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Strengthening Whistleblower Protection: The Report of the Public Servants Disclosure Protection Act Review Task Force

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Strengthening Whistleblower Protection: The Report of the Public Servants Disclosure Protection Act Review Task Force

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Message from the Co-Chairs

On behalf of all members of the Public Servants Disclosure Protection Act Review Task Force (PSDPA Review Task Force), we are pleased to present the final report of our review of the *Public Servants Disclosure Protection Act*. This report presents our findings and recommendations, which aim to improve the federal disclosure process to better protect and empower public servants to come forward with cases of potential wrongdoing without fear of reprisal, with a view to ensuring that the legislation is comprehensive, useful and easy to understand.

As part of our work, we considered the following:

- the recommendations of the 2017 report of the Standing Committee on Government Operations and Estimates (OGGO) ¹
- submissions from stakeholders
- recommendations that came out of international research and experience in the area
- the parliamentary debate and testimony at the OGGO committee of the Private Members' Bill C-290: An Act to amend the Public Servants Disclosure Protection Act ²

It was an honour for all members of the task force to undertake this endeavour and to work collaboratively. Task force members constituted a diverse group of individuals, and we all brought different perspectives to the discussion.

It was also an honour to hear from all those who took the time to contribute to this important work through submissions to the task force. All submissions were greatly appreciated. Our goal was to make sure that we had all relevant information available to us, and that we heard as many perspectives as possible, when we were considering possible changes to the PSDPA. In that regard, we are particularly thankful to our colleagues Professor Basil Alexander and Dr. Stephen Maguire, who developed the task force's survey for public servants. The survey was one of the many ways we sought to ensure that all public servants who wished to provide information to the task force were able to do so.

Although we anticipated that the work of the task force might simply duplicate OGGO's work for its 2017 report, the task force has listened to stakeholder comments and has made recommendations to make the PSDPA more robust.

All members of the task force participated as volunteers, and we could not have completed this work without the administrative support we received from the team of professionals led by Mary Anne Stevens, Senior Director, Strategic Directions and Digital Solutions, Office of the Chief Human Resources Officer, Treasury Board of Canada Secretariat. That support was essential and greatly appreciated.

The commitment of the members of the task force was sincere and consistent. We hope that our findings and recommendations will not only be accepted but will be implemented expeditiously to put into practice protection for whistleblowers that is commensurate with the intent and letter of the PSDPA.

Suzanne Craig and Mary McFadyen

Co-Chairs, Public Servants Disclosure Protection Act Review Task Force
November 2025

Executive summary

The PSDPA Review Task Force was mandated to review the Public Servants Disclosure Protection Act (PSDPA). The task force was made up of members from outside government who brought diverse expertise and included academics, experts from other Canadian jurisdictions, a senior officer for internal disclosure and bargaining agent representatives. We were asked to:

- look for ways to enhance federal processes for the disclosure of wrongdoing and protections for public servants who come forward to disclose wrongdoing
- provide recommendations in a report to the President of the Treasury Board

Our review considered a variety of perspectives on key aspects of the legislation and its administration across the federal public sector.

Specifically, we:

- received written submissions from 57 internal and external stakeholders
- held follow-up meetings with stakeholders
- conducted an online survey that gathered perspectives from more than 3,500 current public servants and a number of respondents from outside the public sector
- drew from research and policy documents on whistleblower protection in Canada and internationally

Our review also considered material from OGGO's 2017 review of the PSDPA and Private Member's Bill C-290: An Act to amend the Public Servants Disclosure Protection Act. From March 2023 to March 2025, we

carefully considered the information provided and worked to establish our recommendations on the disclosure of wrongdoing, protections from reprisal, and aspects of culture, administration and operations.

We have recommended changes to many parts of the PSDPA to provide needed clarity, to support its consistent application across the federal public sector, and to simplify and improve the effectiveness of the disclosure and reprisal regime. These changes are focused on earning public servants' trust and contributing to the public trust in the public service. Our recommendations include the following:

- strengthening protections for disclosers
- increasing legal support for disclosers and victims of reprisal
- expanding protections for victims of reprisal
- including the Canadian Armed Forces, the Canadian Security Intelligence Service, and Communications Security Establishment Canada under the PSDPA
- discontinuing the operations of the Public Servants Disclosure Protection Tribunal

We recognize that changes to the legislation alone will be insufficient to bring about the changes that are needed; a major change is required to achieve the PSDPA's stated aims. Our additional recommendations include the following:

- improved public reporting
- mandatory training on the PSDPA
- better assessments of organizational culture and psychological safety in the workplace
- measures to hold chief executives accountable for how well the PSDPA is working in their organizations

Our review was completed at a time of heightened focus on public sector values and ethics, with the Clerk of the Privy Council's renewed dialogue on values and ethics as well as the Treasury Board of Canada Secretariat's (TBS's) ongoing updates to integrity-related guidance. We also heard that the Public Sector Integrity Commissioner and senior officers for internal disclosure are currently reporting increases in the number of PSDPA-related inquiries and disclosures. The cost of serious misconduct is high, affecting the health and well-being of public servants, the effectiveness and reputation of public sector organizations, and public trust. This task force follows other reviews that have raised many similar concerns. The PSDPA has had enough review; now is the time to take action to make meaningful improvements.

Introduction

► In this section

The PSDPA came into force in 2007 and is the bedrock whistleblower protection legislation for the Government of Canada. Its aim is to provide federal public sector employees and others with a secure and confidential process for disclosing wrongdoing in the workplace and protection from acts of reprisal. Although the PSDPA required that an independent review of the PSDPA and its administration and operation be carried out five years after it came into force, it has not been significantly revised since its creation. When OGGO reviewed the PSDPA and issued a report in 2017, it concluded that significant legislative revisions were needed to:

- improve the clarity of the PSDPA
- better protect both the public interest and whistleblowers

Several of the OGGO committee’s recommendations for administrative measures were adopted, but no legislative revisions were made in response to the committee’s recommendations.

The PSDPA Review Task Force was established in 2022. Its members held in-person and virtual meetings between March 2023 and March 2025.

Our review revealed significant issues with how public servants and others engage with the PSDPA:

- many public servants are unaware of the PSDPA, what their options are for disclosing wrongdoing, and the protections available to them if they come forward
- the PSDPA, as currently administered, does not provide the sense of security that is needed to promote a culture of integrity within the federal public sector
- public servants are not confident that they will be protected against reprisals and are afraid to disclose wrongdoing
- many public servants doubt that disclosing wrongdoing will make a difference

“If you keep your mouth shut, you can just deal with it in therapy and the workplace boat is not rocked.... I just want to do my job.”

— Survey respondent

Improvements to the PSDPA itself and how it is implemented across the public sector can help address such problems. In this report, we make recommendations on how to improve the disclosure of wrongdoing and protection from reprisals, but changes to the PSDPA and its administration will not be sufficient to meet the scale of the challenge. Upholding the

objectives of the PSDPA requires broader action to improve the culture of the federal public sector in Canada so that public servants feel safe to disclose wrongdoing.

This report presents 35 recommendations for improvements that cover three thematic areas:

1. the disclosure processes
2. protections from reprisal and supports
3. organizational culture, administration and operations

In this introductory section, we provide information about the PSDPA, the task force and our review. We then summarize the main challenges regarding the PSDPA in each of the three thematic areas and provide our recommendations for improvements. A list of all recommendations is in Appendix A.

The Public Servants Disclosure Protection Act Review Task Force

On November 29, 2022, the President of the Treasury Board appointed an external task force to explore possible revisions to the PSDPA. It was charged with considering opportunities to:

- enhance the federal disclosure process
- strengthen protections and supports for public servants who come forward to disclose wrongdoing

We were also mandated to prepare a report to the President with our recommendations on possible amendments to the PSDPA and on improvements to its administration and operation.³ The President directed, and we agreed, that this report would be made public. Task force members included the following:

- a senior officer for internal disclosure within the Government of Canada
- three academics
- two bargaining agent representatives
- two individuals who have experience in disclosure regimes in Canadian provincial or municipal jurisdictions

Task force members were as follows:

- Co-Chair: Suzanne Craig, Integrity Commissioner, City of Vaughan, Ontario
- Co-Chair: Mary McFadyen, former Ombudsman and Public Interest Disclosure Commissioner for the Province of Saskatchewan
- Professor Basil Alexander, Legal Academic, University of New Brunswick (until June 30, 2025) and Toronto Metropolitan University (as of July 1, 2025)
- Professor Geneviève Cartier (member until October 2023), Faculty of Law, Université de Sherbrooke – left to support the Public Inquiry into Foreign Interference
- Scott Chamberlain, Director of Labour Relations and General Counsel, Association of Canadian Financial Officers
- Raymond Kunze, former Ombuds and Senior Officer for Internal Disclosure, Immigration and Refugee Board of Canada
- Dr. Stephen Maguire, Adjunct Research Professor in the Ethics and Public Affairs Doctoral Program and Executive Director of the Centre on Values and Ethics at Carleton University
- David Yazbeck, General Counsel and Corporate Secretary, Association of Justice Counsel

Profiles for each task force member are provided in Appendix B.

Approach to the review

Our review of the PSDPA considered a variety of perspectives on key aspects of the legislation and its administration across the federal government. Supported by a team from the Office of the Chief Human Resources Officer, TBS, we:

- received 57 submissions from stakeholders who were internal and external to government
- held follow-up meetings with stakeholders
- conducted an online survey that gained perspectives from more than 3,500 current public servants
- drew from research and policy documents on whistleblower protection in Canada and internationally

In conducting our review, we considered the following:

- material from OGGO's 2017 review of the PSDPA
- the Proposal of the Public Sector Integrity Commissioner for Legislative Amendments | Office of the Public Sector Integrity Commissioner of Canada
- the Private Member's Bill C-290: An Act to amend the Public Servants Disclosure Protection Act
- national and international research on whistleblowing regimes
- data from the Government of Canada's Public Service Employee Surveys
- direct consultation with a wide range of stakeholders and interested parties

Our consultation processes enabled key stakeholders to provide their views, expertise and experiences regarding the federal disclosure regime and suggest improvements. Our consultations have also allowed us to

gather valuable insights and a wide range of perspectives for our recommendations.

Through regular virtual and in-person meetings from March 2023 to March 2025, task force members carefully reviewed the information provided from consultations and other sources. We conducted an in-depth review of the issues and worked closely on the recommendations in this report. All task force members had the opportunity to express their views as we worked toward consensus on decisions and recommendations. Dissenting opinions, as well as alternative stakeholder views, are reflected throughout this report.

Stakeholder consultations

Through a comprehensive consultation process, we engaged with stakeholders inside and outside the federal public sector to:

- identify ways to improve the federal disclosure process
- strengthen protections against reprisal
- provide support to those involved in reporting wrongdoing

We also looked for ways to improve:

- the culture of the public sector to positively impact public servants who consider disclosing wrongdoing
- the management of the disclosure and complaints processes

The consultation process was held between October 2023 and June 2024 and had two phases. In the first phase, we made targeted requests for written submissions to specific internal and external stakeholders who had knowledge and expertise in whistleblower regimes, ethics and related topics. We started with stakeholders and witnesses who were involved in the OGGO 2017 review and bargaining agents. We then consulted on which other stakeholders to include, such as members of the internal disclosure

community, scholars and experts. We asked all stakeholders for written feedback through a questionnaire ⁴ that covered our three thematic areas, with stakeholders being invited to provide information on the PSDPA's strengths, weaknesses, issues and areas for improvement. We received 57 written submissions, ⁵ which provided critical information for our consideration.

We sent requests for submissions to the following stakeholder groups as part of the first phase of consultations:

External stakeholders

- Bargaining agents (that is, members of the National Joint Council)
- Non-governmental organizations
- OGGO witnesses (where we could locate contact information)
- Former public servants and members of the public who had an interest in and experience with the PSDPA
- Academics
- Experts in other jurisdictions (for example, provincial and territorial commissioners, internal disclosure commissioners)
- Newspaper and media associations
- Ethics Practitioners' Association of Canada

Internal stakeholders

- Chief executives in the public sector
- Chief executives of excluded organizations (that is, the Canadian Security Intelligence Service, the Canadian Armed Forces and Communications Security Establishment Canada)
- Public Sector Integrity Commissioner
- Public Servants Disclosure Protection Tribunal, Administrative Tribunals Support Service of Canada

- Auditor General of Canada
- Senior officers for internal disclosure
- Interdepartmental Internal Disclosure Working Group
- Employment equity networks
- Federal Public Service Organizational Ombuds Community
- Department of Justice Canada
- Interested public servants
- Association of Professional Executives of the Public Service of Canada (APEX)
- National Association of Federal Retirees

In the second phase, we invited selected stakeholders to meet with us to further discuss their submissions. These follow-up consultation meetings were held between March and June 2024.

The task force's online survey

To complement the consultation process described above, we conducted an online survey open to public servants and members of the public to gather feedback on elements of the PSDPA. This allowed us to receive input from current and former public servants, contractors, consultants with the federal public sector, and anyone else interested in the PSDPA. The survey included questions about:

- disclosure processes
- protections from reprisal and supports
- the impact of workplace culture on the administration of the PSDPA and on disclosing wrongdoing

The survey was posted on the [Canada.ca website](https://www.canada.ca) for about six weeks. A total of 5,268 responses were initiated, but many were incomplete. All surveys that were submitted or over 40% completed were included in the analysis, for a total of 3,574 responses. Of those, for the purposes of this

report, the analysis focused on the 3,501 surveys submitted by current public servants, who represented the vast majority of respondents. Responses from former public servants, contractors and members of the public each made up 1% or less of the total.

Participants were informed that their answers would be anonymous, that they could complete the survey in their preferred official language, and that their responses would be included in the analysis if they answered at least 40% of the survey. The survey was administered using SimpleSurvey, a third-party online service. Participants were directed to SimpleSurvey's website for information on their privacy policy, and the survey data was reviewed to ensure that no identifying information was retained.⁶

The full survey report, which includes summaries of key qualitative and quantitative data, is available on the task force's [Review of the *Public Servants Disclosure Protection Act*](#) web page. Although time constraints limited the extent to which we could undertake extensive analysis, such as detailed comparisons of responses by demographic data, all survey data was reviewed. A copy of the cumulative de-identified dataset will be retained for future reference and analysis in accordance with government record management policies.

The Public Servants Disclosure Protection Act

The PSDPA came into force in 2007 to:

- provide federal public servants and others with protected processes for disclosing wrongdoing in Government of Canada workplaces
- protect federal public servants and others from reprisal for making disclosures

The key objectives of the PSDPA are to:

- promote and sustain an ethical workplace culture

- maintain and enhance Canadians' trust in the integrity of the public sector

The PSDPA requires the deputy head or executive officer of a federal organization to establish an internal disclosure process that meets certain requirements, such as ensuring that disclosure information is kept confidential.

The PSDPA created two new independent bodies to implement and administer the disclosure process:

- the Office of the Public Sector Integrity Commissioner of Canada (PSIC)
- the Public Servants Disclosure Protection Tribunal (the Tribunal)

As an Agent of Parliament, the PSIC:

- provides an independent and confidential process for receiving and investigating disclosures of wrongdoing
- reports founded cases of wrongdoing to Parliament and makes recommendations to chief executives on corrective measures
- provides a mechanism for filing complaints of reprisal

Reprisal complaints may be handled through conciliation and by referring cases to the Tribunal. The Tribunal is a quasi-judicial body that hears reprisal complaints referred by the PSIC. It has the power to grant remedies to people who disclosed wrongdoing and were subject to reprisal, and it can order disciplinary action against people who took a reprisal.

The fundamental underlying principles of the PSDPA include:

- integrity of public servants and public sector institutions
- protecting disclosers, including confidentiality
- duty of loyalty
- freedom of expression
- transparency

These principles often overlap and can sometimes conflict with each other, for example, transparency and the need for confidentiality. There is also a tension between the duty of loyalty and freedom of expression. The PSDPA strives to balance these principles.

The PSDPA also establishes mechanisms for dealing with wrongdoing in or relating to the **federal public sector**.⁷ It functions within the framework of federal public sector legislation, policy and federal jurisdictional boundaries. Within this context, disclosure procedures and other elements of the PSDPA work in conjunction with existing employer–employee relationships. For example:

- if a public servant faces alleged reprisal, they can make a formal complaint to the PSIC or use a grievance process
- the Royal Canadian Mounted Police (RCMP) has a unique process for handling alleged reprisals to reconcile the PSDPA with the *Royal Canadian Mounted Police Act*
- corrective action taken against a public servant found to have committed wrongdoing is handled under public sector legislation (for example, the *Federal Public Sector Labour Relations Act*)

Under the PSDPA, public servants can disclose wrongdoing internally to their supervisor, or their organization’s designated senior officer for internal disclosure, or externally to the PSIC.

Unlike other recourse mechanisms, such as the grievance process, public servants do not have to use their organization’s internal disclosure process first before going to the PSIC. Civilian employees and RCMP members can also disclose wrongdoing either internally or to the PSIC; however, there are specific provisions in the PSDPA regarding reprisal complaints and the *Royal Canadian Mounted Police Act*.

Non-public servants, including contractors with federal government organizations, and former public servants can report possible wrongdoing in or related to the public sector to the PSIC, who may decide to investigate. The PSIC can also investigate disclosures that are received anonymously. Figure 1 outlines the process that the office of the PSIC uses when it receives a disclosure of wrongdoing.

Figure 1: Office of the Public Sector Integrity Commissioner of Canada's process for handling a disclosure of wrongdoing *

Disclosure of wrongdoing received

- Disclosures can be submitted through PSIC website, in person, by mail, or fax. They are considered secure means of transmission.



Case Admissibility Review

- 90 days to complete based on internal service standards.



- Could potentially be wrongdoing under the Public Servants Disclosure Protection Act?

