




Office of the Public Sector
Integrity Commissioner
of Canada

Commissariat à l'intégrité
du secteur public
du Canada

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

Parole Board of Canada

Case Report
May 2024



The report is available on our website: www.psic-ispcc.gc.ca

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Public Sector
Integrity Commissioner



Commissariat
à l'intégrité du secteur public

Ottawa, Canada K1P 5Y7

The Honourable Raymonde Gagné, Senator
Speaker of the Senate
The Senate
Ottawa, Ontario K1A 0A4

Dear Madam Speaker:

I have the honour of presenting you with the Office of the Public Sector Integrity Commissioner of Canada's Case Report of Findings in the Matter of an Investigation into a Disclosure of Wrongdoing at the Parole Board 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, the Chief Executive's written comments and my opinion as to whether the Chief Executive's response to my recommendations is satisfactory.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'H. Solloway'.

Harriet Solloway
Public Sector Integrity Commissioner
Ottawa, May 2024

Public Sector
Integrity Commissioner



Commissariat
à l'intégrité du secteur public

Ottawa, Canada K1P 5Y7

The Honourable Greg Fergus, 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 of Canada's Case Report of Findings in the Matter of an Investigation into a Disclosure of Wrongdoing at the Parole Board 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 Case Report contains the findings of wrongdoing, the recommendations I made to the Chief Executive, the Chief Executive's written comments and my opinion as to whether the Chief Executive's response to my recommendations is satisfactory.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'HSolloway'.

Harriet Solloway
Public Sector Integrity Commissioner
Ottawa, March 2024

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Foreword

This Case Report of founded wrongdoing, which has been tabled in Parliament as required by the Public Servants Disclosure Protection Act (the Act), presents the findings of our investigation into an allegation that a Board Member at the Parole Board of Canada (PBC) mistreated employees and behaved inappropriately, and into PBC management's response to the Board Member's misconduct.

In making my finding of wrongdoing, it is important to underscore that, while the Board Member is solely responsible for his misconduct, inadequate action by PBC management created a situation that led to further misconduct.

This report underscores the duty of management to take action when the inappropriate behaviour of an individual in a position of power is having a negative impact on employees. It also underscores the vital importance of ensuring accurate documentation of harassment incidents in the workplace.

Harriet Solloway
Public Sector Integrity Commissioner

Mandate

The Office contributes to strengthening accountability and increases oversight of government operations by:

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

The Office is an independent organization that was created in 2007 pursuant to 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;
- (f) knowingly directing or counselling a person to commit a wrongdoing set out in any of paragraphs 8(a) to 8(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.

According to case law, the purpose of the Act is to enable “federal government employees to bring to light wrongdoings in the public sector without fear of reprisal.” It is “designed to ensure that Canadians are protected by a lawful, transparent and uncorrupted public service.” The Act “addresses wrongdoings of an order of magnitude that could shake public confidence if not reported and corrected. When the Commissioner is ‘dealing with’ an allegation of wrongdoing, it is something that, if proven, involves a serious threat to the integrity of the public service¹.”

¹ Canada (Attorney General) v. Canada (Public Sector Integrity Commissioner), 2016 FC 886

The Disclosure

On March 3, 2022, my Office received a disclosure of wrongdoing relating to several incidents of unacceptable conduct by a then Board Member, Mr. Michael Sanford. In May 2022, my Office launched an investigation into the following allegations:

- **Mr. Sanford committed a serious breach of a code of conduct when he repeatedly behaved inappropriately towards female employees; and,**
- **PBC management committed gross mismanagement and created a substantial and specific danger to the health and safety of PBC employees by failing to take adequate action to address Mr. Sanford's inappropriate behaviour.**

About the Organization

The PBC is an independent administrative tribunal that reports to Parliament through the Minister of Public Safety. The Board Members are appointed by the Governor in Council on the recommendation of the Minister of Public Safety, and hold office during good behaviour. Board Members are responsible for making conditional release decisions for offenders serving federal sentences of two or more years, and for offenders serving sentences of less than two years in the provinces and territories without their own parole boards.

