Report of the Office of the Public Sector Integrity Commissioner is one essential part of our ongoing commitment to openness and accessibility. It provides the opportunity to report on our activities, our achievements and our challenges over the past year. It is a very important means of demonstrating and respecting our accountability to Parliament and to Canadians, but it does not serve as our only means of communicating with our stakeholders.**

This is something that continues throughout the year, through our outreach and communications efforts, our consultations with stakeholders and colleagues both nationally and internationally, and through our case reports.

I hope that reading this report will encourage you to visit our website and learn more about who we are, what we do and how we do it. And I hope that the information and tools that we have developed provide you with the confidence and knowledge that you need to make an informed and confident decision to come forward.

## LEGISLATIVE REVIEW

Perhaps the most important development to report on this year was the launch of the highly-anticipated review of the [Public Servants Disclosure Protection Act](#) (the Act), the legislation that created our office and the federal public sector whistleblowing regime. Our Office tabled [16 substantive proposals for legislative change](#) that are necessary, in my view, to move the regime forward in a way that truly recognizes the importance of disclosing wrongdoing and that provides a higher level of protection and support for those who do disclose. The report on this review may be available by the time this annual report is tabled.

Key among our recommendations are:

- making it easier to disclose by allowing you to do so to anyone in your management chain, up to and including the Chief Executive, rather than only to your direct manager or to your organization's designated Senior Officer for Disclosure;
- allowing my Office to obtain evidence in disclosure investigations outside the public sector, which it is currently prohibited from doing;
- removing the "good faith" requirement for whistleblowers and reprisal complainants, which will make motivation to come forward an irrelevant consideration and keep the focus on the facts of the case;
- clarifying and strengthening confidentiality protection, recognizing that confidentiality is a key pillar of the whistleblowing regime;
- allowing the Public Servants Disclosure Protection Tribunal to award interim remedies to reprisal victims while they await the outcome of a Tribunal hearing, and also giving the Tribunal the express power to award legal costs to victims of reprisal; and
- creating a reverse onus at the Tribunal so that a reprisal complainant does not have to prove that reprisal took place, but rather the employer or the person alleged to have committed reprisal must prove that their actions do not constitute reprisal.

I invite you to review all [16 proposals](#) on our website. Together, they represent meaningful progress in the evolution of the federal whistleblowing regime. And I look forward to the results of the legislative review,

confident that Parliament will seize this opportunity to strengthen the whistleblowing regime, building upon the reputation for excellence that the Canadian public sector enjoys world-wide.

## CASE REPORTS ON FOUNDED WRONGDOING

[Case reports on founded wrongdoing](#) are one of our means to publicly communicate the results of our work. The Act requires that when I make a finding of wrongdoing, a case report must be tabled in Parliament. This underscores the fact that my Office was created to deal with serious cases of wrongdoing. In the words of Justice Elliott of the Federal Court, in a decision that was released this year, the regime established by the Act "...addresses wrongs of an order of magnitude that could shake public confidence if not reported and corrected", cases that "...involve a serious threat to the integrity of the public service."

Two case reports were tabled in Parliament this year that dealt with such serious matters, both involving harassment within the public service. In the [first case](#), the focus was on the ongoing harassment by a senior executive whose unacceptable behaviour was not sufficiently addressed to bring it to a halt, resulting in employees making the decision to come to my Office anonymously with their concerns about both the abusive behaviour as well as management's response to dealing with it.

The [second case report](#) found that a President and Vice President failed to take required action to address a case of ongoing abusive behaviour by a senior executive by purposefully circumventing established policies and procedures. Their actions amounted to them denying employees the legitimate right to have their serious concerns properly, fairly and fully respected and responded to.

Both these cases point to management's undeniable and essential obligation to provide a healthy and safe environment for all public servants, and they underscore the importance of direct, timely and meaningful action to respond to cases of abusive behaviour. This standard is, in my view, one that must be respected in all situations at all times.