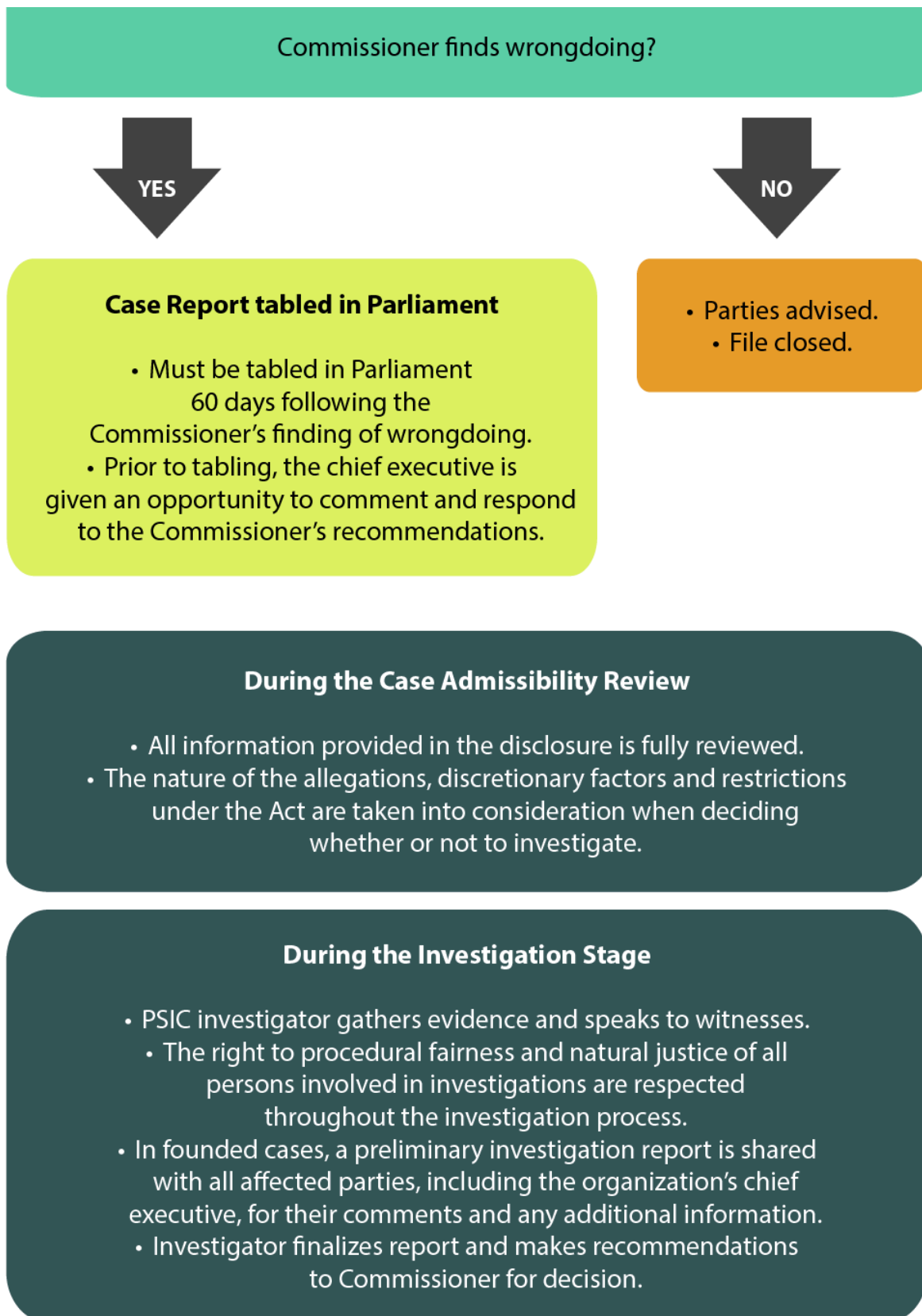


Investigation

- Targeted service standard:
1 year to complete.
- PSIC conducts administrative investigations.
- Any criminal activities may be referred to the proper policing authority.

- Discloser advised.
- File closed.





* Adapted from the PSIC's "[How a Disclosure File is Processed.](#)"

► Figure 1 - Text version

Part 1: disclosure of wrongdoing

► In this section

The PSDPA aims to provide federal public servants with a secure and confidential process to disclose wrongdoing in the workplace. The task force found several challenges in this area. In this section, we present our considerations on:

- revising the definition of wrongdoing
- adjusting who can make a protected disclosure
- improving disclosure processes
- providing legal assistance for disclosers and those cleared of alleged wrongdoing

Defining wrongdoing

A central aim of the PSDPA is to promote public confidence in the integrity of public servants and institutions by providing ways to disclose wrongdoing. To achieve this goal, it's important to clearly define what counts as wrongdoing, and it is vital that the PSDPA's definition of wrongdoing be clear, sufficiently flexible and balanced. The task force considered whether the definition of wrongdoing in the PSDPA should be expanded to include a broader range of misconduct.

Wrongdoing under the PSDPA, section 8, is defined as the following:

- “(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 the paragraphs (a) to (e).”

Stakeholders had a range of views on whether the current definition is balanced or needs to be broadened, as recommended in the 2017 OGGO report and proposed in Private Member’s Bill C-290: An Act to amend the Public Servants Disclosure Protection Act.

Some stakeholders suggested that the definition is too narrow and should be broadened to include more types of misconduct. They noted that many instances of bad behaviour disclosed as wrongdoing under the PSDPA were not investigated because they didn’t fit the definition of wrongdoing, and they weren’t investigated or addressed under other processes. Bill C-290 proposes removing qualifiers such as “gross” and “serious” from the definition of wrongdoing. However, most public servants who administer the PSDPA oppose this widening of the definition. They expressed concerns that it could become too broad, leading to more investigations that would require too many resources. Their opinion was that there were other recourse mechanisms available to deal with misconduct that doesn’t fall under the PSDPA.

Supporters of an expanded definition of wrongdoing pointed to a few other international whistleblower regimes that take a broader approach, such as the European Union’s whistleblower protection directive. We heard

concerns that the current definition might make some whistleblowers feel that their disclosure won't be accepted and that this represents a lost opportunity to promote good governance.

Most public servants we interviewed who are responsible for administering the PSDPA in their organization indicated that the current definition of wrongdoing is sufficiently broad. They argued that lowering the threshold could be unduly burdensome, dilute the perceived seriousness of wrongdoing, and would slow the response of federal government organizations. Expanding the definition, particularly by simply removing qualifiers, could significantly increase the workload of the PSIC, the Tribunal and those conducting internal investigations, leading to a significant increase in required resources. Public servants also expressed concern that widening the scope of the definition so broadly could:

- result in the investigation of a significant number of matters that could be more appropriately addressed through other recourse mechanisms
- reduce managers' ability to take early or preventive action because a senior officer for internal disclosure cannot share information made in a disclosure under the PSDPA if that information could identify the discloser

We also heard that issues should be addressed at the lowest possible level to reduce conflict and stress for everyone involved.

In addition to the debate on lowering the threshold of wrongdoing, we heard that there may be specific gaps in the definition of wrongdoing. Stakeholders suggested adding the following to the definition:

- knowingly adopting misleading accounting practices
- circumventing systems of internal control
- committing and/or concealing fraud
- apparent and/or real conflict of interest

We were also asked to consider whether the definition of wrongdoing should include technological advancements that could create new opportunities for wrongdoing, such as cybercrime that uses artificial intelligence.

Individually, members of the task force had differing views on whether the definition could be improved. However, we agreed that the PSDPA's current definition of wrongdoing is generally appropriate in scope. It is important to recall that the PSDPA was not created to deal with all instances of misconduct but was meant to address serious misconduct and mismanagement that could undermine trust in public institutions and the federal public sector. Not all misconduct amounts to a wrongdoing under the PSDPA, but misconduct that doesn't meet the statutory definition of wrongdoing shouldn't be ignored. Such misconduct should be addressed and resolved by other means, which is why having other recourse mechanisms available to public servants is essential. In Part 3 of this report, we discuss how to improve support for public servants in accessing other recourse mechanisms.

Stakeholders generally agreed that more clarity is needed to support senior officers for internal disclosure, potential disclosers and others in interpreting the definition of wrongdoing. Some public servants responsible for administering the PSDPA indicated that the current definition in the PSDPA isn't clear enough to distinguish wrongdoing from other workplace issues. They wanted to see clearer distinctions between the types of wrongdoing.

Stakeholders also noted that the definition of wrongdoing and its subtypes can be interpreted in many ways, leading to inconsistent application of the PSDPA across federal government organizations. We heard that this inconsistent treatment can:

- result in frustration for public servants who are referred to another recourse mechanism
- contribute to a sense that individuals should be using multiple avenues of redress

It should be the employer's responsibility to help employees understand their options in what can be a complex array of recourse avenues.

Some stakeholders sought clear definitions and examples for each type of wrongdoing. They suggested that this could be done through amendments to the PSDPA or through new policy or guidance documents. In either case, they indicated that additional resources are needed to support those involved in internal disclosure processes, including those thinking about making a disclosure and those accused of wrongdoing. In addition, stakeholders indicated that misconduct by management is especially serious, even if it is relatively minor, because it can significantly affect employee perceptions and morale.

A consistent application of the definition of wrongdoing can be drawn from the following:

- existing jurisprudence
- TBS's Serious Breach and Gross Mismanagement guidance
- communication products of the Office of the PSIC
- the PSIC's policies and procedures for applying the definition of wrongdoing, including:
 - Directive on Disclosures Assessing the Importance of Subject Matter
 - Policy on Complaints of Reprisal Arising from Harassment or Workplace Grievances

Although we do not propose changing the scope of wrongdoing in the PSDPA, we do recommend issuing additional guidance to clarify the definition of wrongdoing for consistent implementation across the public

sector. We also believe that for any misconduct that is reported but not investigated under the PSDPA, there should be a mechanism to ensure that it does not go unaddressed. Many public servants voiced this concern during our review of the PSDPA.

We acknowledge the complexity of referring disclosers to different recourse mechanisms,⁸ but it's important to prevent reports from being overlooked and to assure disclosers that the matters they report on will be addressed. In addition, those who advise disclosers on recourse mechanisms must always maintain the confidentiality of disclosure-related information, and they should assure disclosers that the PSDPA's protections remain in place even if allegations don't meet the definition of wrongdoing under the Act.

Recommendation 1

We recommend that the government:

- **provide clear guidance (including examples) on what constitutes wrongdoing under the *Public Servants Disclosure Protection Act* (PSDPA)**
- **establish a process for matters that do not meet the definition of wrongdoing under the PSDPA so that all issues are addressed**
- **provide clarity on the use of discretion in whether to proceed with a wrongdoing investigation, given the actions and circumstances involved and the alleged wrongdoer's level or role**

Who can make a protected disclosure?

One purpose of the PSDPA is to assure all public servants who come forward to make a disclosure of wrongdoing that they will be protected from reprisal. The task force considered whether the following changes should be made:

- expanding the coverage of protected disclosures to all federal government organizations
- removing the requirement that disclosures be made in “good faith”
- explicitly affirming that non-public servants can make protected disclosures
- clarifying that investigations can continue if a discloser leaves the public sector or moves to another federal government organization
- adding a duty to report

Excluded organizations

The PSDPA currently applies to 141 active organizations in the public sector as defined in section 2 of the PSDPA. These organizations include all public servants in most federal departments and agencies, Crown corporations, and the RCMP, including the deputy heads and chief executives of public sector organizations. They do not include other Governor in Council appointees (such as judges or boards of directors of Crown corporations).

Three federal government organizations are currently excluded from the definition of “public sector” in the PSDPA:

- Canadian Armed Forces
- Canadian Security Intelligence Service
- Communications Security Establishment Canada

These three organizations are required to have an internal process available to public servants or military members to report wrongdoing. However, these individuals cannot make a disclosure of wrongdoing or file a complaint of reprisal with the PSIC.

We heard from stakeholders that these exclusions are due to national security concerns or, in the case of the Canadian Armed Forces, its unique chain of command. However, while there is no evidence that excluding

organizations results in less comprehensive protection from reprisals for employees in these organizations, we heard from several stakeholders, including members of the internal disclosure community involved with special operational information, that all federal public servants should have the option to make a disclosure internally or to the PSIC.

We heard that public servants currently have no way to disclose wrongdoing that involves **restricted** special operational information unless it pertains to possible offences under an Act of Parliament. We also heard that it may be possible to authorize the PSIC to receive disclosures of wrongdoing that contain restricted special operational information through an amendment to the Foreign Interference and Security of Information Act.

Ultimately, we believe that it is neither necessary nor appropriate to exclude any federal government organizations from the definition of public sector in the PSDPA. Measures can be put in place to address and resolve concerns while giving employees the option to submit disclosures either to the PSIC or within their organization. Such measures would include ways to ensure that the PSIC is able to receive restricted information and analyze and assess that information.

Recommendation 2

We recommend that the definition of public sector in the *Public Servants Disclosure Protection Act* no longer exclude the Canadian Armed Forces, the Canadian Security Intelligence Service and Communications Security Establishment Canada.

Definition of protected disclosure

Currently, the definition of “protected disclosure” means a disclosure that is made in good faith and is made by a “public servant” as defined by the PSDPA.

The “good faith” requirement considers the discloser’s motive when determining:

- whether to pursue an investigation
- how to consider their evidence
- whether the discloser will be protected

Other legislation, including the *Canada Labour Code* and *Canadian Human Rights Act*, also allows for rejection of complaints “not made in good faith” or “made in bad faith.” We heard that vexatious disclosures do occur and that they can have significant and lasting impacts on those accused.

However, it is difficult to discern motivation accurately, and it should not be a consideration that leads to rejecting a disclosure or a reprisal complaint or preventing an investigation of a wrongdoing. If the allegations might show wrongdoing, they should be investigated regardless of the discloser’s motive. As the PSIC’s 2017 submission to the OGGO committee stated: “Motivation is not relevant; what is relevant is whether wrongdoing or reprisal has been committed.” ⁹

Behaviour that is vexatious, with the intent to harass, may need to be addressed under the disclosure or complaints management review process, but this is distinct from the intake assessment that considers the evidence submitted on a prima facie basis. We affirm the finding of the OGGO committee’s 2017 report that the good faith requirement should be removed from the definition of a protected disclosure. Further, we do not recommend replacing the good faith requirement with a test of reasonable belief, as it might discourage potential disclosers from coming forward. The review and investigation process should ultimately determine whether there is a basis in evidence for the allegation of wrongdoing.

The above reasoning also applies to other situations requiring “good faith,” such as cooperating with investigations.

Recommendation 3

We recommend that the phrase “good faith” be removed from the definition of protected disclosure and as a requirement elsewhere in the *Public Servants Disclosure Protection Act*.

Protected disclosures are restricted to “public servants” as defined under the PSDPA. However, the PSDPA aims to ensure that all allegations of wrongdoing are assessed, investigated and addressed. Anyone should be able to come forward to disclose a wrongdoing in the public sector and be protected from reprisal, including those who are not public servants and those who submit disclosures anonymously or publicly. This aligns with the Organisation for Economic Co-operation and Development’s (OECD’s) guidance that a broad interpretation of a whistleblower is important to ensure that all relevant people are protected. ¹⁰

We heard support for explicitly permitting anonymous disclosures, which is permitted under British Columbia’s Public Interest Disclosure Act and in several other Canadian jurisdictions. Some senior officers for internal disclosure suggested using a third-party reporting method, such as a whistleblower hotline. Many survey respondents requested an option to report anonymously, particularly given concerns that confidentiality may not be upheld.

“Emails can be forwarded without the public servant’s knowledge and therefore there is no protection to the public servant who raises the complaint.”

— Survey respondent

The PSDPA allows the PSIC to receive and investigate anonymous disclosures and disclosures from anyone involved in government operations, including private contractors, former public servants and the

public. Subsection 33(1) of the PSDPA gives the PSIC the power to investigate possible wrongdoing based on information provided by a “person who is not a public servant.” ¹¹ However, the task force believes that the PSDPA should be amended to clearly state that anyone can report wrongdoing to the PSIC (as recommended by the 2017 OGGO report) or to an organization’s senior officer for internal disclosure.

The PSDPA should also be amended to clarify that disclosures can be made anonymously to senior officers for internal disclosure within public sector organizations. Procedures should be in place to refer these disclosures to other processes if they will not be dealt with under the PSDPA. Although we acknowledge that it is difficult to protect people who make anonymous disclosures, it’s important to have processes in place to manage these types of disclosures and ensure that the processes do not hinder addressing wrongdoing. We believe that anonymous disclosers should be protected as much as possible under the PSDPA, even if their identity eventually becomes known (and they should have full retroactive protection at that point). Some stakeholders suggested innovative ways to gather information and communicate back and forth while maintaining confidentiality, such as hotlines, de-identifying numbering systems, and appropriate technological systems.

Recommendation 4

We recommend that the *Public Servants Disclosure Protection Act* (PSDPA) be amended to clarify that:

- **the Office of the Public Sector Integrity Commissioner of Canada (PSIC) and internal disclosure processes can accept anonymous disclosures and apply protections from reprisal to the extent possible under the PSDPA, and**
- **members of the public can report wrongdoing to the PSIC or to a designated point of contact in the subject organization**

Disclosures that involve two or more organizations

Stakeholders indicated that there is confusion about what happens when a public servant who has made a disclosure or an alleged wrongdoer moves to another federal government job, leaves the public sector or retires. Some believe that the public servant's previous organization may no longer have the authority to continue to review the case. Others suggested that if the person moves to another federal organization, leaves the public sector or retires, their former organization can't keep investigating or take corrective or disciplinary action if wrongdoing is found.

The current situation is that if a disclosure is made before the discloser moves to a new organization, the investigation continues. There is no requirement to involve the senior officer for internal disclosure of the new organization. If the allegation is founded, the discloser's former organization handles recommendations and disciplinary measures because the alleged wrongdoer was an employee of that organization when the investigation started.

On the other hand, if the alleged wrongdoer moves to a new organization, the senior officer has the authority, under the *Values and Ethics Code for the Public Sector*, to continue to manage the disclosure and may liaise with the senior officer of the new public sector organization, as appropriate. The findings may be shared with the new organization, as it would have the authority to implement disciplinary measures if required.

Clearer guidance is needed to ensure that all senior officers for internal disclosure understand and apply the same approach in these circumstances. Improved processes should clarify that a senior officer can and should continue to investigate wrongdoing when the discloser or alleged wrongdoer moves to another organization, leaves the public sector or retires. Without this clarity, wrongdoing may not be investigated, which would undermine the public interest. Therefore, we emphasize the need for

government to clarify procedures for managing investigations when a discloser or an alleged wrongdoer leaves an organization, leaves the public service or retires.

Recommendation 5

We recommend that the government make it clear that investigations of wrongdoing should continue if the discloser or alleged wrongdoer moves to a different government organization, leaves the public sector or retires.

Mandatory duty to report

We considered whether a mandatory duty to report wrongdoing should be added to the PSDPA. A few stakeholders proposed this addition given the importance of disclosure for public servants and to encourage disclosure of wrongdoing. However, it is our view that the expectation to report is already part of the *Values and Ethics Code for the Public Sector*, which public servants must follow to serve the public interest. Creating a formal duty to report would be difficult to implement in practice and could have negative effects, such as the potential for disciplinary action for not reporting and other considerations. Disclosures should instead be encouraged through other improvements to the PSDPA, its administration and the public sector's organizational culture.

Disclosure processes

Under the PSDPA, public servants have three ways to make a protected disclosure of wrongdoing:

1. to their supervisor
2. to their organization's designated senior officer for internal disclosure
3. to the PSIC

Public servants from organizations that are too small to have an internal disclosure process can make protected disclosures to the PSIC.

We considered the following:

- how to ensure procedural fairness in spite of inconsistency across the disclosure regime, especially for disclosures that are internal to organizations
- whether the PSIC should be able to obtain information from outside the public sector
- ways to address challenges caused by overlapping recourse mechanisms

Some stakeholders argued that there should no longer be internal processes to report wrongdoing and that all disclosures of wrongdoing should be made to the PSIC. The reasons they cited were:

- the PSIC is more neutral
- organizations have disclosure regimes that are less robust than the PSIC's
- some organizations lack sufficient knowledge, expertise and resources, leading to inconsistent handling of disclosures

We heard from witnesses that some disclosers don't use internal reporting because the whistleblower's identity is often revealed through the media or by individuals within the organization during the investigation. Some public servants feel unsafe using internal procedures because they don't seem to be independent.

Stakeholders mentioned risks associated with conflicts of interest, confidentiality breaches, reprisals and issues being "swept under the rug." Some argued that:

- organizations may protect their managers

- small organizations lack clarity on reporting mechanisms and support systems
- supervisors who don't know enough about the PSDPA can compromise evidence and confidentiality
- internal processes could be used to retaliate against managers

We considered these points, and the majority concluded that we did not wish to limit the ways in which public servants can report wrongdoing. They are in the best position to know if reporting internally or externally is better for them, and we heard some examples of organizations where internal reporting seems to work well, particularly when supported by the organization's leadership and culture.¹² The key is for public servants to have an external option available that doesn't require exhausting internal options, which the PSDPA does. The PSIC would also need considerable additional resources if it became the sole body for reporting wrongdoing. However, we all agree that internal processes vary in quality and that this inconsistency should be addressed.

Procedural fairness

Stakeholders mentioned that some organizations have better internal disclosure processes than others and that two thirds of disclosures are made internally. It's important to consider that public servants should be treated consistently, regardless of where they disclose wrongdoing. As noted, we also heard concerns about the risks of disclosing wrongdoing to supervisors.