The PBC is also made up of federal public servants, who are responsible for corporate functions, such as policy, operations, professional development and training and communications. Each regional office is managed by a Regional Director General, who oversees the public servants, and a Regional Vice-Chair, who oversees the Board Members.

At the time of the incidents, Mr. Sanford was a Board Member at the PBC Ontario Regional Office in Kingston.

Results of the Investigation

Our investigation found that:

- **Mr. Sanford committed serious breaches of a code of conduct when he behaved inappropriately towards female employees—specifically, he breached the Values and Ethics Code of the Public Sector and the Board Members' Code of Professional Conduct.**
- **PBC management committed gross mismanagement and created a substantial and specific danger to the health and safety of PBC employees when they failed to adequately respond to reports of Mr. Sanford's misconduct and effectively document incidents of harassment.**

Overview of the Investigation

Ms. Christine Denis, a Senior Investigator with my Office, led the investigation with support from Mr. Dragos Iancu Leach, an Investigator. They interviewed 19 individuals and reviewed numerous documents.

As required under the Act, PBC employees fully cooperated with our investigation.

In keeping with our obligation to uphold natural justice and procedural fairness, my Office provided Mr. Sanford and members of PBC management, including Ms. Jennifer Oades, Chairperson of the PBC, with an opportunity to respond to the allegations through the provision of a preliminary investigation report for review and comment.

In arriving at my findings, I have given due consideration to all information received throughout the course of our investigation, including the comments in response to the preliminary investigation report.

Factors Considered in Determining Wrongdoing

For the Commissioner to make a finding that wrongdoing was committed, as generally defined under section 8 of the Act, the standard of proof that applies is a balance of probabilities. In Canadian law, this standard of proof is defined as meaning that one conclusion is more probable than another or, in other words, that there is a greater likelihood of one thing than another.

Gross Mismanagement

The factors that my Office considers in making a finding of gross mismanagement under paragraph 8(c) of the Act include, but are not limited to:

- **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;**
- **management action or inaction that poses a serious threat to public confidence in the integrity of the public service, and that does not primarily concern a personal matter, such as individual harassment complaints or individual workplace grievances;**
- **the deliberate nature of the wrongdoing; and**
- **the systemic nature of the wrongdoing.**

Act or Omission that Creates a Substantial and Specific Danger to the Life, Health or Safety of Persons

Paragraph 8(d) of the Act is relatively explicit and provides that wrongdoing may include “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.”

The definition of wrongdoing under paragraph 8(d) of the Act contemplates a serious situation. Further, the qualifiers “substantial” and “specific” are a clear expression of Parliament’s intention that less serious situations where the possibility of creating a danger was remote would not be qualified as “wrongdoing” under the Act.

Serious Breach of a Code of Conduct

The factors that my Office considers in making a finding of a serious breach of a code of conduct under paragraph 8(e) of the Act include, but are not limited to:

- 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 a high level of seniority or trust within the organization;
- there are serious errors which are not debatable among reasonable people;
- the breach of the applicable code(s) of conduct is systemic or endemic;
- there is a repetitive nature to the breaches of the applicable code(s) of conduct or they have occurred over a significant period of time;
- there is a significant degree of willfulness or recklessness related to the breach of the applicable code(s) of conduct; and
- the breach poses a serious threat to public confidence in the integrity of the public service, and does not primarily concern a personal matter such as individual harassment complaints or individual workplace grievances.

Summary of Findings

Evidence obtained during our investigation shows that over a period of approximately eight years, Mr. Sanford repeatedly made unwanted advances towards female employees, including touching, inappropriate comments, and unsolicited phone calls and text messages.

Evidence also shows that PBC management did not take adequate action to stop or document Mr. Sanford's behaviour in 2015. In fact, he was reappointed for a second term as a Board Member in 2020 and subsequently behaved inappropriately towards at least two other female employees.