## RESEARCH PAPER

My Office also commissioned and released an important research paper, "[The Sound of Silence: Whistleblowing and the Fear of Reprisal](#)". This was my Office's first formal research project and it represents an important contribution to the evolution in whistleblowing thinking. The findings in this paper are consistent with those of [focus group tests](#) that we conducted across the country in both 2011 and 2015. I am very pleased that my Office is taking concrete steps to bring attention to the important issue of the fear of reprisal, and to be playing a part in working to address what is a powerful and real disincentive to whistleblowers. Whistleblowing is the right thing to do, and it is our collective responsibility within the federal public sector to do everything within our power to remove barriers to doing the right thing. To quote from this paper, written by Craig Dowden, "Creating a safe environment is not an annual event. It is lived and promoted every single day."

## OUTREACH AND STAKEHOLDER ENGAGEMENT

My Office continued to engage with public servants this year by attending 18 outreach events reaching approximately 8400 public servants and distributing over 8500 informational materials. We hosted three international delegation visits as well as the annual meeting with our federal, provincial and territorial counterparts to discuss achievements, challenges and best practices.

## OPERATIONAL ACTIVITIES

We received 81 disclosures of wrongdoing and 31 complaints of reprisal in 2016-17. While this is reflective of an average level of activity over the last few years, we launched a record 36 investigations while meeting and exceeding our service standards. This is almost double the number of investigations than the year before, and more than double the number of investigations launched in 2014-15.

In addition, we successfully conciliated two reprisal complaints during the course of their investigation, with the full support and involvement of the parties. As I have said in the past, conciliation is a viable and effective means to resolve a serious labour relations issue to the satisfaction of the parties, allowing them to move forward from a difficult professional and personal situation.

I invite you to consult the table at the end of this report for the complete statistics on our activities this year.

In closing, I firmly believe that these operational achievements reflect my Office's commitment to respond to disclosures and reprisal complaints in a timely and fair manner. This year has been one of tremendous activity and progress for my Office, and for the federal whistleblowing regime. The legislative review, our case reports, our research findings, our continued outreach and engagement activities, and our ongoing operations have all contributed to a level of public awareness, engaged discussion, informed debate and sharply focused evaluation of not only the role of my Office, but of the other key players in the Act. This includes every Chief Executive in the public sector and Treasury Board Secretariat, who is responsible for the administration of the internal whistleblowing regime and who has specific responsibility under the Act for promoting ethical practices and a positive environment for disclosing wrongdoing.

I look forward to continuing to lead my Office and to support its essential role as the external, independent whistleblowing organization, as we build on the momentum that this past year has created.

And as always, I invite anyone who wants to know more about our work or who wants information and guidance on making a disclosure or complaint of reprisal, to [contact my Office directly](#). Your inquiries are always welcome, and we will do our very best to ensure you make an informed and confident decision about exercising your right to speak up and to be listened to, and to be protected when you do.

Joe Friday  
Public Sector Integrity Commissioner

# SUMMARY OF OPERATIONAL ACTIVITY 2016-17

New Activities	
Total number of general inquiries received	218
Total number of new disclosures received	81
Total number of new reprisal complaints received	31
Overall disclosure activity	
<b>Total number of disclosures of wrongdoing handled in 2016-17</b>	<b>141</b>
Number of new disclosures of wrongdoing received	81
Number of disclosures of wrongdoing carried over from previous year	60
Number of files completed following an analysis	105
Number of investigations into wrongdoing launched	22
Number of files resulting in a founded case of wrongdoing	2
Number of recommendations made by the Commissioner for founded cases of wrongdoing	6
Number of follow-up made on recommendations	6
Number of recommendations actioned by chief executives in affected organizations	6
Overall reprisal activity	
<b>Total number of reprisal complaints handled in 2016-17</b>	<b>45</b>
Number of new reprisal complaints received	31
Number of reprisal complaints carried over from previous year	14
Number of files completed following an analysis	35
Number of investigations launched	14
Number of files settled through conciliation	2
Number of applications to the Tribunal	0