We heard many concerns about internal disclosure processes, such as:

- inconsistent intake assessments, investigations and reporting
- confusion about who makes decisions and the decision processes
- the role of the senior officer for internal disclosure
- the qualifications required for senior officers

There are obvious inconsistencies across the federal public sector in how disclosures are handled, and appropriate guidance is required. There is also confusion about the supervisor's role when a disclosure is made to them. Some supervisors are unsure whether they should investigate the wrongdoing themselves or forward it to the senior officer for internal disclosure. Some supervisors do not know their responsibilities under the PSDPA, resulting in:

- a disclosure to a supervisor not reaching the senior officer for internal disclosure
- confidentiality not being maintained
- an elevated risk of reprisal

The courts have made it clear ¹³ that employees don't need to mention the PSDPA, the key word "disclosure," or specifically state that they are making a "disclosure of wrongdoing" in order for it to be considered a protected disclosure under the PSDPA. Furthermore, a disclosure is protected whether or not it meets the definition of wrongdoing under the PSDPA, that is, it remains protected even if the allegation doesn't meet the threshold of wrongdoing.

As a result of the inconsistencies and points of confusion mentioned above, some have concluded that all disclosures of wrongdoing should be made to the PSIC. However, we also heard that it is important for public servants to have choices. Our survey showed that many public servants approach their supervisors to raise ethical concerns. In the survey's four hypothetical scenarios that involve unethical conduct, respondents indicated that they were most likely to talk to their supervisor if they had concerns.

“Supervisors are often an employee’s first line of action when it comes to work-related difficulties. If their supervisor is equipped with the knowledge of how to support them through the reporting process (in terms of procedural logistics, and empathy [or] support), then they will be more likely to follow through.”

— Survey respondent

We also learned that organizational investigators may better understand the environment they are operating in and be better positioned to investigate allegations of wrongdoing, such as in cases involving embassies abroad.

Concerns about procedural fairness can be addressed without removing options for reporting. After much discussion, we concluded that all public servants should be able to make a disclosure internally or to the PSIC. However, there is a need to improve the fairness, safety and ease of access of disclosure processes.

For an investigation to be fair, both the discloser and alleged wrongdoer need to know the information being considered and have the right to respond and be kept informed of the investigation’s progress. Many people, both disclosers and alleged wrongdoers, indicated that they were not kept informed and didn’t know the status of investigations. The results of our survey showed that lack of transparency was one of the most common reasons for dissatisfaction with the disclosure process.

“A good place to start would be to eliminate the feeling that you have thrown your concerns into a pit, never to hear about them or the outcome thereafter.”

— Survey respondent

Assessment and investigation processes also need to respect confidentiality, especially when the parties fear reprisal. These issues could be improved if the PSDPA or regulations had more details on how investigations should be conducted. Many provincial whistleblower protection Acts include specifics on investigation procedures and managing disclosures.

Under the *Values and Ethics Code for the Public Sector*, chief executives are responsible for monitoring and evaluating their organization's internal disclosure process, which should accordingly be regularized and be part of performance reviews. Given the inconsistencies in how individual federal government organizations apply the PSDPA, stakeholders see a need for standardized requirements and oversight to monitor performance. Performance audits are useful tools to check whether intake assessments and investigations are conducted consistently throughout the public sector. We believe that a review and audit function should be added to the PSDPA, but determining the appropriate body for conducting such reviews and audits needs further consideration.

We heard from stakeholders that:

- the audit function could be added to the PSIC's mandate
- an oversight body could be established within TBS to monitor performance against service standards
- PSDPA audits could be required and conducted internally, or
- the Office of the Auditor General of Canada could have a role

Most federal government organizations have internal audit processes, and small departments and agencies use TBS's Internal Audit Services team for such audits. We heard that PSDPA audits could be added to the duties of internal audit teams. If this occurred, all federal government organizations would need to follow the same principles to ensure consistency in the disclosure process across government.

If an organization's chief audit executive is also the senior officer for internal disclosure, TBS's Internal Audit Services could help manage any conflict-of-interest concerns. Internal policies should address how to resolve conflict-of-interest situations, such as through reassignment of responsibilities. We also heard that the Office of the Auditor General of Canada may be an appropriate place for this function. We recommend that the federal government consider the best available mechanism for auditing compliance and reporting results according to PSDPA requirements.

Recommendation 6

We recommend that the federal government implement routine and other audit mechanisms to ensure that all federal government organizations meet the requirements of the *Public Servants Disclosure Protection Act* in a consistent manner.

Redrafting the PSDPA

The PSDPA is a complex and multi-sectioned Act addressing two different purposes. It underwent significant amendment before it came into force, resulting in a disjointed approach that lacks clarity and coherence, and is difficult to read and understand. Stakeholders reported the need to make it more user-friendly.

The task force discussed restructuring the PSDPA into three main parts:

1. purpose, culture, values, and related powers and guidance
2. the disclosure process
3. the reprisal protection process

There was also discussion about renaming the PSDPA to better reflect its broader principles and goals.

We noticed that the whistleblower Acts in Canada's provinces and territories are much easier to read and follow and could be useful models for a revised PSDPA. We also observed that the *Values and Ethics Code for the Public Sector* has useful information on the duties and responsibilities of senior officers for internal disclosure and chief executives. This information should also be included in the PSDPA to improve clarity.

Recommendation 7

We recommend that the federal government redraft the *Public Servants Disclosure Protection Act* to make it easier to read, understand and administer.

Internal disclosure processes

To address inconsistencies and confusion about internal disclosure processes, the PDSPA should clearly set out the roles and responsibilities of chief executives, senior officers for internal disclosure, and supervisors. It should also explain how to receive, assess, investigate and report on disclosures. Although some of this information is in the *Values and Ethics Code for the Public Sector*, it should be stated clearly in the legislation, which can be supplemented through appropriate regulations and guidelines.

Recommendation 8

We recommend that the *Public Servants Disclosure Protection Act* be amended to:

- **clearly set out the roles and responsibilities of chief executives, senior officers for internal disclosure and supervisors, including for reporting and investigating disclosures of wrongdoing**
- **include specific requirements on how internal investigations are to be conducted and reported, in a manner that is procedurally fair for all parties**

We repeatedly heard that training, education and consistency in policies and guidelines are needed for handling, assessing and investigating reports of wrongdoing across organizations. Many senior officers said they need support, training and guidance to do their job confidently:

- they emphasized the need for mandatory training for supervisors, chief executives and senior officers for internal disclosure
- they also suggested creating a central point for policies and guidance to produce and disseminate information resources and to support a cross-government community of practice

These tools should be provided to improve the quality and fairness of the disclosure system. We heard different opinions on where the central point for developing policies and guidance should be:

- some suggested creating a new centre of expertise
- others recommended that it be the PSIC
- some thought it should be TBS, which is the policy centre and point of contact for other legislative frameworks, such as the *Access to Information Act* and the *Privacy Act* (ATIP)

We believe that using the ATIP model helps keep Officers of Parliament (for example, the Privacy Commissioner) at arm's length from public sector practices. In the context of the PSDPA, having TBS as the policy centre would keep the PSIC at arm's length from internal disclosure processes, maintaining the PSIC's impartiality when a case arrives at the PSIC's office. However, that does not preclude the PSIC's or others' involvement as part of the development process. As well, if PSIC was given the added responsibility of setting requirements, it would also put additional pressure on their resources, which is already a significant challenge.

Recommendation 9

We recommend that the *Public Servants Disclosure Protection Act* be amended to clearly state that the Treasury Board of Canada Secretariat is responsible for developing policies, procedures, and guidance for handling internal disclosures, preventing reprisal, and conducting investigations, for implementation across government organizations.

Specific guidance is needed on conflicts of interest, including when those who receive and investigate disclosures should recuse themselves from such duties. For example, if the senior officer for internal disclosure has a relationship (such as a reporting, family or work-related relationship) with the discloser or alleged wrongdoer, they should not be involved in any aspect of reviewing the allegations of wrongdoing. Clear guidance and processes should help individuals recognize potential or actual conflicts of interest, including an appearance of, or actual, bias when handling a disclosure.

Recommendation 10

We recommend that the Treasury Board of Canada Secretariat be responsible for developing guidelines and processes for those involved in handling allegations of wrongdoing to address real, apparent or potential conflicts of interest.

Dissenting opinion

We support the recommendations of this report apart from maintaining departmental integrity offices alongside the Office of the Public Sector Integrity Commissioner of Canada (PSIC). We respectfully disagree with this position. The evidence before us, survey data,ⁱ testimony, and most recently, public reporting, shows that departmental programs are underutilized, inconsistent and poorly resourced. In an environment

where departments face 15% budget cuts, preserving parallel systems risks leaving those who would disclose wrongdoing with only weak choices: an underfunded PSIC or a departmental office with part-time resources and inconsistent standards.

Providing excellent, expeditious and trauma-informed service ⁱⁱ to complainants must take precedence over maintaining this duplicative structure. Departments are not doing a good job educating employees about wrongdoing, and the PSIC is already overburdened with complaints. Expanding departmental programs in this fiscal climate is not realistic.

The three arguments advanced for maintaining the current system – choice, operational expertise, and departmental innovation – do not outweigh the benefits of consolidation:

- Choice: Two inadequate options do not empower public servants; they create confusion.
- Operational expertise: PSIC can and should retain investigators with specialized departmental knowledge as needed.
- Innovation: While some departments have shown leadership, too many have failed to investigate and report on time. Innovation can be shared within a stronger PSIC.

Public servants are already “voting with their feet” by taking their concerns to the PSIC in overwhelming numbers, resulting in the current backlog. ⁱⁱⁱ This demonstrates where their trust lies. A larger, well-funded PSIC, resourced directly by Parliament, would allow the PSIC to retain staff while providing consistent and professional services across the public sector.

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- i Only 20% of survey respondents said they were moderately or very familiar with the PSDPA.
- ii 66% of survey respondents said that witnessing serious misconduct was a traumatic experience.
- iii “The Office is receiving an unprecedented number of disclosures of wrongdoing, reprisal complaints and general inquiries. As a result of increased submissions, delays in the analysis and investigation of files are expected.” (Office of the Public Sector Integrity Commissioner of Canada website, September 2, 2025).

Disclosure to the Office of the Public Sector Integrity Commissioner of Canada

The PSDPA provides some clarity on the role and responsibilities of the PSIC, including the process for handling disclosures of wrongdoing. However, section 34 of the PSDPA prevents the PSIC from obtaining information from outside the public sector and requires them to end any part of an investigation that requires such information.

The PSIC has indicated that this limitation could seriously undermine the investigation process and that several provincial whistleblower protection regimes, including those for Manitoba, Saskatchewan, Ontario, New Brunswick and Nova Scotia, allow for information to be obtained outside the public sector. ¹⁴ Given the serious nature of many disclosures of wrongdoing, we believe that the Commissioner should have the authority to obtain information from any source and to follow an investigation wherever it leads.

We agree with the conclusion of the OGGO committee in its 2017 report that the Commissioner should have more investigative powers, like the Auditor General of Canada or Information Commissioner of Canada, to use evidence from outside the public sector, including by summoning witnesses and compelling them to produce evidence. We suggest replacing section 34 of the PSDPA with language similar to Part I of the *Inquiries Act* or subsection 36(1) of the *Access to Information Act*. In addition, the government could clarify the scope of investigation powers of senior officers.

Recommendation 11

We recommend that section 34 of the *Public Servants Disclosure Protection Act* be replaced with a new section to give the Public Sector Integrity Commissioner the power to obtain information from outside the public sector, similar to the powers granted in Part I of the *Inquiries Act* and subsection 36(1) of the *Access to Information Act*.

PSIC investigative authorities

We heard through our consultations that the PSIC currently has the power to self-initiate a separate investigation into wrongdoing based on information obtained in the course of a disclosure investigation (ss. 33(1)). However, the PSIC does not have the same authority to investigate a wrongdoing if the information is obtained in the course of a reprisal investigation. We see no reason why reprisal investigations should be excluded from or treated differently in relation to the PSIC's self-initiation authority.

Recommendation 12

We recommend that the *Public Servants Disclosure Protection Act* give the Public Sector Integrity Commissioner the power to initiate an investigation based on information obtained in the course of a reprisal investigation (as it can for information obtained during a disclosure investigation).

Auditor General investigative authorities

Under the PSDPA, a disclosure that a public servant is entitled to make concerning the Office of the PSIC may be made to the Auditor General of Canada, who has, in relation to that disclosure, the same powers, duties and protections of the PSIC under the Act. We learned of gaps in the Auditor General's investigative authorities under the PSDPA. The PSDPA does **not** currently permit the Auditor General to:

- deal with disclosures of wrongdoing concerning the Office of the PSIC from former public servants or non-public servants, or
- receive, assess and investigate reprisal complaints from current and former PSIC employees concerning the Office of the PSIC

Expanding the authority of the Auditor General to deal with reports of wrongdoing from individuals other than public servants, and to deal with reprisal complaints concerning the Office of the PSIC, would ensure that these matters are dealt with under the PSDPA and that the people involved would be afforded the reprisal protections under the Act.

Recommendation 13

We recommend that the Auditor General be given authority to:

- **receive, assess and investigate disclosures of alleged wrongdoing concerning the Office of the Public Sector Integrity Commissioner of Canada (PSIC) from former public servants and members of the public**

- **receive, assess and investigate reprisal complaints from current and former employees of the Office of the PSIC concerning the Office of the PSIC, with all the related powers and duties of the Commissioner**

Overlap with other recourse mechanisms

The PSDPA is part of a complex ecosystem of recourse mechanisms for addressing workplace issues. Public servants may not know which mechanism is the most appropriate for their situation or where to get advice. If a public servant makes a disclosure of wrongdoing under the PSDPA when another mechanism would have been more appropriate, their disclosure will likely be refused. Disclosers should be informed about the correct mechanism, but this doesn't always happen. If public servants are not well informed about their options, many might use the PSDPA for allegations that do not meet the definition of wrongdoing under the PSDPA. This could be one of the reasons why only a small percentage of disclosures are investigated under the PSDPA, whether by the PSIC (7%) or internally (19%). ¹⁵

"It is safe to say that detailed knowledge of the PSDPA and the structures it creates is limited in the sprawling, diverse, and dispersed public service of Canada. Smaller departments and agencies do not have procedures to achieve the aims of the PSDPA."

— Survey respondent

Our survey results show that some public servants want a simple, easy-to-access "one-stop shop" to navigate this complex ecosystem of recourse mechanisms. They find the recourse system confusing and struggle to find the right information or the right person to contact. We heard that this could lead to duplicated effort and some cases of potential wrongdoing not

being investigated because public servants are not aware of the PSDPA. It is vital that the PSDPA and other mechanisms help public servants find the right place to voice their concerns and have them heard, addressed and investigated. Without these connections, misconduct might continue, and the resulting harms could go unaddressed.

“I need to know where to go and who to tell. I need to know what types of misconduct should be reported. I need to know that it will be taken seriously, investigated, and should there be evidence of wrongdoing, that action [or] consequences will exist.”

— Survey respondent

There are many ways to support public servants who have concerns about wrongdoing. Stakeholders suggested a “no-wrong-door” approach to help those with concerns understand their options and know which recourse mechanism to use. Some members of the internal disclosure community indicated that their organizations have triage groups to provide advice on how best to handle a disclosure.

Given the need to preserve confidentiality, a one-stop shop should **not** forward a complaint to another mechanism automatically. It should provide information on available options so complainants can inform themselves about which one is most appropriate given their circumstances. In some cases, a referral may be possible but would require the discloser’s agreement.¹⁶ However, we believe that federal government organizations would benefit from designating an office that offers neutral, confidential help and support to employees about the various recourse mechanisms and options. Organizations could also use an early intervention system to address minor misconduct. We heard that internal ombud offices in many

public sector organizations provide a confidential place for public servants to get support and information on various recourse options. In smaller organizations, such an office may perform multiple functions.

Recommendation 14

We recommend that all federal government organizations designate an office to provide confidential support to employees about the various recourse mechanisms and options available to them.

We also heard about a challenge that is specific to workplace harassment following changes to the complaint process. The *Canada Labour Code* now requires all harassment complaints to be investigated as health and safety issues. The *Directive on the Prevention and Resolution of Workplace Harassment and Violence* came into force on January 1, 2021, replacing the previous Treasury Board *Policy on Harassment Prevention and Resolution*. Although it is laudable that harassment is seen as a health and safety issue, the current *Canada Labour Code* process does not provide remedies for the complainant or discipline for the perpetrator, which requires a separate investigation. This gap has left some complainants dissatisfied with the process and its outcomes, and rightly so.

We heard that this situation has resulted in some complainants attempting to use the PSDPA to disclose occurrences of harassment in order to get a personal remedy. Although harassment can be considered wrongdoing if it meets the definition (for example, if it constitutes gross mismanagement because it is widespread and systemic), the PSDPA was not meant to address individual harassment cases, so these disclosures are usually rejected. Given the dissatisfaction with how the directive is affecting the PSDPA disclosure system, we recommend that the government review the current mechanism for managing harassment complaints to address these concerns.

Recommendation 15

We recommend that the government revise the current harassment complaint management mechanism under the *Canada Labour Code* to allow for findings of harassment and personal remedies in individual cases to ensure that complaints of harassment are appropriately investigated and addressed.

Legal assistance

We considered two issues related to providing legal assistance in the context of disclosures of wrongdoing:

- whether the current maximum payments are too low
- whether those cleared of wrongdoing should be reimbursed for legal fees

The PSDPA allows the PSIC to provide access to legal advice for public servants who have been involved in making a disclosure of wrongdoing or complaint of reprisal. It also allows the PSIC to provide legal advice for:

- anyone who is considering providing information to the Commissioner about possible wrongdoing
- anyone who is involved in an investigation of wrongdoing or a proceeding under the PSDPA about alleged reprisal

However, the maximum payment for legal assistance is currently only \$1,500 (or up to \$3,000 in exceptional cases). We have heard that this amount is insufficient. The current Law Society of Ontario Fee Schedule, for example, lists hourly rates of \$190 to \$405 for lawyers, depending on their experience.¹⁷ The amount of \$1,500 would cover only eight hours of help from the most junior counsel and four hours or fewer for senior counsel. Instead of having a maximum amount being specified in the PSDPA, we recommend increasing the maximum payments for legal fees and

reviewing and adjusting them periodically to ensure that legal assistance provides meaningful support to disclosers and others involved in investigations of wrongdoing.

Recommendation 16

We recommend that amounts for legal fees under section 25.1 of the *Public Servants Disclosure Protection Act* be included in regulations instead of in the Act, and that the maximum amount allowed for legal fees be increased and reviewed periodically.

A related issue is whether public servants alleged to have committed wrongdoing should have their legal costs recovered if they obtained legal assistance to respond to allegations that were unsubstantiated. The *Policy on Legal Assistance and Indemnification* provides that public servants are indemnified, and their legal costs are covered, for legal claims or actions if they acted in good faith, within their duties, and during their employment. This means that the government may pay their legal fees if they are sued. However, the policy does not cover an **internal investigation** or an **internal administrative recourse mechanism**, and PSDPA investigations are internal.

In some cases, public servants have been accused of wrongdoing but, after an investigation, the allegations were determined to be unfounded. We have also heard that some public servants paid legal fees out of their own pocket to defend themselves, sometimes costing tens of thousands of dollars, and were not reimbursed. In other cases, the alleged wrongdoer was represented by government legal counsel.

This inconsistency should be resolved, possibly by expanding the *Policy on Legal Assistance and Indemnification* to cover PSDPA investigations. In our view, public servants who act in good faith and within their duties should receive legal assistance if they are wrongly accused of a wrongdoing.