Employee A

The first incidents investigated by my Office occurred in 2014 and 2015. Employee A stated that she started to get "signals" from Mr. Sanford that made her feel uncomfortable following their first meeting in April 2014. Mr. Sanford repeatedly called her "beautiful" in a flirtatious manner, even after she had asked him to stop. He also pressed his thighs against hers and put his hands on her shoulders and arms. Colleagues noticed the inappropriate behaviour and reported it to Employee A's supervisor, who recommended that Employee A speak to Mr. Sanford. She did so, and the behaviour stopped.

Events came to a head in May 2015. While planning upcoming official travel, Mr. Sanford suggested that he and Employee A reserve rooms in a separate hotel from others and have a private dinner. He also sent her a link to a song about having an affair.

Employee A reported the incident to her supervisor, but declined to make an official complaint, worried that her credibility would be put into question in a "he said, she said" situation.

PBC management attempted to resolve the matter through informal discussions with Employee A and Mr. Sanford. PBC management also instructed Mr. Sanford not to travel or work alone with her. Mr. Sanford's inappropriate behaviour towards her stopped following this intervention.

Employee B

During our investigation, my Office uncovered incidents involving Employee B that occurred in 2019. On one occasion, Mr. Sanford entered her workspace and began to sing her a romantic song. He also greeted her with a kiss on the lips at a holiday lunch.

Evidence indicates that these incidents were not brought to the attention of PBC management, and as such, could not have been dealt with. They do, however, underscore the repetitive nature of Mr. Sanford's misconduct, and further bolster the finding that he committed serious breaches.

Employee C

For several years, Employee C worked with Mr. Sanford without incident. In May 2020, Mr. Sanford began to behave inappropriately towards her. Events escalated when she received a series of text messages in which he asked whether she would like a photo of him, and stated he was "lonely" and "horny." Employee C responded, "what??? This conversation is DONE!" but Mr. Sanford continued to message her and even called her late that night.

During our investigation, Employee C noted that she had never given Mr. Sanford any indication she was

interested in a romantic relationship with him. She stated that Mr. Sanford “sexually harassed” her and made excuses when she rebuffed his advances, pleading with her not to tell anyone what he had done.

Employee C emailed her manager to report the incident. She was subsequently informed that Mr. Sanford had been advised not to have any contact with her, that PBC management would put measures in place, and that she would not be scheduled in hearings with Mr. Sanford.

Mr. Sanford was told, “avoid the office unless it [was] absolutely necessary to be there.” In fact, Mr. Sanford began returning to the office for full days two to three times a week shortly after the measures were put in place, and he returned to work in the office full-time within a short period. PBC management took no action to stop this. It is evident that the measures did not protect Employee C in any meaningful way from meeting Mr. Sanford in and around the office. Evidence shows that she found herself in his presence on several occasions.

The impact of Mr. Sanford’s inappropriate behaviour cannot be overstated. Employee C stated that she was embarrassed and humiliated. Following the incidents, she was scared that whenever a door opened at the office it would be Mr. Sanford coming in, and she felt sick to her stomach. In addition, Employee C was on sick leave for several weeks due to her distress over the incidents.

Employee D

Incidents involving Mr. Sanford’s inappropriate behaviour towards Employee D occurred between September 2021 and January 2022. After several incidents that made her feel uncomfortable, Employee D “realized that [she] was being sexually harassed” by Mr. Sanford. These incidents included:

- **Mr. Sanford indicating to Employee D that he was having marital problems and was lonely and inviting her for drinks;**
- **Mr. Sanford putting his hands on Employee D’s shoulders while she was working at her desk;**
- **Mr. Sanford repeatedly contacting Employee D to make dinner dates, which she declined; and**
- **Mr. Sanford making specific and lewd comments regarding Employee D’s body.**

Following months of unwanted contact, the situation culminated with an incident in January 2022, when Mr. Sanford asked to speak with Employee D. When she refused, he became insistent. Employee D got scared and hid from Mr. Sanford in the washroom. When she exited, Mr. Sanford was still waiting for her and tried to get her into a hearing room alone to talk. Employee D was able to make it to her workspace, where she asked a colleague to wait so that they could leave together. Mr. Sanford’s inappropriate behaviour impacted her so much that she was shaking.