However, if the investigation finds that they committed wrongdoing and were not acting in good faith or within their duties, we recommend that the government take action to recover the legal fees from these public servants.

Recommendation 17

We recommend that the *Policy on Legal Assistance and Indemnification* be revised to cover investigations under the *Public Servants Disclosure Protection Act*.

A very specific point that was raised by the (former) PSIC during our consultations was that the confidentiality of identities and information provided in relation to a disclosure can be negated by the open court principle, particularly if an individual who is the subject of the disclosure files a judicial review of the PSIC's decision. That should not happen. Although this issue falls outside the scope of this review, we believe that the Courts should consider the importance of confidentiality to the effective functioning of the whistleblowing regime so that the default in such cases would not be public disclosure, but perhaps to allow applications for disclosure on a non-public basis.

Part 2: protections from reprisal and remedies

► In this section

Public servants must feel protected from reprisal in order to trust the disclosure process and feel confident in coming forward. The PSDPA prohibits reprisals against public servants and establishes a recourse process for when reprisal is believed to have occurred. This current process can provide remedies to the victims and discipline for those who take

reprisal against a public servant. The PSDPA also aims to keep the disclosure process, including the identity of the discloser, as confidential as possible to minimize the chance of reprisal.

However, we certainly heard from stakeholders that although the PSDPA prohibits reprisals in theory, it isn't always successful in practice. Public servants often don't feel confident that they will be protected from reprisals. We also heard that reprisals can be subtle and difficult to prove.

Regrettably, the fear of reprisal is widespread and well documented in various Public Service Employee Survey (PSES) data. Even though leadership may encourage public servants to come forward for the good of the organization, the experience of whistleblowers is often discouraging. Those who do report may regret it after going through the lengthy process. Public servants are also discouraged from reporting wrongdoing by:

- a lack of transparency about actions taken to address concerns
- a lack of information about how reprisal complaints are handled
- slow systems and methods of dealing with wrongdoing
- a workplace culture that is prone to covering things up

In this section, our recommendations focus on protecting public servants from reprisals, as most challenges raised during consultations were related to public servants. Our review found several gaps in the process to report reprisal that could be improved to help public servants feel more confident and protected when reporting wrongdoing. In addition, we identified issues with the Public Servants Disclosure Protection Tribunal's role and process with respect to reprisal complaints referred by the PSIC and heard many stakeholders question whether the Tribunal should continue to exist. Following are some recommendations to address these issues and make the reprisal recourse process less complex for public servants.

Who is protected from reprisal?

The PSDPA prohibits anyone from taking a reprisal against a public servant or directing that a reprisal be taken against a public servant who:

- has made a disclosure of wrongdoing
- has, in good faith, cooperated in an investigation into a disclosure

The PSDPA also prohibits employers outside the public sector from taking reprisal actions against their employees for providing information to the PSIC about alleged wrongdoing in the public sector. ¹⁸

“You have to be delusional to think you would be protected from serious reprisals if management became aware you were reporting misconduct.”

— Survey respondent

In our view, the PSDPA fails to protect many people involved in the disclosure process from reprisal. For example, there is no statutory protection for public servants who help the discloser or for those who are mistakenly identified as the discloser, even if they might face reprisal for their role or suspected role. Similarly, public servants who seek advice about disclosing wrongdoing aren’t protected but could still face reprisal to deter them from disclosing.

Senior officers for internal disclosure and others who administer the internal disclosure process or carry out investigations aren’t protected either. We heard that senior officers and investigators have faced negative consequences during some investigations, including reprisals from management for their involvement in conducting or participating in investigations into potential wrongdoing or reporting findings of actual

wrongdoing. When investigators are subjected to pressure to avoid making a finding of wrongdoing, it seriously undermines the PSDPA's objectives and the integrity of the disclosure process.

Anyone seeking advice, making a disclosure or investigating wrongdoing should be protected from reprisal. Extending protections to other public servants who are involved in the process will ensure that they don't have to fear consequences for disclosing what they know. And, as mentioned in Part 1 of this report, there should be no "good faith" or "reasonable belief" requirements for public servants reporting wrongdoing.

Moreover, we heard that it would be similarly helpful if the definition of "reprisal" explicitly mentioned protection for:

- filing a reprisal complaint
- cooperating in an investigation into a reprisal
- cooperating in an investigation under any other Act of Parliament

Recommendation 18

We recommend that the *Public Servants Disclosure Protection Act* (PSDPA) be amended to protect public servants from reprisal if they:

- **have made a disclosure**
- **sought advice about making a disclosure**
- **cooperated in any investigation under the PSDPA, or under any other Act of Parliament**
- **conducted or were involved in an investigation**
- **assisted a public servant in making a disclosure**
- **were mistaken for being a discloser**
- **declined to participate in a wrongdoing, or**
- **made a reprisal complaint**

What actions constitute a reprisal?

Under the PSDPA, “reprisal” refers to any of the following actions taken against a public servant:

- “(a) a disciplinary measure;
- “(b) the demotion of the public servant;
- “(c) the termination of employment of the public servant, including, in the case of a member of the Royal Canadian Mounted Police, a discharge or dismissal;
- “(d) any measure that adversely affects the employment or working conditions of the public servant; and
- “(e) a threat to take any of the measures referred to in any of paragraphs (a) to (d).”

Through our consultations, we heard that the current definition of “reprisal” in the PSDPA is sufficient, as paragraph (d) covers any action taken that could negatively impact a public servant’s employment or working conditions. However, we also heard that the definition should include specific forms of reprisal that the current definition may not appear to cover. Examples given included:

- harassment
- bullying
- change of work location
- exclusion from organizational and social activities at work
- challenging the credibility of the complainant
- social ostracization

Other examples of possible reprisal included as being **unjustified** include:

- poor work performance evaluations
- limits to career advancement opportunities

- lack of consideration for assignments, special projects or acting positions
- denial of training opportunities

Bill C-290, which died on the order paper when the federal election was called on March 23, 2025, had proposed the following list of actions that would constitute a reprisal:

“(a) a disciplinary measure;

“(b) their demotion;

“(c) the termination of their employment, including, in the case of a member of the Royal Canadian Mounted Police, a discharge or dismissal;

“(d) any measure that adversely affects their employment or working conditions including, but not limited to:

“(i) the mandatory assignment or deployment of the public servant,

“(ii) any form of reprimand,

“(iii) any form of discrimination,

“(iv) the infliction of emotional distress,

“(v) any act or omission that causes any psychological injury to the public servant;

“(e) a threat to take any of the measures referred to in any of paragraphs (a) to (d).”

Although most of task force members believe that the current definition is sufficient to cover any actions that could be considered a reprisal, we recognize that Bill C-290 provided additional explicit clarity to the current definition.

Recommendation 19

We recommend that the definition of reprisal be clarified by adding the following [paragraph (d)]:

(d) any measure that adversely affects their employment or working conditions including, but not limited to:

- **the mandatory assignment or deployment of the public servant**
- **any form of reprimand**
- **any form of discrimination**
- **the infliction of emotional distress, or**
- **any act or omission that causes any psychological injury to the public servant**

Time limitations for making a complaint of reprisal

A reprisal complaint can be made to the PSIC only within 60 days after the complainant knew or should have known that an act of reprisal had been made against them. The PSIC can extend this period and has 15 days to decide whether to investigate the complaint.

We believe that these time limits are too restrictive. We heard that 60 days does not, in many cases, provide enough time for someone to determine that certain actions are a form of reprisal. Public servants may not know about this recourse or be able to get legal support and gather sufficient evidence within 60 days. In addition, trauma from reprisal may delay reporting. Even those who witness reprisal may be affected; the PSDPA Survey results showed that 63% of respondents who witnessed reprisal found it to be a traumatic experience, as did 66% of those who witnessed serious misconduct. Extending the reporting period would give public servants enough time to consider filing a complaint. Therefore, we believe that extending the period to two years would be appropriate to ensure that

those who have suffered reprisals, and those who may have experienced trauma, have enough time to consider their options. This period also aligns with basic limitation periods in other Canadian laws. ¹⁹

Similarly, 15 days might not be enough time for the PSIC to confidently determine whether to investigate a reprisal complaint. It is important for the PSIC to assess these complaints quickly to reduce the risk of further reprisals and allow for other recourse options; however, many stakeholders believe that the current timeline is not sufficient to complete a proper assessment. We believe that extending the period to 30 days would balance timeliness with the thoroughness of assessment.

Recommendation 20

We recommend that the *Public Servants Disclosure Protection Act* be amended to give public servants two years to report an act of reprisal and that the Public Sector Integrity Commissioner (PSIC) continue to have the power to extend this time limit if the PSIC feels it is appropriate considering the circumstances of the complaint.

Recommendation 21

We recommend that the *Public Servants Disclosure Protection Act* be amended to give the Public Sector Integrity Commissioner 30 days after a reprisal complaint is received to decide whether to pursue an investigation.

Limiting the public servant to one active mechanism at a time

The PSDPA states that the PSIC must not deal with a complaint of reprisal if it is already being investigated by another body or person under another Act of Parliament or collective agreement. If a public servant files a complaint of reprisal with the PSIC, they can't use another recourse

mechanism to address the same issue until the PSIC process has concluded. If the PSIC believes that another recourse mechanism would be a more appropriate avenue for the complaint, it can refuse to deal with it but must explain why. The time the PSIC takes to consider a complaint doesn't count toward the deadline for filing a complaint or grievance through another mechanism. Complainants should be informed of these details.

The task force had differing views on whether public servants should be limited to pursuing only one recourse avenue at a time to deal with an issue. This limitation is to prevent "recourse shopping," where the same complaint is filed through multiple recourse mechanisms in the hope that one or more of them address it. The limitation also avoids having two processes with contradictory or misaligned outcomes. One concern was that public servants could run out of time to pursue a recourse mechanism while waiting for the outcome of another. However, even though multiple mechanisms can be initiated and used when appropriate, ultimately, the issue should be handled through only one mechanism at a time, with the others paused pending the outcome. This is what typically occurs in other situations and often helps to reduce and focus the remaining contentious issues. ²⁰

If the public servant disagrees with the outcome from one mechanism, they can ask a higher body to review the decision or ask another body if the considerations are different. ²¹ This approach is more appropriate than using multiple processes at the same time and avoids duplicated effort and potentially contradictory outcomes.

Recommendation 22

We recommend that the *Public Servants Disclosure Protection Act* be amended to:

- **expressly allow public servants to initiate and use multiple mechanisms to address issues, but only one should be actively pursued at a time**
- **allow the Public Sector Integrity Commissioner to pause a reprisal complaint while another recourse process is ongoing, to maintain jurisdiction and uphold complainant rights**

Role and process of the Public Servants Disclosure Protection Tribunal

If the PSIC reviews a reprisal complaint and believes that the allegations could indicate reprisal under the PSDPA, then it starts an investigation. During the investigation, the investigator can recommend to the PSIC that a conciliator be appointed to help settle the issue between the parties. If they reach an agreement, the complaint is dismissed. If the investigation continues and there are reasonable grounds to believe that reprisal has occurred, the PSIC may refer the case to the Tribunal. The PSDPA does not give the PSIC the authority to decide whether the public servant suffered a reprisal; that is currently the role of the Tribunal, which consists of judges of the Federal Court or a superior court of a province.

A complainant also cannot apply directly to the Tribunal if they feel they have been reprisal against; they must first go through the PSIC. Figure 2 outlines this process.

Figure 2: Office of the Public Sector Integrity Commissioner of Canada's process for handling complaints of reprisal *

Complaint of reprisal received

Complaints can be submitted through PSIC website, in person, by mail, or fax.



Case Admissibility Review

15 days to complete for reprisal complaints as per the Act.



Could potentially be reprisal under the Public Servants Disclosure Protection Act?

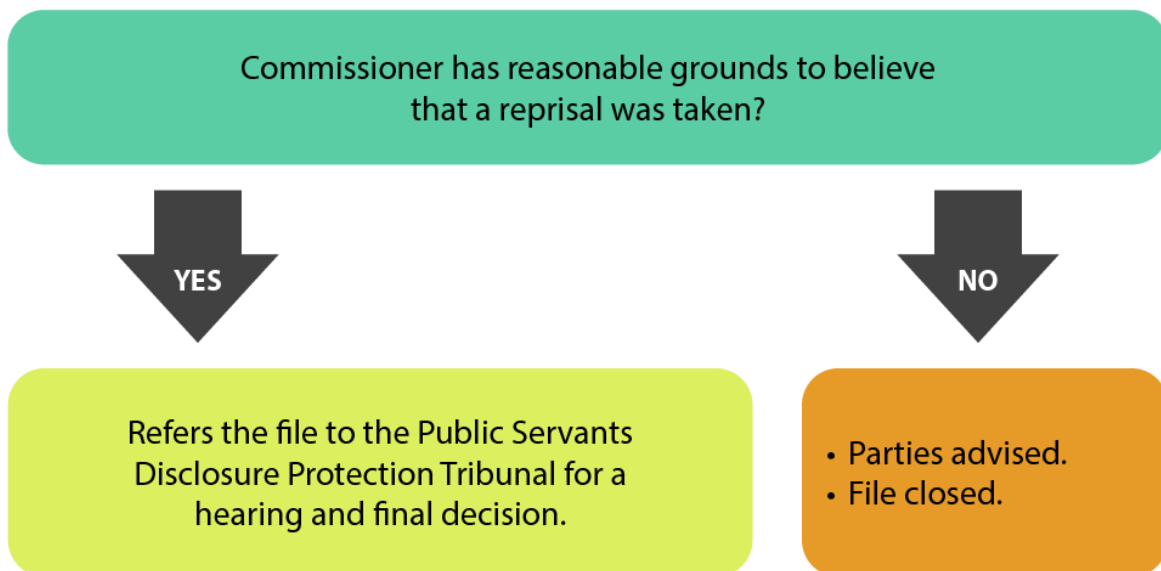


Investigation

- Targeted service standard: 1 year to complete.
- PSIC conducts administrative investigations.
- Any criminal activities may be referred to the proper policing authority.
- The investigator may recommend conciliation between the parties.

- Complainant advised.
- File closed.





During the Case Admissibility Review

- All information provided in the complaint is thoroughly reviewed.
- The nature of the allegations, discretionary factors and restrictions under the Act are taken into consideration when deciding whether or not to investigate.

During the Investigation Stage

- PSIC investigator gathers evidence and speaks to witnesses.
- The right to procedural fairness and natural justice of all persons involved in investigations are respected throughout the investigation process.
- Preliminary investigation report is shared with all affected parties, including the organization's chief executive, for their comments and any additional information.
- Investigator finalizes report and makes recommendations to Commissioner for decision.

* Adapted from the PSIC's "[How a Reprisal File is Processed](#)."

► Figure 2 - Text version

The Tribunal then determines whether reprisal took place and, if it has, orders an appropriate remedy. This remedy could be:

- reinstating the public servant in their position
- awarding some form of compensation for lost wages
- rescinding any disciplinary action taken
- paying the public servant up to \$10,000 for pain and suffering they have experienced

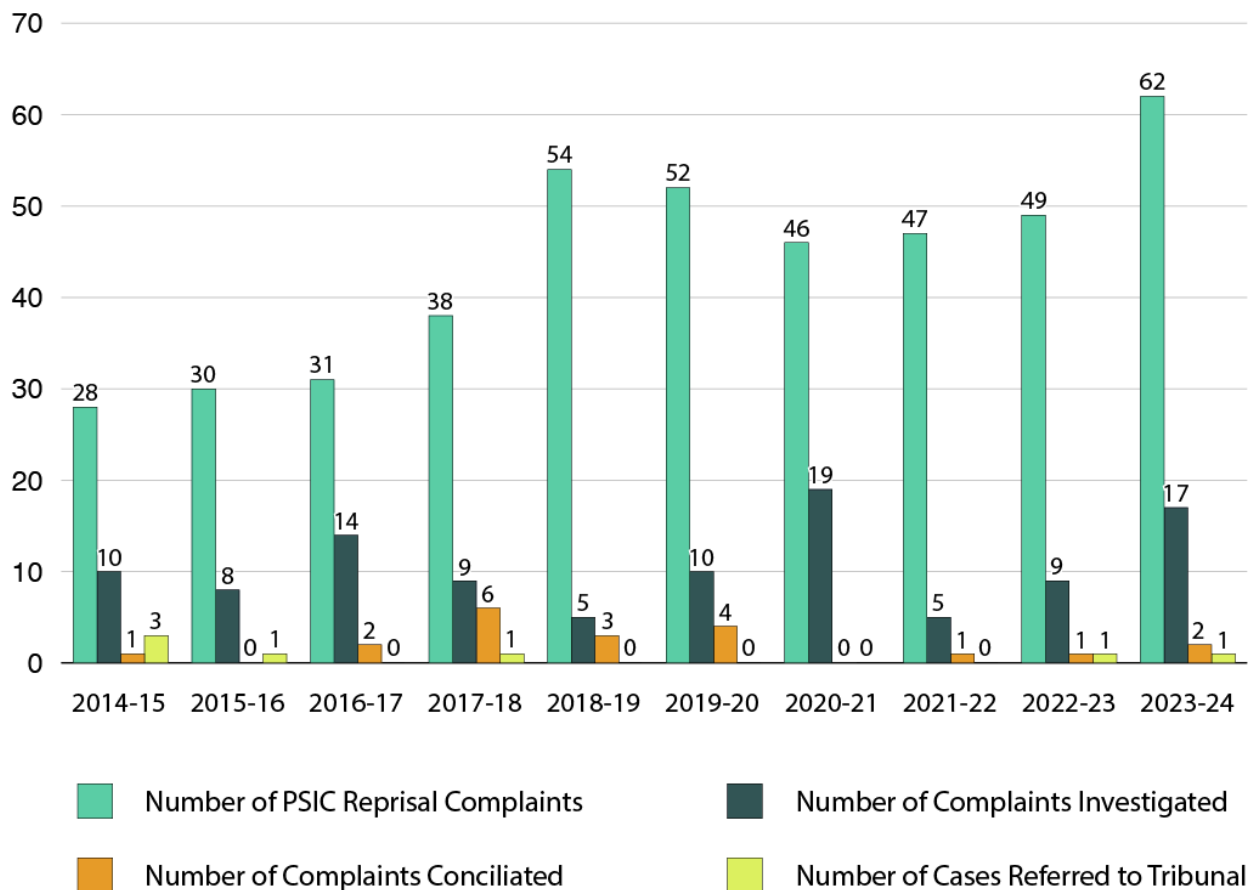
The Tribunal can also order disciplinary action against the person who carried out the reprisal.

Although the PSDPA states that the “proceedings before the Tribunal are to be conducted as informally and expeditiously as the requirements of natural justice and the rules of procedure allow,” (ss. 21(1)), the process in practice is complex, lengthy and legalistic. We heard that one case took 833 days to conclude and that another took 580 days. This is in addition to the time the PSIC took to consider the complaint before it was referred to the Tribunal. The amount of time it takes to complete the process calls into question its expeditiousness, effectiveness and fairness.

To date, the Tribunal has never made a finding of reprisal, and it has dealt with a very limited number of cases over the years. This does not align with a significant number of public servants who indicated in the task force’s survey that they had experienced or witnessed reprisal in their workplace. We believe that the current process for public servants is too onerous, which may make them hesitant to report reprisals. Figure 3 shows the PSIC’s volume of reprisal complaints, investigations, conciliations and cases referred to the Tribunal over the 10 years from 2014 to 2024.

Figure 3: Office of the Public Sector Integrity Commissioner of Canada statistics on reprisal complaints

PSIC Reprisal Statistics



► Figure 3 - Text version

Stakeholders also suggested that the PSDPA should include a “reverse onus” provision. This would mean that in cases where the PSIC has found reasonable grounds to believe that reprisal has occurred, the onus of the burden of proof would be on the employer to demonstrate that reprisal did not take place instead of the employee having to prove that it did.