Employee D filed an official Notice of Occurrence of harassment or violence in the workplace in January 2022.

Impact of Mr. Sanford's Inappropriate Behaviour

Mr. Sanford's behaviour undoubtedly represents a significant departure from generally accepted practices; indeed, it could constitute sexual harassment. Mr. Sanford occupied a position with a high level of seniority and trust within the organization, his behaviour had a severe negative impact on several employees, and he continued to behave inappropriately over a period of approximately eight years. It is clear from the evidence that Mr. Sanford seriously breached both the Values and Ethics Code of the Public Sector and the Board Members' Code of Professional Conduct.

Following the events with Employee A, Mr. Sanford was made aware that his behaviour was inappropriate and was not to be repeated. Despite this, Mr. Sanford harassed three more PBC employees. The impact of these incidents cannot be overstated. Four employees were negatively impacted, leading to illness, humiliation, fear in the workplace, and in one case, a resignation from the public service.

Misconduct of a sexual nature must be taken seriously, especially when attributable to a Board Member appointed by the Governor in Council, occupying a position in a situation of authority over public servants, and having an essential responsibility to model the highest standards of ethical and professional conduct.

Prior Misconduct and Inadequate Action

Following Mr. Sanford's reappointment in 2020, Employee A voiced her shock to PBC management highlighting Mr. Sanford's prior misconduct towards her. Later that year, in response to incidents involving Employee C, PBC management failed to consider Mr. Sanford's prior misconduct of a similar nature, demonstrating wilful ignorance. Actions and omissions by PBC management amount to gross mismanagement and created a substantial and specific danger to the health and safety of female employees working within the PBC Ontario Regional Office in Kingston.

PBC management had an obligation to create and maintain a safe work environment for employees and did not meet this obligation. In more than one of the cases described above, insufficient and ineffective measures were put in place to deal with Mr. Sanford's inappropriate behaviour and to protect employees. Moreover, PBC management trivialized Mr. Sanford's misconduct by advising him to "refrain from being too friendly with the public servants," thus diluting any attempts to convey that his conduct was completely unacceptable and not to be repeated. Mr. Sanford proceeded to behave inappropriately towards PBC employees over a period of approximately eight years.

Swift and effective action following incidents of misconduct is only one part of the responsibility of PBC management. It is also reasonable to assume that PBC management should have taken steps to properly document Mr. Sanford's misconduct. Evidence suggests that the incidents that occurred in 2014 and 2015 were not properly documented, and that the limited documentation available was not maintained. It is reasonable to conclude that this serious error enabled new members of PBC management to ignore

the evidence of Mr. Sanford's prior misconduct thereby contributing to his reappointment for a second term.

The failure of PBC management to take all reasonable actions to prevent recurrence by adequately responding to and documenting Mr. Sanford's misconduct is of serious importance given its impact on the victims, the work environment and the public trust in an organization that deals with such sensitive matters as parole decisions.

Conclusion

I should not have to state the obvious fact that all persons must behave professionally and treat others with respect. When an individual is in a position of power, they have an enhanced obligation not only to behave appropriately, but also to hold others to account for their conduct and protect those who are vulnerable. In this case, Mr. Sanford used his position of power to mistreat and harass employees, and others in positions of authority did not take adequate action to stop him.

By inflicting humiliation and fear, Mr. Sanford's conduct clearly had a severe effect on others, including impacting their health. Furthermore, PBC management worsened the situation by not treating the incidents seriously and failing to ensure that those in charge of appointments to the PBC were made aware of Mr. Sanford's misconduct. This is particularly troubling as my Office reported in 2014 on similar incidents at the PBC and made four recommendations, including "that the Chairperson [of the PBC] implement a structured process to assess the past workplace behaviour of prospective Board Members, prior to declaring them qualified to hold such a position."