Another issue that stakeholders raised was about the qualifications of Tribunal members. Stakeholders suggested that all members of the Tribunal should have experience and a strong record of enforcing whistleblower protections, understanding public servant and federal public

sector realities, ethics rules, or similar accountability laws. The task force believes that members of the Tribunal do not need to be judges of the Federal Court or a superior court of a province.

Through our engagement process, we heard mixed support for amending the PSDPA to allow complainants to go directly to the Tribunal:

- supporters indicated that going directly to the Tribunal would speed up the process
- opponents were concerned that direct access would create a heavy workload and significant cost to a complainant, who may not have the same access to evidence as the PSIC would have when deciding whether to refer a case
- others pointed out that such a change would increase the Tribunal's workload and likely negatively affect its capacity to handle complaints without additional resources

The Tribunal has no investigation authority or capacity. Allowing direct access to the Tribunal would increase its workload and responsibilities, and the process would be much more lengthy and costly. Direct access would also potentially remove the PSIC from the reprisal process and eliminate the current opportunity for conciliation, although other mediation and settlement opportunities may occur.

Finally, we also heard from stakeholders who felt that the Tribunal should no longer exist, and that following an investigation, the Commissioner should have the ability to make a finding of whether a reprisal took place.

As noted, we heard about various issues regarding the role and responsibilities of the Tribunal. Some of the principles of the Tribunal's work were expressed as the need for efficient, timely, cost-effective and fair processes that properly redress those who suffer reprisals. With these principles in mind, we believe that making the person who suffered reprisal

“whole” and simplifying the process are key. Processes should accordingly focus on human rights, remedies for victims of reprisal, and addressing systemic workplace issues.

While the Tribunal’s lack of activity in reprisal cases may be the result of the lack of referrals from the PSIC’s office, it still leads us to wonder whether the PSIC would be in a better position to handle reprisal complaints from investigation to findings, including interim measures when appropriate, and whether the Tribunal’s role should be removed from the PSDPA. There is a possibility that transferring the responsibility for findings of reprisal may simply result in shifting the challenges with the Tribunal to another administrative body. It is clear that without adequate resources and the ability to thoroughly investigate allegations of reprisal, any adjudicative function within the PSIC’s office would be just as flawed as the current system. The PSIC’s office has the expertise to effectively deal with reprisal complaints but would require an increase in both authorities and resources. The PSIC may also be better suited to making organizational or systemic findings, recommending follow-up actions by federal organizations and reporting on the implementation of such actions. In this situation, it would not be appropriate to give PSIC order-making powers, as having both investigative and adjudicative powers is very difficult to balance.

For individual disciplinary measures, we believe that departments are best positioned to take appropriate action in their workplaces. Various factors and considerations also play into appropriate discipline, which employers may be in a better position to understand and consider.

Regardless, it is important to keep organizations accountable; therefore, if the PSIC is given responsibility for findings of reprisal, the PSIC recommendations and the organization’s follow-up actions should be

publicly reported. The PSIC would then have the same investigative process, public reporting and monitoring responsibilities for both disclosure and reprisal processes.

All task force members agree that it is important that PSIC have the power to make interim orders to protect the complainant during the investigative process. We are not unanimous in the view that the Tribunal should be replaced by the PSIC, or that, in that case, the PSIC should not be given order-making power, but there is a clear majority view on both issues.

Recommendation 23

We recommend that the reprisal process be simplified by:

- 1. removing the Public Servants Disclosure Protection Tribunal from the *Public Servants Disclosure Protection Act* and giving the Public Sector Integrity Commissioner (PSIC) the authority to investigate and responsibility to make findings about reprisals**
- 2. granting the PSIC authority to order interim measures, as appropriate, to make recommendations to organizations for remedies to the complainant to make the complainant whole, and to make a recommendation to the chief executive to discipline the reprisor, leaving determination of the appropriate discipline to the chief executive**
- 3. giving the PSIC authority to make recommendations to organizations regarding issues to address, including systemic issues**
- 4. requiring chief executives to report to the PSIC on actions taken in response to those recommendations**
- 5. making the PSIC's investigative and reporting powers for reprisal similar to those used in the disclosure process, including public reporting**

Recommendation 24

Whether or not the recommendation to remove the Public Servants Disclosure Protection Tribunal is accepted and implemented, we recommend that the *Public Servants Disclosure Protection Act* be amended so that in cases where the Public Sector Integrity Commissioner has found reasonable grounds to believe that reprisal has occurred, the onus of the burden of proof will be on the employer to demonstrate that a reprisal did not take place.

Where should complaints of reprisal be submitted?

Public servants can report wrongdoing to either the PSIC or through an internal process, but complaints of reprisal can currently go only to the PSIC.

Some stakeholders suggested that reprisals should also be reported within their organization. They proposed different options, including reporting reprisals to the senior officer for internal disclosure, the chief executive or other senior official, human resources, or the ombud office. Regardless of the recourse mechanism, the person or position being reported to must be impartial, and the internal process must be confidential, safe and respectful. They suggested that, as with the reporting of wrongdoing, public servants should have the choice of using the internal process or going to the PSIC.

We also heard that handling reprisals internally would expedite the process, as it would allow management to address the issue and potentially discipline the person responsible without involving the PSIC and the Tribunal. We heard that this could potentially discourage reprisals and simplify reporting for complainants, as they would not have to use the PSIC and Tribunal processes.

However, we also heard that dealing with reprisals internally could lead to cover-ups or complaints not being handled appropriately so that management and the organization are protected. Although we understand that the current reprisal complaint process is too long and onerous, which we have addressed by recommending the elimination of the Tribunal, we were not convinced that reprisal complaints should be handled internally. Nonetheless, we do understand that measures sometimes need to be taken in the interim to protect a public servant who has filed a complaint, which employers (and the PSIC) should do when appropriate.

In the end, the majority of task force members agreed that only the PSIC should have the authority to receive and investigate reprisal complaints. However, one task force member was of the opinion that if a public sector employee raised the issue of reprisal within their organization, the appropriate authority within the organization should be able to attempt to resolve the matter until the employee makes a formal reprisal complaint to the PSIC.

RCMP reprisal complaints

We also believe that the PSDPA should be amended to allow RCMP members to directly access protections from reprisal enshrined in the PSDPA without first having to exhaust internal remedies. The current requirement causes years of delay before a member can seek a remedy outside the RCMP, potentially leading to irreparable damage from the reprisal. If the requirement to exhaust internal remedies remains, we believe that the time limit in PSDPA should be amended to give complainants a right to file a reprisal complaint with the PSIC within one year from the date that internal remedies have been exhausted, in accordance with the restrictions of the *Royal Canadian Mounted Police Act* outlined in the PSDPA.

Recommendation 25

We recommend that the *Public Servants Disclosure Protection Act* (PSDPA) be amended to:

- 1. give Royal Canadian Mounted Police (RCMP) members a right to file a complaint of reprisal with the Office of the Public Sector Integrity Commissioner of Canada (PSIC) without first exhausting the processes as set out in the *Royal Canadian Mounted Police Act* as outlined in the PSDPA; and**
- 2. if the requirement to exhaust internal processes first is maintained, RCMP members should have one year to file the complaint with the PSIC from the date the internal remedies have been exhausted**

Management's responsibility to protect public servants from reprisal

Under the PSDPA, chief executives must establish processes for their organizations to protect the identities of people involved in disclosures and keep all related information confidential. Maintaining confidentiality throughout the process is the best way to protect those involved, including disclosers, alleged wrongdoers and witnesses. The internal disclosure process needs to be improved to ensure that clear protocols are in place to protect identities and keep information confidential. This requirement is directly related to the reprisal protection regime, as confidentiality provisions help reduce the risk of reprisals.

Regularly monitoring and evaluating these procedures is integral to protecting those who report wrongdoing. If internal systems are weak, there is fertile ground for reprisals against individuals who disclose wrongdoing. However, the PSDPA does not specifically state that the chief executive has the duty to protect a public servant from reprisal.

We also heard that for the disclosure process to be effective, senior management should be ready to protect those who face reprisal for disclosing wrongdoing. Many stakeholders noted that there is a need for a clear requirement for organizations and their management to protect disclosers and complainants. However, the PSDPA does not explicitly require organizations to protect disclosers or others involved in the disclosure and investigation processes from reprisal. Neither are they required to support those who filed a reprisal complaint with the PSIC. It is also not clear exactly what the protection of disclosers would entail beyond ensuring confidentiality. ²²

Under federal labour law, senior officials, in their role of representing the employer of an organization, have a duty to protect employees and to provide them with a safe working environment. ²³

The task force heard that reprisals, including harassment, should trigger the employer's duty to protect, with legal consequences if the employer fails in that duty. Reprisals and personal harassment can overlap and include threats, verbal abuse, exclusion from departmental activities and events, false rumours, and barred promotions, creating a toxic environment for whistleblowers. If the organization fails to protect employees from reprisal, including harassment, the employer could be considered to have violated a condition of the employment contract.

We believe that, for internal disclosure to be effective, the PSDPA should require organizations to specifically protect disclosers from reprisal. If reprisals occur, there must be clear internal processes and procedures to protect disclosers as they go through the complaints process. Protections may include the option of reassigning the discloser while the process is ongoing, with their consent, as set out in section 51.1 of the PSDPA. Reassignment without consent could seem like another act of reprisal or make the situation worse.

Recommendation 26

We recommend that the *Public Servants Disclosure Protection Act* be amended to give organizations an explicit duty to protect public servants from reprisal, including the authority to take pre-emptive steps to protect a discloser from reprisals (such as reassignment, on consent).

Reprisal remedies

Currently, there are only two avenues of the complaint process that can lead to remedies for the victim of a reprisal and to discipline the person responsible: conciliation or the Tribunal.

The conciliation process is started if the PSIC investigator recommends to the Commissioner that a conciliator be appointed to settle the issue. If a settlement is reached, the PSIC must approve it for it to be valid.

The Tribunal can order specific remedies set out in the PSDPA if it determines that reprisal occurred, including reinstating a complainant who was demoted or terminated. Remedies can also include compensation for lost wages and for the pain and suffering caused by the reprisal. In its 2017 report, the OGGO committee recommended that the PSDPA should “provide remedies to whistleblowers to ensure he or she is made whole, giving due consideration to his or her employment status prior to the disclosure....” ²⁴

The list of remedies in paragraph 21.7(1) of the PSDPA for public servants who have faced reprisal is quite broad. However, stakeholders indicated that limiting compensation for pain and suffering to \$10,000 is insufficient. We also heard that compensation should not be limited to wages but should also specifically include sick leave and other benefits that the public servant may have used to deal with the effect of the reprisal on their

mental and physical health. Others suggested that, in addition to reinstating the victim to their previous position, the Tribunal should be able to order that the employee be moved to a comparable position (with their agreement) to avoid further reprisals. As mentioned, we believe that those who have suffered reprisals must be compensated to the level of “making them whole,” including all types of leave, mental health support, legal costs, and compensation for pain and suffering. If the government decides to maintain the Tribunal and its role, this list definitely needs to be updated.

Recommendation 27

We recommend that the *Public Servants Disclosure Protection Act* be amended to adjust the remedies that can be awarded to a public servant, including compensation and benefits, so that they may be made whole after suffering reprisal.

Part 3: culture, administration and operations

► In this section

The importance of amending provisions in the PSDPA to improve the disclosure process and better protect those involved from reprisals is clear. However, the letter of the law and related statutory processes only go so far in making public servants and others (such as former public servants and contractors) feel confident, supported and protected when they report serious misconduct. As Pamela Forward, President and Executive Director of the Whistleblowing Canada Research Society, said in her appearance at the OGGO committee to speak about Bill C-290, “Legislation alone is not enough; there needs to be culture change.” The government and public servants must establish and maintain a psychologically safe culture, where

ethical dilemmas, public integrity concerns and organizational issues can be discussed freely and there is a commitment from leaders to address them.

Management should be responsible for ensuring that there is a culture where employees feel they are supported and protected, where reporting wrongdoing is encouraged, and there is no fear of reprisal. We heard during our consultations that a supportive culture is essential to improve public servants' confidence in the disclosure process. The government has much to do to make this culture a reality.

The *Values and Ethics Code for the Public Sector* and organizational codes of conduct are cornerstones for fostering an open culture, as they emphasize the values that should guide public servants' behaviour. However, more needs to be done to make these values and ethics a much greater and living part of the public sector culture. The results from our survey and other sources paint a picture of a public sector that, as a whole and as individual organizations, is grappling with significant cultural challenges in discussing and addressing wrongdoing.

Many respondents to our PSDPA survey raised serious concerns about the public sector culture. Some noted an unspoken rule that discourages public servants from "making waves." Almost 40% of survey respondents found their work culture to be psychologically unhealthy and unsafe. This is a workplace issue that needs to be addressed, not just to encourage reporting of wrongdoing but to ensure the well-being of public servants.

"Misconduct is not taken seriously enough in the public sector."

— Survey respondent

One of the challenges evident from our review was a significant concern about lack of accountability for public servants when dealing with wrongdoing and other difficult situations in the workplace. Many felt that wrongdoers were not held accountable and that those who came forward were the ones who faced negative consequences. Some expressed the view that senior management is more interested in protecting the organization rather than openly acknowledging and addressing wrongdoing.

To achieve such accountability, the public sector must examine and adjust the following:

- how its leaders model values and ethics
- how it demonstrates transparency
- how it publicly reports on wrongdoing
- how it shapes and monitors an ethical culture

Other challenges are to:

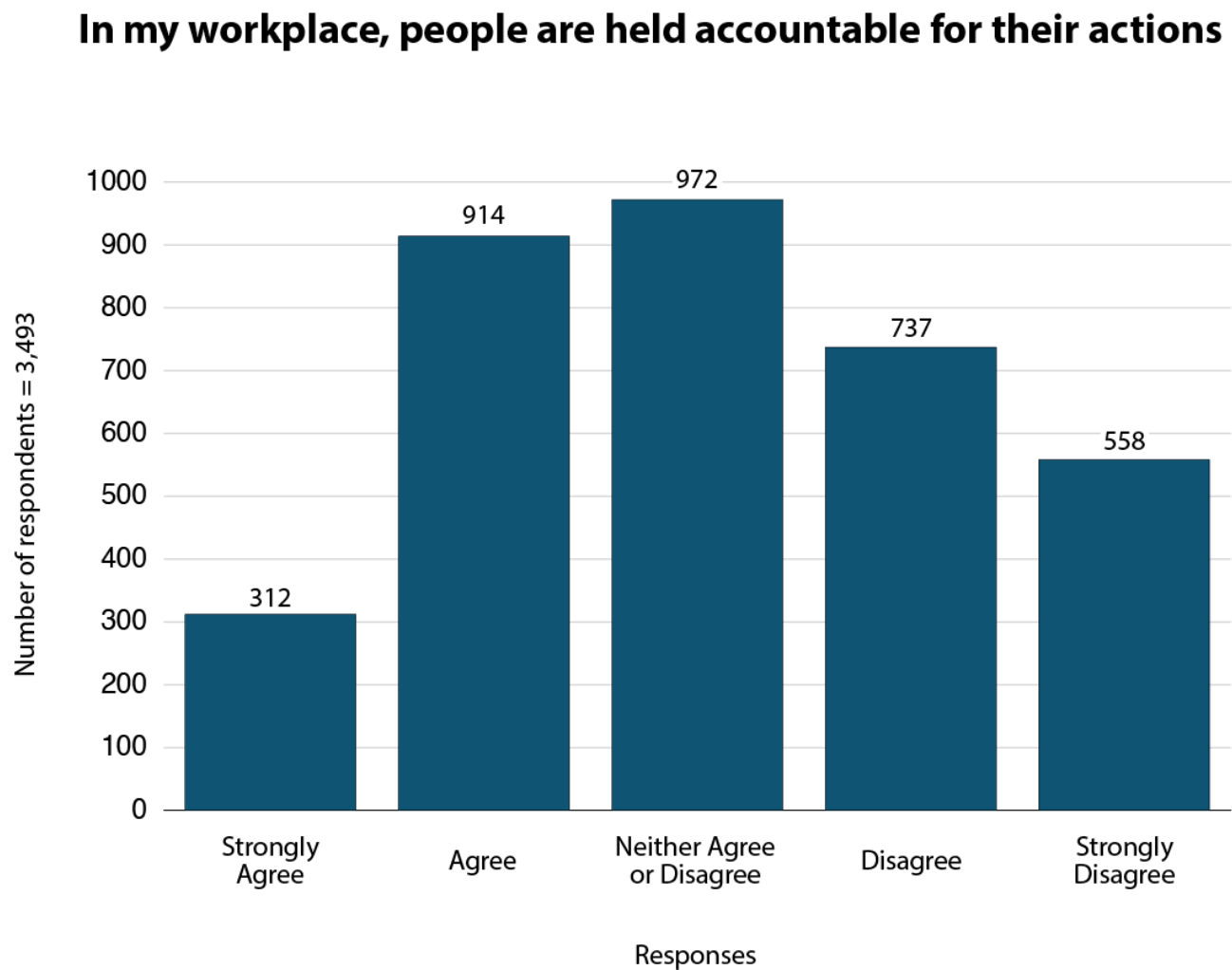
- provide sufficient training on and awareness of how to disclose wrongdoing
- develop and maintain psychologically healthy workplaces in which public servants feel safe to disclose wrongdoing

Dr. Craig Dowden's research on whistleblowing has noted that "numerous researchers have strongly recommended providing ethics training programs in order to grow the ethical/moral reasoning ability of leaders. However, not surprisingly, these programs will be ineffective, if not harmful, if the actual behaviours within the organization do not match the content. To be effective, these programs must show that ethical conduct is valued, not just in word, but also in deed." ²⁵

Accountability

Only 35% of public servants who responded to our survey believe that individuals are held accountable for their actions within their organization, whereas 37% believe that individuals are not held accountable (see Figure 4). A significant number, 28%, did not have an opinion, which in our view could indicate a lack of communication on the part of the organization.

Figure 4: task force survey results on whether respondents believe that people in their workplace are held accountable for their actions (3,493 respondents)



► Figure 4 - Text version

To hold people accountable public servants must feel comfortable about raising or reporting concerns; 36% of survey respondents did not feel comfortable enough to raise or report concerns, and another 17% were neutral on the matter.

Reporting is incentivized if employees believe that appropriate action will be taken if they report. Only 31% of respondents, however, believed that difficult situations in their workplace were effectively addressed.

Many survey respondents felt that senior management is not held accountable for misconduct, showing a clear need for change.

Accountability at all levels is necessary to:

- have a work culture that is more open
- ensure that misconduct is addressed appropriately
- demonstrate clear consequences for wrongdoers that are made public

To bring about this change, it is essential to:

- cultivate ethical leadership
- be transparent
- publicly report wrongdoing
- intentionally monitor and foster an open and ethical culture

Ethical leadership

“No manager throughout my entire department up to and including the Deputy Head advised me to report the potential wrongdoing. And this after months of raising the issues both verbally and in writing.”

— Survey respondent

In his submission to the task force, Dr. Paul G. Thomas, Professor Emeritus of Political Studies at the University of Manitoba, noted that leaders at all levels play a critical role in fostering an open culture in their organization and a supportive environment for disclosing wrongdoing. As part of their “Three Pillars of an Ethical Organization” model, Treviño, Hartman and Brown discuss factors that foster an ethical workplace culture.²⁶ They emphasize the importance of ethical leadership, which includes:

- modelling ethical behaviour
- communicating organizational values
- taking actions to correct and sanction unethical behaviour

Although many factors influence the culture of an organization, ethical leadership is a determinative component of an ethical organization.

The findings of reports commissioned by the Office of the PSIC in 2011²⁷ and 2015²⁸ also underscored the need for greater support from senior management to make the disclosure of wrongdoing a normal part of public sector culture. Similarly, our survey respondents indicated that managers’ awareness and support are critical to encouraging employees to disclose serious misconduct, as is knowing that consequences and corrective actions will be taken when serious misconduct occurs.

The *Values and Ethics Code for the Public Sector* and the PSDPA set out leadership roles and responsibilities to ensure that leaders, at every level, are aware of their duties to:

- promote ethical practices that reflect public sector values
- support the disclosure of wrongdoing

However, it is not enough for leaders to simply be aware of their responsibilities. When asked to describe a culture that supports voicing concerns and reporting serious misconduct, survey respondents noted that

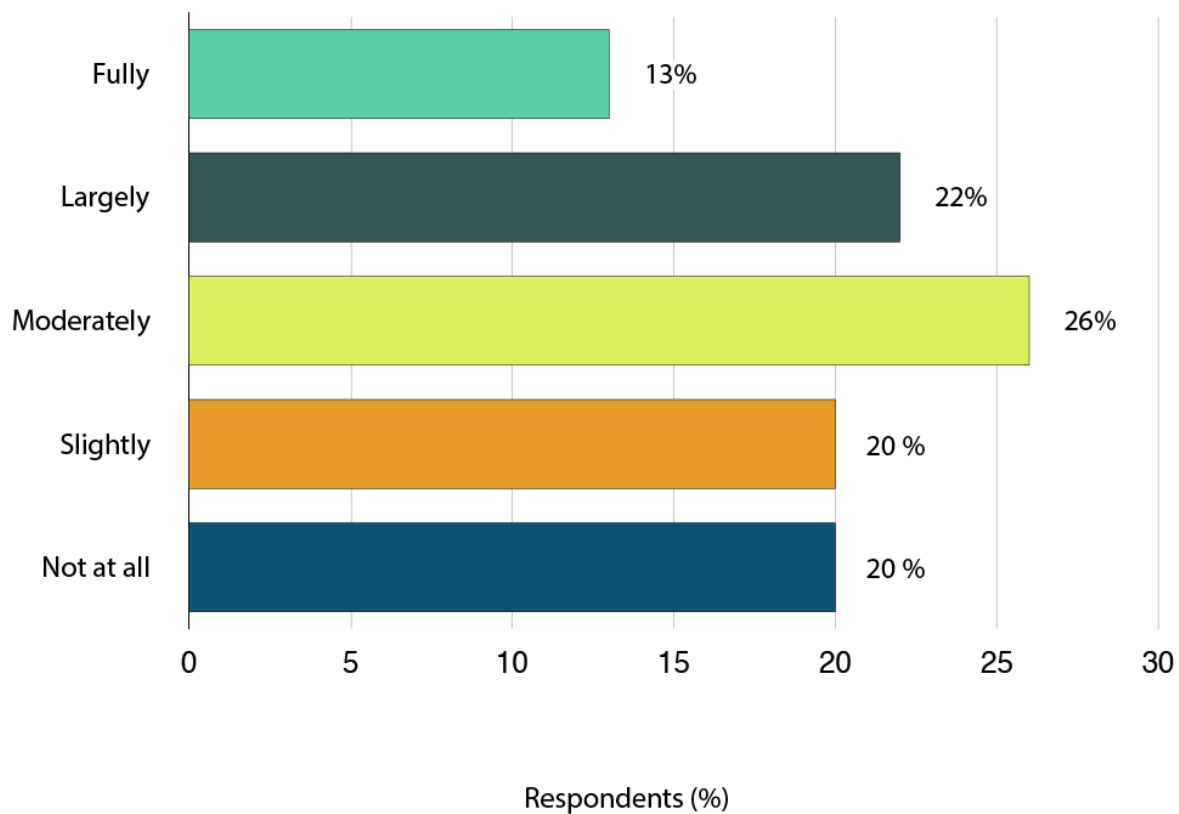
senior management must model the behaviour they want to see in their organizations.

“It comes down to trust and having the right leaders in place with the right behaviours. So, I think broadly it’s very important to hire, train and develop leaders at all levels to be trustworthy so that they can improve accountability, address misconduct, and protect staff against reprisal.”

— Survey respondent

Organizations must promote policies that encourage employees to speak up about issues and actively demonstrate their commitment through their actions. Leaders should openly discuss the importance of ethical conduct and demonstrate a commitment to addressing misconduct. However, only 35% of survey respondents indicated that their organization fully or largely had a culture that supported the reporting of serious misconduct, and 40% reported only slight support or none at all (see Figure 5).

Figure 5: task force survey results on the degree to which respondents feel that the culture of the public service supports reporting serious misconduct (3,421 respondents)



► Figure 5 - Text version

A public servant's comfort and willingness to disclose wrongdoing depend significantly on whether management shows they are serious about dealing with misconduct. In particular, most survey respondents indicated they would report a colleague's misconduct to their supervisor if they believed that the supervisor would act on the information and address it appropriately.

As part of the survey, we also wanted to see the difference between what public servants felt **should** happen in relation to a hypothetical misconduct situation and what they believed **would** happen. Across four scenarios

describing different degrees of misconduct, 96% of respondents believed that action that would be taken was not the remedy they believed should be taken; 17% of respondents thought that no action would be taken.

Respondents believed the consequences for misconduct should be more severe than what they believed would actually occur. This suggests that they do not believe that misconduct is taken as seriously as it should be.

If a supervisor doesn't act or ignores misconduct, it would likely have a chilling effect on employees' future willingness to report misconduct and wrongdoing. We believe that there should be clear accountability measures to ensure that leaders fulfill their responsibilities and are held to account when they do not.

We heard from the Association of Professional Executives (APEX) that senior leaders:

- commonly have their own fear of reprisal
- feel a lack of support when reporting serious misconduct
- dread the potential impact of reporting misconduct on their reputation and careers

Many executives felt isolated and unsupported, particularly when facing unfounded allegations. Ethical leadership needs to balance accountability with support for psychological safety throughout the organization. ²⁹

Recommendation 28

We recommend appropriate measures be adopted to hold chief executives accountable and responsible for the proper implementation of the *Public Servants Disclosure Protection Act* within their organizations.

Recommendation 29

We recommend that there be mandatory periodic training for managers in the following:

- **public sector values and ethics**
- **ethical leadership**
- **the promotion of healthy and respectful workplaces**
- **the promotion of psychologically healthy and safe workplaces**
- **the various recourse mechanisms**
- **the *Public Servants Disclosure Protection Act***

Transparency and public reporting

Both the general public and public servants must be informed when wrongdoing is found in the federal public sector and be informed how it has been addressed. Public servants told us in our survey that public reporting is important. Currently, there are inconsistencies in how the PSIC and federal organizations publicly report wrongdoing. The PSIC reports findings of wrongdoing to Parliament within 60 days after informing the appropriate chief executive. When an organization finds wrongdoing through disclosure and investigation, the PSDPA requires the chief executive to promptly make the information public. This information must include what was done, by whom (if necessary), and recommended corrective actions, actions taken, or reasons that actions weren't taken.

However, the PSIC typically provides more information than organizations do. Stakeholders and experts expressed concerns about the lack of detail in what organizations communicate publicly, and the amount of information publicly reported is very inconsistent.

“The organization is top-heavy, and the EX [executive] community is perceived to get off easy with very little consequences, unless pressured by external factors such as media, etc. My department needs to be more transparent with identifying misconducts and wrongdoings and sharing with the employees the related consequences.”

— Survey respondent

Being transparent about wrongdoing through public reporting and other means is key to establishing trust in the disclosure regime among public servants and Canadians. Our consultations showed that a more open culture requires management to clearly communicate outcomes, decisions and actions taken in response to misconduct. Transparency helps public servants trust that their disclosures will lead to appropriate action and encourages others to disclose. Providing examples of wrongdoers being disciplined and of disclosers being protected, and communicating whistleblowing success stories, reduces the fear of reprisal and promotes an open culture. The Clerk of the Privy Council’s call in October 2024 for departments to produce reports on misconduct and wrongdoing, similar to Global Affairs Canada’s *Addressing Misconduct and Wrongdoing at Global Affairs Canada: Second Annual Report*, is a positive step toward greater transparency.

If issues aren’t addressed and outcomes aren’t transparent, it will create doubt and distrust and discourage employees from raising workplace concerns. Survey respondents emphasized that a change in organizational culture is needed to support and celebrate whistleblowers. Our view is that the public reporting of wrongdoing cases must be improved and made consistent to increase transparency and trust, which will encourage a culture that promotes addressing wrongdoings.

Recommendation 30

We recommend that all organizations publish information on reported misconduct and wrongdoing, including the actions taken in response, while ensuring that individual privacy is appropriately protected through anonymization or other approaches.

Monitoring and shaping an open culture: how do we change culture?

If an organization doesn't understand how its culture affects the workplace, then it won't be able to identify barriers to reporting wrongdoing. Organizations also won't be able to create a more open culture unless they show their commitment to preventing and addressing wrongdoing by encouraging discussions on ethics, integrity, wrongdoing and the public interest. Our survey results indicated that 59% of respondents were experiencing a psychologically safe and healthy work environment, while 69% of respondents were willing to report incidents of serious misconduct. However, more than 30% of respondents reported that they were not likely to report serious misconduct and that they were experiencing a psychologically unsafe and unhealthy work environment. Our survey results revealed a complex and often troubling picture of the public sector's organizational culture, particularly in regard to how concerns and misconduct are handled. For example, over 44% of survey respondents reported that they had witnessed serious misconduct at work, and 66% of those witnesses indicated that it was a traumatic experience for them. Of those who witnessed the serious misconduct, 58% had reported it.

“People will have to see and hear about cases where there is justice and appropriate ramifications before the pendulum swings. A sea change is needed and that won’t happen quickly.”

— Survey respondent

Critical workplace issues can be caused by systemic factors in organizational cultures and processes. When the following elements are deficient, reporting of wrongdoing is undermined:

- ethical leadership
- leaders’ behaviour in creating a culture of respect, inclusion and psychological health and safety
- employees’ mental health and well-being
- trust and sense of belonging

Creating an open culture in which employees feel safe to report wrongdoing requires:

- leaders and managers promoting discussion of values and ethics
- managers’ willingness to hear bad news
- gathering information on public servants’ workplace experiences to identify barriers
- monitoring these experiences over time to ensure improvements

Gathering information involves engaging with public servants and listening to their concerns. For example, the public sector uses the Public Service Employee Survey to collect information on public servants’ experiences to help improve people management practices in the federal public sector. By gathering data about employees’ experiences, the PSES helps organizations identify their strengths and weaknesses and track progress

over time to improve organizational culture. However, to ensure employees' opinions are valued, it is important to feed back results and action plans to employees.

Executive and non-executive managers play an essential role in promoting and sustaining a supportive and psychologically safe workplace culture. Actions to foster such a culture should be accordingly included in annual performance assessments.

To effectively monitor organizational culture, we need better measurable indicators. The culture scale elements used in the task force's online survey ³⁰ provided reliable information for assessing psychological health and safety in the workplace, which affects people's willingness to voice concerns. We recommend using the PSES to gather additional related information to help organizations understand their culture and issues, including the validated scales and questions on these issues from our survey. These results should be part of the performance management assessments of chief executives. For example, data gathered from the PSES could include:

- information on awareness and trust in the internal disclosure process
- the frequency of perceived wrongdoing
- perceptions of whether appropriate action was taken

However, since the PSES is administered only every two years and must be general enough for all participating organizations, ³¹ other tools should also be used by organizations to engage employees regularly for more timely and targeted results.

We understand that amending the PSDPA is not likely to change an organization's culture. However, it's important to make sure that all leaders and employees of the federal public sector understand the PSDPA and its

role in addressing wrongdoing and in protecting against reprisal. We believe that:

- chief executives should be held accountable for how well they are cultivating an ethical culture
- the PSES should be used as a tool in chief executives' performance management assessments to help improve the culture of federal organizations

"At times it is obvious that systemic discriminatory issues affect judgements related to how to handle misconduct, often without the deciding party's knowledge."

— Survey respondent

Recommendation 31

We recommend that performance management assessments for senior executives include an assessment of the organization's ethical culture and be tailored based on the executive's role and responsibilities.

Recommendation 32

We recommend using the questions from our survey, or other appropriate questions, to assess how well organizations are fostering an ethical culture by including them as questions in the Public Service Employee Survey to address:

- **psychological health and safety in the workplace**
- **ethical culture**
- **ethical leadership**
- **organizational commitment**

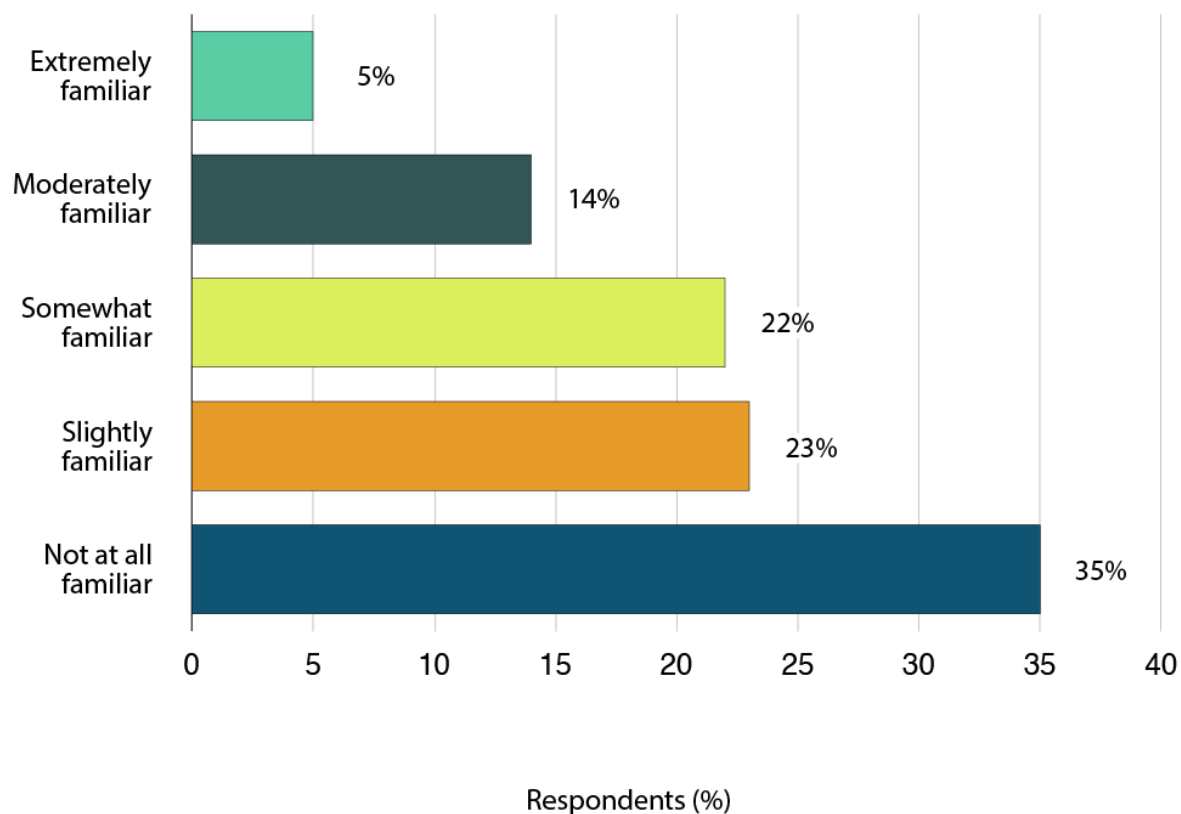
Training and awareness

A lack of awareness and knowledge of the PSDPA is a major barrier to creating an open culture that encourages and supports employees in reporting wrongdoing. We need to promote awareness of the PSDPA in two ways:

1. all public servants should be aware of how wrongdoing is defined, including their options for disclosing wrongdoing and the protections afforded to them under the PSDPA and elsewhere
2. leadership and others who have responsibilities under the PSDPA should know their responsibilities and be aware of best practices for promoting a safe and ethical workplace

Our survey results showed a low level of awareness of the PSDPA, with more than half of respondents indicating that they are not at all familiar (35%) or only slightly familiar (23%) with disclosure processes under the PSDPA. Only 19% of respondents were moderately familiar or extremely familiar with the PSDPA (see Figure 6).

Figure 6: respondents' familiarity with the disclosure processes under the PSDPA (3,493 respondents)



► Figure 6 - Text version

“I’ve worked for this organization for 17 years and never heard of the PSDPA, and I’m a manager.”

— Survey respondent

Even experienced public servants may not know much about the PSDPA or where to find information and advice. Many survey respondents recommended more training and awareness. Our consultations with stakeholders also highlighted the need for training to raise awareness of the PSDPA among all public servants, as recommended in the OGGO

committee's 2017 report and affirmed in *The Sound of Silence: Whistleblowing and the Fear of Reprisal* (2016) commissioned by the PSIC. Stakeholders also reported the need for training on:

- other recourse mechanisms
- the handling of suspected misconduct
- protections available
- the potential consequences of failing to protect employees and of retaliation

From our survey, 87% of respondents, upon witnessing serious misconduct in the workplace, said they were likely or very likely to discuss the serious misconduct with their supervisors. Given that managers and supervisors are often the first person that employees turn to, they need to know how to:

- immediately refer disclosures to the senior officer for internal disclosure (and inform the employee accordingly)
- keep disclosure-related information confidential
- protect the identities of all parties

Stakeholders understandably felt that training should promote reporting potential and actual wrongdoing as a responsibility and as an honourable act rather than a controversial one, making an important contribution to improving the public sector; we agree with this view. It's important to emphasize that reporting and acting on wrongdoing are important responsibilities for all employees in creating ethical organizations.

"[The government can make it easier to report] by educating all levels of government on how to support and protect employees who have witnessed unethical behaviour."

— Survey respondent

We also heard repeatedly that all levels of leadership, as well as senior officers for internal disclosure and investigators who have responsibilities under the PSDPA, frequently lack knowledge of their responsibilities, best practices and ways to support public servants in the disclosure process. In Part 1 of this report, we discussed the significant inconsistencies in internal disclosure processes across federal government organizations and the problems that can arise as a result. Although some of these inconsistencies stem from an absence of guidance and policy, we also observed a significant need for minimum standardized training to establish a baseline knowledge for those who have responsibilities under the PSDPA.

Stakeholders also indicated that to consistently apply the PSDPA throughout the federal public sector, there needs to be effective onboarding, periodic training, and continuous learning support for senior officers and their teams. They also suggested that mandatory training on the PSDPA for all executives and senior managers could help promote an ethical workplace culture throughout the federal public sector.

“Having an office culture where reporting is encouraged and safe would make it easier.”