Based on the evidence, I find that Mr. Sanford committed serious breaches of the Values and Ethics Code of the Public Sector and the Board Members' Code of Professional Conduct. I also find that PBC management committed gross mismanagement and created a substantial and specific risk to the health and safety of employees in their handling of the incidents described above.

The Commissioner's Recommendations and the PBC's Response

In accordance with paragraph 22(h) of the Public Servants Disclosure Protection Act, I have made the following recommendations to Ms. Jennifer Oades, Chairperson of the Parole Board of Canada (PBC), in her capacity as Chief Executive, concerning corrective measures. I am satisfied with Ms. Oades' responses to my recommendations. I take note of the Chairperson's response that final vetting of appointees to the Board is done by the Governor in Council (GIC), not PBC management itself. Nevertheless, my recommendation is that PBC management should convey to the GIC instances of misconduct to enable consideration by the GIC in the selection process.

I will be requesting an update of the recommendations in the next six months to ensure they are properly addressed.

My recommendations and the PBC's responses follow.

- 1. I recommend that the PBC implement the recommendation made by my Office in 2014, “that the Chairperson implement a structured process to assess the past workplace behaviour of prospective Board Members, prior to declaring them qualified to hold such a position.”**

The PBC confirms that all four recommendations suggested by your Office in 2014 have been fully implemented. However, the Board will discuss and review the Governor-in-Council (GIC) qualification process in consultation with the Privy Council Office (PCO) who oversees the senior personnel appointments process. Under a delegation of authority from the Prime Minister to the Minister of Public Safety, the PBC conducts prequalification activities in partnership with officials from PCO, Public Safety Canada, and the Minister's Office to determine fitness as a Governor-in Council appointee (Board member), however, final vetting falls outside the remit of the Parole Board of Canada.

- 2. I recommend that the PBC establish policies and procedures to manage information related to incidents of harassment in the workplace, to ensure that employees are protected from potential harassment by known perpetrators.**

The PBC will review its policies and procedures regarding harassment in the workplace, specifically to examine information management practices related to harassment incidents.

Of note, on September 27, 2022, the PBC adopted a Policy on Workplace Harassment and Violence Prevention and updated its Board Member Code of Professional Conduct and Board member complaint resolution process to reflect this policy.

- 3. I recommend that the PBC conduct a management review of the PBC Ontario Regional Office in Kingston, with particular attention to workplace well-being.**

I have directed that a management review be conducted. A workplace well-being assessment was completed in the PBC Ontario Region in May 2021 and will serve to inform this management review.

Additional Comments from the PBC

I believe the recommendations contained in your report will support the Board's ongoing efforts to ensure a healthy, safe and harassment-free workplace that protects the well-being of staff and Board members.

I wish to contextualize the report's conclusion that PBC management committed wrongdoing. While I

concur that the incidents that occurred in 2014 and 2015 were not properly documented, I do not agree that these “serious errors enabled new PBC management to ignore the evidence of Mr. Sanford’s prior misconduct” and enabled his appointment to the Board in 2020. The new PBC management did not have this information and therefore could not act on it. I would also like to clarify that Mr. Sanford had to reapply for his second appointment and was subject to an open, transparent and merit-based process, which included questions related to past workplace behaviour at both the interview and reference stage of the process.

I would also like to point out that on March 9, 2022, I exercised my authority under subsection 155.1(1) of the Corrections and Conditional Release Act (CCRA) to recommend to the Minister of Public Safety that a judicial inquiry be held as a result of Mr. Sandford’s behaviour. This provision in the CCRA is the only mechanism available to exercise discipline, suspend without pay or remove from office a PBC Board member. The Minister agreed to launch this inquiry on April 25, 2022, and when notified about this decision, Mr. Sandford resigned.

In closing, the PBC is committed to the safety and well-being of its employees and Board members and will take all steps necessary to promote and protect a healthy, positive and harassment-free workplace.