— Survey respondent

In addition to training on the PSDPA, there is a significant need for ethical leadership training to create a healthy and open work culture throughout the public sector. Senior leaders, managers and supervisors are all critical in fostering an open culture in their organization, which is essential for a supportive environment that encourages reporting wrongdoing.³² Ethical leadership is vital for ethical organizations, and that includes modelling ethical behaviour, communicating organizational values, and taking actions to correct and prevent unethical behaviour. While ethical leadership is

important to supervisors, managers and senior leaders, practising ethical leadership is more demanding for senior leaders, and its positive or negative impact is greater and wider. ³³

Stakeholders emphasized the need for more education and training for senior leaders, suggesting that mandatory training should be required for this group to help them create a psychologically safe environment. Our survey results support this view, with respondents highlighting the need for continuous education and training on accountability, trust, confidentiality, professionalism and the importance of protecting whistleblowers. Many also felt that existing training sessions on anti-racism and harassment are superficial and don't lead to meaningful change. This training should include the following essential components:

- people skills
- conflict management
- handling difficult conversations
- bystander intervention
- ethical leadership

Currently, there is no legislated responsibility for PSDPA training and awareness. Previously, the Office of the Chief Human Resources Officer (OCHRO) led training and awareness efforts, with support from chief executives and senior officers for internal disclosure across the federal public sector, but we were told that those resources have been cut. Many senior officers told us that this approach is not working well, as they feel unsupported and ill-equipped to carry out their responsibilities. We also heard concerns about the current training, understanding and abilities of investigators, and we are unclear about what related processes are in place or their consistency across the federal public sector. Based on this feedback

and the findings of *The Sound of Silence: Whistleblowing and the Fear of Reprisal* (2016) commissioned by the Office of the PSIC, we agree that an integrated training and support regime is needed. ³⁴

Stakeholders also called for information, training and support on PSDPA functions to be centralized within a single organization. But who should take on this role? Some proposed that the PSIC could be responsible for training public servants and investigators. Currently, the PSIC has no mandate to provide training on the PSDPA, but it does offer online information and resources about its disclosure process, protections from reprisal and investigation reports. It can also play a role in the development of training on the role of that office.

The President of the Treasury Board has a general mandate to disseminate information and guidance on the PSDPA. The TBS website includes information on the disclosure and reprisal complaint processes, as well as guides for senior officers for internal disclosure and annual reporting on the PSDPA. In addition, OCHRO, as part of TBS, is responsible for organizing meetings of the Interdepartmental Network on Internal Disclosure, which is a community of practice and forum for updates and discussions on best practices within the senior officer community.

Based on the significant challenges identified in our research and consultations, we believe that the government should implement specific activities related to training and awareness of the PSDPA and its administration under TBS. We also want to stress the importance of training and awareness in values and ethics, ethical leadership, and the various recourse mechanisms available. Instituting this training will help create a clearer understanding of what it takes to have an open and ethical culture that supports the voicing of concerns and reporting wrongdoing.

Recommendation 33

To ensure effective implementation of the *Public Servants Disclosure Protection Act* (PSDPA), we recommend the following regarding training and awareness activities:

- all employees should participate in regular training, awareness activities, and management-led discussions on values and ethics, PSDPA processes, and other recourse mechanisms
- all executive and non-executive managers and supervisors should receive regular training and education to ensure that they are aware of their roles under the PSDPA
- there should be key minimum mandatory and standardized training for those who administer PSDPA functions throughout the public sector, including senior officers for internal disclosure, investigators and chief executives

To ensure that Recommendation 33 is followed, the government will need to identify a body to be responsible for developing, implementing, providing and monitoring this training and awareness. Although assigning responsibilities to different bodies can make sense, it can also lead to confusion and less engagement. We do not believe that the PSIC should be responsible for directly implementing PSDPA training because it should remain at arm's length from federal departments, although its expertise and insights are still useful. However, we also believe that organizations should be responsible for keeping their employees aware of the points mentioned in this recommendation.

Regarding developing and implementing training, TBS's role as a central agency in line with the *Access to Information Act* and *Privacy Act* model could be enhanced with help from the PSIC. For example, OCHRO and the PSIC could work together to include both central agency expertise and subject matter expertise with training. The Canada School of Public Service could provide training courses on the PSDPA in concert with OCHRO.

As mentioned, we propose that the government clearly identify the bodies responsible for developing, implementing, providing and monitoring this training in line with the *Access to Information Act* and *Privacy Act* model to ensure that the appropriate expertise and resourcing is considered for each stage.

Recommendation 34

We recommend that the federal government designate a body (or bodies) to be responsible for each of the following:

- **developing and implementing training and awareness activities for chief executives, managers, supervisors and all public servants on the *Public Servants Disclosure Protection Act* (PSDPA)**
- **providing training and awareness activities for chief executives, managers, supervisors and all public servants on the PSDPA**
- **monitoring training and awareness activities for chief executives, managers, supervisors and all public servants on the PSDPA**

Recurrent review of the PSDPA

The current five-year review clause, section 54 of the PSDPA, refers to a review five years after the initial coming into force of the PSDPA. This clause is now out of date and should be updated to require that the PSDPA be referred for review **every** five years after the coming into force of the amendments.

Recommendation 35

We recommend that the *Public Servants Disclosure Protection Act* (PSDPA) be amended to require the President of the Treasury Board to initiate an independent review of the PSDPA every five years after the coming into force of the amendments related to our recommendations.

Conclusion

The PSDPA serves a fundamental democratic purpose because it protects whistleblowers and provides ways to report and address wrongdoing within government. When the whistleblower regime works well, it contributes to greater public trust in government, a stronger ethical culture and a reduction in bad behaviour. When it is not working, public servants may feel unable to come forward, and problems can fester.

Our review has identified 35 recommendations for improving the PSDPA and related cultural issues within the federal public sector. Noting that many of the recommendations of the OGGO committee 2017's report have not been implemented, we aimed to ensure that our recommendations are practical and build on past work, and we believe that all our recommendations are feasible and balanced. Some recommendations may be addressed in different ways to solve the problems we have identified with the PSDPA and how it is administered. However, improving whistleblower protection is urgently needed, and this flexibility should not be used to delay action or reforms. The PSDPA must be revised at the earliest opportunity.

Appendix A: list of recommendations of the Public Servants Disclosure Protection Act Review Task Force

► In this section

Part 1: disclosure of wrongdoing

Recommendation 1: We recommend that the government:

- provide clear guidance (including examples) on what constitutes wrongdoing under the *Public Servants Disclosure Protection Act* (PSDPA)
- establish a process for matters that do not meet the definition of wrongdoing under the PSDPA so that all issues are addressed
- provide clarity on the use of discretion in whether to proceed with a wrongdoing investigation, given the actions and circumstances involved and the alleged wrongdoer's level or role

Recommendation 2: We recommend that the definition of public sector in the *Public Servants Disclosure Protection Act* no longer exclude the Canadian Armed Forces, the Canadian Security Intelligence Service and Communications Security Establishment Canada.

Recommendation 3: We recommend that the phrase “good faith” be removed from the definition of protected disclosure and as a requirement elsewhere in the *Public Servants Disclosure Protection Act*.

Recommendation 4: We recommend that the *Public Servants Disclosure Protection Act* (PSDPA) be amended to clarify that:

- the Office of the Public Sector Integrity Commissioner of Canada (PSIC) and internal disclosure processes can accept anonymous disclosures and apply protections from reprisal to the extent possible under the PSDPA, and
- members of the public can report wrongdoing to the PSIC or to a designated point of contact in the subject organization

Recommendation 5: We recommend that the government make it clear that investigations of wrongdoing should continue if the discloser or alleged wrongdoer moves to a different government organization, leaves the public sector or retires.

Recommendation 6: We recommend that the federal government implement routine and other audit mechanisms to ensure that all federal government organizations meet the requirements of the *Public Servants Disclosure Protection Act* in a consistent manner.

Recommendation 7: We recommend that the federal government redraft the *Public Servants Disclosure Protection Act* to make it easier to read, understand and administer.

Recommendation 8: We recommend that the *Public Servants Disclosure Protection Act* be amended to:

- clearly set out the roles and responsibilities of chief executives, senior officers for internal disclosure and supervisors, including for reporting and investigating disclosures of wrongdoing
- include specific requirements on how internal investigations are to be conducted and reported, in a manner that is procedurally fair for all parties

Recommendation 9: We recommend that the *Public Servants Disclosure Protection Act* be amended to clearly state that the Treasury Board of Canada Secretariat is responsible for developing policies, procedures, and guidance for handling internal disclosures, preventing reprisal, and conducting investigations, for implementation across government organizations.

Recommendation 10: We recommend that the Treasury Board of Canada Secretariat be responsible for developing guidelines and processes for those involved in handling allegations of wrongdoing to address real, apparent or potential conflicts of interest.

Recommendation 11: We recommend that section 34 of the *Public Servants Disclosure Protection Act* be replaced with a new section to give the Public Sector Integrity Commissioner the power to obtain information from

outside the public sector, similar to the powers granted in Part I of the *Inquiries Act* and subsection 36(1) of the *Access to Information Act*.

Recommendation 12: We recommend that the *Public Servants Disclosure Protection Act* give the Public Sector Integrity Commissioner the power to initiate an investigation based on information obtained in the course of a reprisal investigation (as it can for information obtained during a disclosure investigation).

Recommendation 13: We recommend that the Auditor General be given authority to:

- receive, assess and investigate disclosures of alleged wrongdoing concerning the Office of the Public Sector Integrity Commissioner of Canada (PSIC) from former public servants and members of the public
- receive, assess and investigate reprisal complaints from current and former employees of the Office of the PSIC concerning the Office of the PSIC, with all the related powers and duties of the Commissioner

Recommendation 14: We recommend that all federal government organizations designate an office to provide confidential support to employees about the various recourse mechanisms and options available to them.

Recommendation 15: We recommend that the government revise the current harassment complaint management mechanism under the *Canada Labour Code* to allow for findings of harassment and personal remedies in individual cases to ensure that complaints of harassment are appropriately investigated and addressed.

Recommendation 16: We recommend that amounts for legal fees under section 25.1 of the *Public Servants Disclosure Protection Act* be included in regulations instead of in the Act, and that the maximum amount allowed for legal fees be increased and reviewed periodically.

Recommendation 17: We recommend that the *Policy on Legal Assistance and Indemnification* be revised to cover investigations under the *Public Servants Disclosure Protection Act*.

Part 2: protections from reprisal and remedies

Recommendation 18: We recommend that the *Public Servants Disclosure Protection Act* (PSDPA) be amended to protect public servants from reprisal if they:

- have made a disclosure
- sought advice about making a disclosure
- cooperated in any investigation under the PSDPA, or cooperated in an investigation under any other Act of Parliament
- conducted or were involved in an investigation
- assisted a public servant in making a disclosure
- were mistaken for being a discloser
- declined to participate in a wrongdoing, or
- made a reprisal complaint

Recommendation 19: We recommend that the definition of reprisal be clarified by adding the following [paragraph (d)]:

(d) any measure that adversely affects their employment or working conditions including, but not limited to:

- the mandatory assignment or deployment of the public servant
- any form of reprimand
- any form of discrimination
- the infliction of emotional distress, or
- any act or omission that causes any psychological injury to the public servant

Recommendation 20: We recommend that the *Public Servants Disclosure Protection Act* be amended to give public servants two years to report an act of reprisal and that the Public Sector Integrity Commissioner (PSIC) continue to have the power to extend this time limit if the PSIC feels it is appropriate considering the circumstances of the complaint.

Recommendation 21: We recommend that the *Public Servants Disclosure Protection Act* be amended to give the Public Sector Integrity Commissioner 30 days after a reprisal complaint is received to decide whether to pursue an investigation.

Recommendation 22: We recommend that the *Public Servants Disclosure Protection Act* be amended to:

- expressly allow public servants to initiate and use multiple mechanisms to address issues, but only one should be actively pursued at a time
- allow the Public Sector Integrity Commissioner to pause a reprisal complaint while another recourse process is ongoing, to maintain jurisdiction and uphold complainant rights

Recommendation 23: We recommend that the reprisal process be simplified by:

1. removing the Public Servants Disclosure Protection Tribunal from the *Public Servants Disclosure Protection Act* and giving the Public Sector Integrity Commissioner (PSIC) the authority to investigate and responsibility to make findings about reprisals
2. granting the PSIC authority to order interim measures, as appropriate, to make recommendations to organizations for remedies to the complainant to make the complainant whole, and to make a recommendation to the chief executive to discipline the reprisor, leaving determination of the appropriate discipline to the chief executive

3. giving the PSIC authority to make recommendations to organizations regarding issues to address, including systemic issues
4. requiring chief executives to report to the PSIC on actions taken in response to those recommendations
5. making the PSIC's investigative and reporting powers for reprisal similar to those used in the disclosure process, including public reporting

Recommendation 24: Whether or not the recommendation to remove the Public Servants Disclosure Protection Tribunal is accepted and implemented, we recommend that the *Public Servants Disclosure Protection Act* be amended so that in cases where the Public Sector Integrity Commissioner has found reasonable grounds to believe that reprisal has occurred, the onus of the burden of proof will be on the employer to demonstrate that a reprisal did not take place.

Recommendation 25: We recommend that the *Public Servants Disclosure Protection Act* (PSDPA) be amended to:

1. give Royal Canadian Mounted Police (RCMP) members a right to file a complaint of reprisal with the Office of the Public Sector Integrity Commissioner of Canada (PSIC) without first exhausting the processes as set out in the *Royal Canadian Mounted Police Act* as outlined in the PSDPA; and
2. if the requirement to exhaust internal processes first is maintained, RCMP members should have one year to file the complaint with the PSIC from the date the internal remedies have been exhausted

Recommendation 26: We recommend that the *Public Servants Disclosure Protection Act* be amended to give organizations an explicit duty to protect public servants from reprisal, including the authority to take pre-emptive steps to protect a discloser from reprisals (such as reassignment, on consent).

Recommendation 27: We recommend that the *Public Servants Disclosure Protection Act* be amended to adjust the remedies that can be awarded to a public servant, including compensation and benefits, so that they may be made whole after suffering reprisal.

Part 3: culture, administration and operations

Recommendation 28: We recommend appropriate measures be adopted to hold chief executives accountable and responsible for the proper implementation of the *Public Servants Disclosure Protection Act* within their organizations.

Recommendation 29: We recommend that there be mandatory periodic training for managers in the following:

- public sector values and ethics
- ethical leadership
- the promotion of healthy and respectful workplaces
- the promotion of psychologically healthy and safe workplaces
- the various recourse mechanisms
- the *Public Servants Disclosure Protection Act*

Recommendation 30: We recommend that all organizations publish information on reported misconduct and wrongdoing, including the actions taken in response, while ensuring that individual privacy is appropriately protected through anonymization or other approaches.

Recommendation 31: We recommend that performance management assessments for senior executives include an assessment of the organization's ethical culture and be tailored based on the executive's role and responsibilities.

Recommendation 32: We recommend using the questions from our survey, or other appropriate questions, to assess how well organizations are fostering an ethical culture by including them as questions in the Public Service Employee Survey to address:

- psychological health and safety in the workplace
- ethical culture
- ethical leadership
- organizational commitment

Recommendation 33: To ensure effective implementation of the *Public Servants Disclosure Protection Act* (PSDPA), we recommend the following regarding training and awareness activities:

- all employees should participate in regular training, awareness activities, and management-led discussions on values and ethics, PSDPA processes, and other recourse mechanisms
- all executive and non-executive managers and supervisors should receive regular training and education to ensure that they are aware of their roles under the PSDPA
- there should be key minimum mandatory and standardized training for those who administer PSDPA functions throughout the public sector, including senior officers for internal disclosure, investigators and chief executives

Recommendation 34: We recommend that the federal government designate a body (or bodies) to be responsible for each of the following:

- developing and implementing training and awareness activities for chief executives, managers, supervisors and all public servants on the *Public Servants Disclosure Protection Act* (PSDPA)
- providing training and awareness activities for chief executives, managers, supervisors and all public servants on the PSDPA

- monitoring training and awareness activities for chief executives, managers, supervisors and all public servants on the PSDPA

Recommendation 35: We recommend that the *Public Servants Disclosure Protection Act* (PSDPA) be amended to require the President of the Treasury Board to initiate an independent review of the PSDPA every five years after the coming into force of the amendments related to our recommendations.

Appendix B: profiles of members of the Public Servants Disclosure Protection Act Review Task Force

Suzanne Craig (Co-Chair), Integrity Commissioner for the City of Vaughan: Ms. Craig has over 15 years of legal, management and policy experience in the public and private sectors, including various leadership positions at the Province of Ontario.

Mary McFadyen (Co-Chair), former Ombudsman and Public Interest Disclosure Commissioner for the Province of Saskatchewan: Ms. McFadyen has significant experience in the public sector, having held senior positions at National Defence, the Canadian Armed Forces and the Department of Justice Canada.

Professor Basil Alexander, legal academic: Professor Alexander has taught at Osgoode Hall Law School, the Université de Sherbrooke and the University of New Brunswick and is now at Toronto Metropolitan University. He has several years of professional experience in public interest law and significant experience serving universities and communities in various roles.

Professor Geneviève Cartier (member from November 2022 to October 2023), left to support the Public Inquiry into Foreign Interference, Faculty of Law at Université de Sherbrooke. Professor Cartier teaches and researches administrative law and legal theory.

Scott Chamberlain, Director of Labour Relations and General Counsel at the Association of Canadian Financial Officers (ACFO): In that capacity, he also leads contract negotiations and many of ACFO's policy research and advocacy initiatives, with a particular focus on tax fairness and whistleblower protection.

Raymond Kunze, former Ombuds and Senior Officer for Internal Disclosure: Mr. Kunze, recently retired, has extensive senior executive experience in the fields of internal and legislative audit, evaluation and investigations under the *Public Servants Disclosure Protection Act*. He has served at Global Affairs Canada; Immigration, Refugees and Citizenship Canada; Infrastructure Canada; and the Office of the Auditor General of Canada.

Dr. Stephen Maguire, Adjunct Research Professor in the Ethics and Public Affairs Doctoral Program and Executive Director of the Centre on Values and Ethics at Carleton University: Dr. Maguire founded, and teaches in, the Certificate Program in Organizational Values and Ethics.

David Yazbeck, General Counsel and Corporate Secretary, Association of Justice Counsel, previously Director, National Labour Relations, Professional Institute of the Public Service of Canada (PIPSC) where he ran the Negotiations and Compensation Services sections of PIPSC. Prior to this role, he practised labour and human rights law for 29 years, representing workers and a number of unions, mostly in the federal public service.

Appendix C: Stakeholder Consultation Questionnaire

► In this section

Context

1. How are you or your organization involved with or interested in disclosing wrongdoing in the federal workplace? For example, what is your related experience, background, knowledge, or role?

Disclosure processes

2. What should be the key objectives for reporting wrongdoing? How do current mechanisms and processes facilitate or impede such objectives? Are changes required to the definition of wrongdoing?

3. What is your assessment of current mechanisms and processes for reporting wrongdoing? (Refer to Annex for more information.)

4. What are your views on internal departmental processes for reporting and investigating wrongdoing compared to the process for reporting and investigating wrongdoing by the Office of the Public Sector Integrity Commissioner?

5. If you are familiar with the organizations that are excluded under the PSDPA, ³⁵ what are your views on their processes for reporting and investigating wrongdoing? To what extent do these processes provide sufficient accountability and oversight to meet the key objectives associated with reporting of wrongdoing?

6. What is your evaluation of the guidance, protection, and support provided to everyone involved in the reporting process including before and after the process (for example potential reporters of wrongdoing, those who report, alleged wrongdoers, investigators, witnesses/co-operators, executives, managers, and other relevant persons)?
7. How do other recourse mechanisms ³⁶ potentially interact with and affect the reporting and investigating of wrongdoing under the PSDPA? Do you have suggestions to improve that interaction?
8. Are there any changes that could be made to improve transparency and accountability when there is a finding of wrongdoing?
9. Are there any other gaps or issues with the current reporting and investigating of wrongdoing that you wish to add?

Protections from reprisals and support

10. What should constitute a reprisal?
11. What protections and supports should be in place so that disclosers are not subject to a reprisal before, during or after they report a potential wrongdoing?
12. a) In your view, should there be other options than a complaint to the PSIC available to disclosers who have been subject to reprisal?
b) What options should be available to disclosers who have been subject to reprisal, and how are they an improvement to the current process?
13. In your view, what should be the criteria for the Commissioner to refuse to deal with a complaint of reprisal?
14. Under the current system, the Commissioner may apply to the Tribunal for a determination of whether or not a reprisal was taken against the complainant. Are there improvements that could be made to this process?

15. What are your views regarding the role of the Public Servants Disclosure Protection Tribunal, its composition and the expertise required of the Tribunal members? What improvements or alternatives should be considered?

16. If the Tribunal dismisses a complaint of reprisal, the decision may be subject to judicial review. Are there improvements that could be made to this process?

17. The PSDPA provides that a complaint of reprisal may be settled by conciliation.³⁷ Are there improvements that could be made to this process?

18. Are the remedies under the PSDPA sufficient? If not, what other remedies would you add?

19. Are there any changes that could be made to improve the discipline procedures when a finding of reprisal has been made?

20. Are there any changes that could be made to improve transparency and accountability regarding a finding of reprisal?

Culture, administration and operations

21. What aspects of federal public service culture encourage or discourage employees from reporting issues or wrongdoing?

22. How could public service culture be improved to support reporting of concerns and protection from reprisal?

23. How could senior leaders improve organizational culture and accountability to better support reporting and protection from reprisal?

24. What could managers/supervisors and co-workers do to improve organization culture and accountability to better support reporting and protection from reprisal?

25. Is public reporting an important element of the PSDPA process? If so, how could public reporting be improved in general or specifically by PSIC and chief executives of federal organizations?
26. Please explain how systemic, endemic or organizational issues ³⁸ may undermine the reporting of wrongdoing.
27. What other informal, anonymous, or early intervention mechanisms exist to report misconduct, or issues of concern outside of the PSDPA process? Do these mechanisms complement the PSDPA disclosure regime? How?
28. What legislative or non-legislative changes could be made so that the system instills confidence and is effective and safe, so that disclosers are protected and supported?

General

29. Is there anything else you would like to add concerning possible improvements to the disclosure of wrongdoing regime in the federal government?

Appendix D: list of organizations and stakeholders that provided written submissions

► In this section

Federal public sector organizations

Administrative Tribunals Support Service of Canada
Atlantic Canada Opportunities Agency

Canada Border Services Agency (two representatives)
Canada Mortgage and Housing Corporation
Canada Revenue Agency
Canada School of Public Service
Canadian Heritage
Canadian Human Rights Commission
Canadian Museum of History
Canadian Nuclear Safety Commission
Canadian Space Agency
Communications Security Establishment Canada
Correctional Service Canada
Crown-Indigenous Relations and Northern Affairs Canada
Department of Justice Canada
Department of Justice Canada and National Research Council Canada
(Ombuds)
Employment and Social Development Canada
Farm Credit Canada
Fisheries and Oceans Canada
Global Affairs Canada
Health Canada and the Public Health Agency of Canada (two
representatives)
Housing, Infrastructure and Communities Canada
Immigration, Refugees and Citizenship Canada
Impact Assessment Agency of Canada
Indigenous Services Canada
Innovation, Science and Economic Development Canada
International Development Research Centre
Jacques Cartier and Champlain Bridges Incorporated
National Defence / Canadian Armed Forces (two representatives)
National Research Council Canada

National Security and Intelligence Review Agency Secretariat
Office of the Auditor General of Canada
Office of the Public Sector Integrity Commissioner of Canada
Ombuds for 19 small departments and agencies (reporting to Public Services and Procurement Canada)
Public Services and Procurement Canada
Public Safety Canada
Public Service Commission of Canada
Veterans Affairs Canada

External organizations

Association of Justice Counsel
Association of Professional Executives of the Public Service of Canada (APEX)
British Columbia Ombudsperson
Centre for Free Expression
Democracy Watch
National Police Federation
Whistleblowing Canada Research Society

Individuals

The task force also received submissions from nine individuals.

Appendix E: overview of the *Public Servants Disclosure Protection Act* survey results³⁹

► In this section

Objective

The objective of the task force's online survey of the *Public Servants Disclosure Protection Act* (PSDPA) in 2024 was to ensure that those employed in the public sector and members of the public had the opportunity to provide feedback on ways to improve the PSDPA and its administration.

Respondents

The vast majority of respondents were public servants, with a minimal number of responses from former public servants, contractors and members of the public. As a result, this overview is focused on the feedback from over 3,500 public servants (approximately 61% of respondents were women and 31% were men; the remaining respondents selected “another gender” or preferred not to answer the question). Of those who completed the question on equity-seeking groups:

- 25% reported being a member of a racialized group
- 6% reported being an Indigenous person (First Nations, Inuk or Métis)
- 28% reported being a person with a disability
- 15% reported being a member of the 2SLGBTQIA+ community
- 12% reported being a member of another equity-seeking group
- 28% of respondents indicated that they preferred not to answer the question

Survey results

The survey was structured to reflect three themes:

1. disclosure processes
2. protections from reprisal and support
3. organizational culture, administration and operations

An overview of the key findings and suggestions for improvement are provided in the following sections according to theme.

Theme 1: disclosure processes

Why did respondents report serious misconduct?

Almost half of respondents reported serious misconduct primarily due to a sense of ethical responsibility, a desire to protect others and personal impact. Many hope their actions will lead to positive changes within their organization. However, fear of reprisal is a significant concern that can delay or prevent reporting.

Why did respondents *not* report serious misconduct?

The most common reasons that respondents did not report serious misconduct include:

- fear of retaliation
- lack of trust in the reporting process
- perceived futility
- lack of evidence
- fear of being labelled a troublemaker
- previous negative experiences

What factors encourage the reporting of serious misconduct?

Almost half of the respondents provided comments describing several critical factors that influence employees' willingness to disclose serious misconduct, namely:

- **Support structures** (close to half of respondents selected this as a top choice): Independent and effective support systems are essential for fostering trust in the reporting process.

- **Safety and anonymity** (over a third of respondents selected this as a top choice): Respondents prioritized feeling safe and having the option to report anonymously.
- **Effective communication** (more than a quarter of respondents selected this as a top choice, suggesting that senior management should be communicating their support for reporting serious misconduct): Clear guidelines and communication about reporting processes and protections are vital.
- **Management accountability** (about a quarter of respondents selected this as their first choice): There is a strong demand for accountability from senior management, with a focus on transparency and consequences for misconduct.
- **Cultural change:** A shift in organizational culture is necessary to support and celebrate whistleblowers.

To what extent were respondents satisfied with what happened after they reported?

Survey results revealed a general dissatisfaction with the handling of reports of misconduct. Although some individuals found satisfaction in the outcomes, the overwhelming sentiment was one of dissatisfaction, fear of reprisal and a lack of transparency and communication.

The responses underscored the need for systemic changes to ensure that reporting misconduct is met with appropriate action and that individuals feel safe and supported in their workplaces.

How can the government make it easier to report serious misconduct?

Survey results indicated several ways that federal government can make it easier to report serious misconduct. The most common suggestions included the following:

- **Anonymous reporting options:** Many respondents suggested that the federal government should provide more robust anonymous reporting options, which would help alleviate fears of retaliation and ensure confidentiality.
- **Clear and simple reporting procedures:** Respondents emphasized the need for clear, simple and straightforward reporting procedures. Complicated processes can deter individuals from reporting misconduct.
- **Training and awareness programs:** There were numerous suggestions for regular training and awareness programs to educate employees about the reporting process and the importance of reporting misconduct.
- **Support systems:** Respondents highlighted the need for better support systems, including counselling and legal support, for those who report misconduct.
- **Protection against retaliation:** Stronger protections against retaliation were frequently mentioned. Respondents want assurances that they will not face negative consequences for reporting misconduct.
- **Transparency and accountability:** Many respondents called for greater transparency and accountability in handling reports of misconduct. They want to be informed about the actions taken in response to their reports.

How familiar were the respondents with the disclosure processes?

Close to 60% of respondents were either not at all familiar or only slightly familiar with the disclosure processes.

Theme 2: protections from reprisal and support

Survey results reflect a deep-seated concern among federal public servants regarding the culture of reporting serious misconduct. Key issues include:

- fear of retaliation
- a lack of accountability for senior officials
- unclear reporting mechanisms
- a pressing need for cultural change within the public sector

Respondents advocated for stronger protections for whistleblowers, enhanced training on ethical conduct, and greater transparency in handling misconduct cases.

How do respondents believe that improper behaviour should be handled in the workplace?

Survey results revealed a significant concern among respondents regarding the handling of improper behaviour in the workplace. Many felt that management fails to take appropriate action, leading to a culture where misconduct is tolerated. The responses highlighted the need for clearer disciplinary processes, greater accountability, and a shift in workplace culture to ensure that all public servants feel safe and respected. More specifically:

- **Perception of inaction:** Many respondents expressed skepticism about any meaningful consequences for continued improper behaviour. Phrases like “nothing happens” and “over and over again, nothing happens” highlight a belief that management often fails to act decisively against misconduct. In addition, several respondents

expressed the view that management often protects individuals in a position of power.

- **Need for transparency and accountability:** Respondents emphasized the importance of transparent processes and accountability. Many suggested that without clear communication about the outcomes of investigations, trust in management diminishes. For example, one respondent noted, “There needs to be transparent accountability.”
- **Disciplinary measures:** Opinions varied on what appropriate disciplinary actions should be. Some suggested verbal or written reprimands, while others called for more severe measures such as suspension or termination. The inconsistency in responses indicates a lack of clarity on what constitutes appropriate discipline for different levels of misconduct.

Did respondents have any comments or suggestions on what protections and supports should be in place so that disclosers are not subject to reprisal before, during or after they report serious misconduct?

Survey respondents highlighted the need for robust protections and supports for disclosers of serious misconduct to prevent reprisals. Key suggestions include:

- **Confidentiality and anonymity:** Many respondents emphasized the importance of maintaining confidentiality and providing anonymous reporting options to protect disclosers from reprisals.
- **Independent oversight and reporting mechanisms:** There was a strong call for independent bodies to handle reports of misconduct and reprisals, ensuring unbiased investigations and decisions.

- **Support services:** Respondents suggested providing comprehensive support services, including legal aid, counselling and career guidance, to help disclosers navigate the reporting process and any subsequent challenges.
- **Education and training:** Regular training and awareness programs were indicated as being essential for all employees, including managers, on the importance of whistleblowing, the protections available and the consequences of reprisals.
- **Legal and policy frameworks:** Strengthened legal protections and ensuring clear, accessible policies and procedures for reporting misconduct and handling reprisals were indicated as being needed.
- **Monitoring and follow-up:** Implementing mechanisms for regular follow-up with disclosers is needed to ensure they are not experiencing reprisals and to provide ongoing support.
- **Cultural change:** Respondents indicated the need to build a workplace culture that supports honesty, inclusion and openness, and that actively discourages misconduct and reprisals.

Familiarity with reprisal protections, processes and supports

Overall, the survey respondents reported a very low level of awareness of reprisal protections and processes. A little more than 65% of respondents were either not at all familiar (41%), or only slightly familiar (25%) with the reprisal processes.

Theme 3: organizational culture, administration and operations

How would you describe your organization's culture?

Survey responses revealed a complex and often troubling picture of the organizational culture within the federal public sector. Although there were pockets of positivity and efforts toward inclusivity, the overarching themes of toxicity, lack of accountability and fear create a difficult environment for many employees.

Public servants indicated a need for:

- a cultural shift toward accountability and transparency
- robust mechanisms for reporting and addressing misconduct to help rebuild trust

They also reported that enhancing support for mental health and well-being is crucial. Moreover, it is crucial to invest in leadership training that emphasizes ethical behaviour, inclusivity and effective communication to foster a healthier work environment.

How did respondents describe a culture that supports voicing concerns and reporting serious misconduct?

Survey results described a workplace culture that is striving for improvement in how concerns and misconduct are handled, but only one third of respondents reported that their organization was largely or fully supportive of voicing their concerns or reporting serious misconduct. It's critical that organizations promote policies that support voicing concerns and actively demonstrate their commitment through actions and accountability.

Key themes identified that support voicing concerns included:

- **Transparency and accessibility:** Respondents emphasized the need for clear and accessible reporting mechanisms. They want to know how to report misconduct and what the processes entail. Transparency in these processes builds trust and encourages reporting.

- **Psychological safety:** A recurring theme is the importance of psychological safety. Respondents expressed a desire for an environment where they can voice concerns without fear of retaliation. This safety is crucial for fostering open communication.
- **Impartial investigations:** Many respondents highlighted the necessity for investigations to be conducted impartially and thoroughly. There was a strong call for independent bodies to handle allegations of misconduct to ensure fairness.
- **Accountability:** Accountability at all levels is essential. Respondents want to see that misconduct is addressed appropriately, with clear consequences for those found guilty. This includes disciplinary actions that are visible and communicated to the workforce.
- **Supportive environment:** A supportive culture is characterized by management that actively encourages employees to report concerns. This includes regular training and reminders about the importance of reporting misconduct.
- **Leadership by example:** Senior management must model the behaviour they wish to see. Leaders should openly discuss the importance of ethical conduct and demonstrate a commitment to addressing misconduct.
- **Training and education:** Regular training on ethical standards and reporting procedures is vital. Employees should be educated about their rights and the processes available to them.
- **Communication:** Open lines of communication are necessary for fostering a culture of trust. Regular updates on the status of reported concerns can help employees feel valued and heard.

Footnotes

- 1 *Strengthening the Protection of the Public Interest within the Public Servants Disclosure Protection Act*, Report of the Standing Committee on Government Operations and Estimates, June 2017.
- 2 The full title is Bill C-290: An Act to amend the *Public Servants Disclosure Protection Act* and to make a consequential amendment to the Conflict of Interest Act.
- 3 The task force's Terms of Reference are available at Public Servants Disclosure Protection Act Review Task Force: Terms of Reference.
- 4 The task force's Stakeholder Consultation Questionnaire is available in Appendix C.
- 5 A list of organizations and stakeholders that provided written submissions is in Appendix D.
- 6 A summary of survey results is in Appendix E.
- 7 "Wrongdoings in or relating to the public sector" are described in section 8 of the PSDPA.
- 8 Such complexity includes ensuring that disclosers are aware of available options and who to contact for information and follow-up, obtaining consent prior to any information being referred to another mechanism, and determining what information can be referred.
- 9 Office of the Public Sector Integrity Commissioner of Canada. "3. Remove the disincentive of the "good faith" requirement in making a disclosure of wrongdoing," Proposal of the Public Sector Integrity Commissioner for Legislative Amendments (February 14, 2017).
- 10 Organisation for Economic Co-operation and Development, Committing to Effective Whistleblower Protection (Paris: OECD, 2016).

- 11 *Public Servants Disclosure Protection Act.*
- 12 Part 3 discusses leadership and culture considerations in more detail.
- 13 Agnaou v. Canada (Attorney General), 2015 FCA 29 (CanLII), [2016] 1 FCR 322.
- 14 Office of the Public Sector Integrity Commissioner of Canada. “2. Provide authority to request and use evidence obtained outside the public sector,” Proposal of the Public Sector Integrity Commissioner for Legislative Amendments (February 14, 2017).
- 15 Office of the Public Sector Integrity Commissioner of Canada. “Operational Activities,” *2023–24 Annual Report* (Ottawa: Government of Canada, 2024); “Part 2: Allegations active in 2023–24,” *Annual Report on the Public Servants Disclosure Protection Act 2023 to 2024* (Ottawa: Government of Canada, 2024).
- 16 The discloser’s agreement could be obtained at the outset, or a body can propose forwarding a complaint to another mechanism and obtain the discloser’s agreement. Organizations can accordingly play a facilitative role, so the onus is not solely on the discloser to choose a mechanism.
- 17 Law Society of Ontario: Fee Schedule [2025]. These rates are specifically for outside counsel working with the Law Society on regulatory matters, and private sector market rates are usually higher for comparable experience in other situations.
- 18 See paragraph 42.1(1) of the PSDPA for more information.
- 19 See, for example, Ontario’s *Limitations Act, 2002*, section 4, “Basic limitation period”: Limitations Act, 2002, S.O. 2002, c. 24, Sched. B.
- 20 For example, if the same situation gives rise to both criminal charges and a civil lawsuit, both are usually initiated, but the civil lawsuit is usually paused until the criminal matter is resolved. The criminal resolution can then in turn reduce and focus the issues remaining to be resolved in the civil claim.

- 21 For example, criminal convictions require proof “beyond a reasonable doubt,” while civil matters are typically decided on a lower “preponderance of the evidence” basis.
- 22 The only reference to the protection of persons (not identities) is in section 52, which refers to obligations of excluded organizations to establish procedures for the disclosure of wrongdoing, including the protection of persons who disclose, which must be similar to those in the PSDPA. Paragraph 51.1(1) states that the chief executive can temporarily assign other duties to a discloser whose identity has become known, but the stated reason is not for their protection but rather “to maintain the effective operation of the workplace.”
- 23 Canada Labour Code (R.S.C., 1985, c-1-2); s. 124, 125.
- 24 OGGO 2017 report, Recommendation 6(C).
- 25 Dr. Craig Dowden, The Sound of Silence: Whistleblowing and the Fear of Retaliation (white paper commissioned by the Office of the Public Sector Integrity Commissioner of Canada, 2016), p. 26.
- 26 Klebe, Treviño L., Pincus, Hartman L., and Brown, M. (2000), “Moral Person and Moral Manager: How Executives Develop a Reputation for Ethical Leadership,” *California Management Review* 42, No. 4 (summer 2000): pp. 128–142.
- 27 Phoenix Strategic Perspectives Inc., Final Report: Perceptions Related to the Disclosure of Wrongdoing in the Federal Public Sector (Ottawa: Prepared for the Office of the Public Sector Integrity Commission, 2011).
- 28 Phoenix Strategic Perspectives Inc.: Final Report: Exploring the Culture of Whistleblowing in the Federal Public Sector (Ottawa. Prepared for the Office of the Public Sector Integrity Commission, 2015).

- 29 The components of a psychologically healthy and safe workplace are identified in the culture scale used in the PSDPA Survey report. Resources are available to help managers support themselves and their teams, such as the Centre of Expertise on Mental Health's web page on mental health supports and resources for managers.
- 30 See the *Survey Results Report of the Public Servants Disclosure Protection Act Review Task Force*.
- 31 The Public Service Employee Survey is not administered to all public sector organizations subject to the PSDPA. Refer to 2022/2023 Public Service Employee Survey: Participating departments and agencies.
- 32 M. Kaptein, "From Inaction to External Whistleblowing: The Influence of the Ethical Culture of Organizations on Employee Responses to Observed Wrongdoing," *Journal of Business Ethics*, 98 (August 21, 2010): pp. 513–530; E.H. Schein, P.A. Schein, *Organizational Culture and Leadership*, fifth edition (Wiley & Sons, San Francisco), 2017.
- 33 References: Maguire, S., & Dyke, L. (2012). *Professionalism in policing: Research project report*. Canadian Association of Chiefs of Police and Maguire, S., & Dyke, L. (2017). *Management of the RCMP conduct process: Annual report*. Royal Canadian Mounted Police.
- 34 Dowden, "The Sound of Silence."
- 35 Excluded organizations include the Canadian Armed Forces, the Communication Security Establishment, and the Canadian Security Intelligence Services.
- 36 Examples: grievances, *Canadian Human Rights Act*, *Canada Labour Code*.
- 37 Conciliation is a method of reaching a mutual voluntary settlement of a dispute which is enforceable by the court.

- 38 **Systemic** issues are issues that permeate this type of process in public institutions and private corporations in one or more countries (for example, issues of race, gender, status, disability). **Endemic** issues are common in federal government departments and agencies. **Organizational** issues are related to the unique operations of the organization.
- 39 For information on the survey's methodology and use of artificial intelligence, see the *Survey Results Report of the Public Servants Disclosure Protection Act Review Task Force*.
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