

Office of the Public Sector  
Integrity Commissioner  
of Canada



Commissariat à l'intégrité  
du secteur public  
du Canada

# ANNUAL REPORT

2021–22

Tell us.  
You are protected.



Office of the Public Sector Integrity Commissioner of Canada  
60 Queen Street, 4<sup>th</sup> Floor  
Ottawa, Ontario K1P 5Y7  
613-941-6400  
Toll-free: 1-866-941-6400  
[info@psic-ispc.gc.ca](mailto:info@psic-ispc.gc.ca)

*Ce document est également disponible en français.*

© Office of the Public Sector Integrity Commissioner of Canada, 2022  
Cat. No.: PG1-3E-PDF  
ISSN: 1925-7732

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

Dear Mr. Speaker:

I have the honour of presenting you with the Office of the Public Sector Integrity Commissioner of Canada's fifteenth Annual Report, which is to be laid before the Senate in accordance with the provisions of section 38 of the Public Servants Disclosure Protection Act. This Report covers the fiscal year ending March 31, 2022.

It would be greatly appreciated if you could table the Annual Report on June 15, 2022, at the earliest. I respectfully request that this Report be held in confidence until its tabling.

The Annual Report is to be referred to the Standing Senate Committee on National Finance pursuant to subsection 38(4) of the Act.

Yours sincerely,



**Joe Friday**

Public Sector Integrity Commissioner  
Ottawa, June 2022

The Honourable Anthony Rota, M.P.  
Speaker of the House of Commons  
House of Commons of Canada  
Ottawa, Ontario K1A 0A6

Dear Mr. Speaker:

I have the honour of presenting you with the Office of the Public Sector Integrity Commissioner of Canada's fifteenth Annual Report, which is to be laid before the House of Commons in accordance with the provisions of section 38 of the Public Servants Disclosure Protection Act. This Report covers the fiscal year ending March 31, 2022.

It would be greatly appreciated if you could table the Annual Report on June 15, 2022, at the earliest. I respectfully request that this Report be held in confidence until its tabling.

The Annual Report is to be referred to the Standing Committee on Government Operations and Estimates pursuant to subsection 38(4) of the Act.

Yours sincerely,



**Joe Friday**

Public Sector Integrity Commissioner  
Ottawa, June 2022

## **PUBLIC SERVANTS DISCLOSURE PROTECTION ACT**

The federal public administration is an important national institution and is part of the essential framework of Canadian parliamentary democracy. It is in the public interest to maintain and enhance public confidence in the integrity of public servants. Confidence in public institutions can be enhanced by establishing effective procedures for the disclosure of wrongdoings and for protecting public servants who disclose wrongdoings, and by establishing a code of conduct for the public sector. Public servants owe a duty of loyalty to their employer and enjoy the right to freedom of expression as guaranteed by the Canadian Charter of Rights and Freedoms and that this Act strives to achieve an appropriate balance between those two important principles.

— Excerpt from the Preamble

# OUR VISION, MANDATE AND VALUES

## VISION

As a trusted organization where anyone can disclose wrongdoing in the federal public sector confidentially and safely, the Office of the Public Sector Integrity Commissioner of Canada enhances public confidence in the integrity of public servants and public institutions.

## MANDATE

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

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

## VALUES

The Office of the Public Sector Integrity Commissioner of Canada operates under a set of values that defines who we are and how we interact with our clients and stakeholders:

### **Respect for Democracy**

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

### **Respect for People**

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

### **Integrity**

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

### **Stewardship**

We use and care for public resources responsibly.

### **Excellence**

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

### **Impartiality**

We arrive at impartial and objective conclusions and recommendations independently.

### **Confidentiality**

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

As we continue to navigate the COVID-19 pandemic, the Office of the Public Sector Integrity Commissioner of Canada (the Office) has found new ways of working, with the majority of employees working remotely, either full- or part-time. Although the pandemic has had some significant impacts on our work, we continue to provide public servants and all Canadians with a means to access a timely and responsive process for reporting wrongdoing and reprisals in the federal public sector. Our work has continued uninterrupted throughout the pandemic, and it continues to contribute to a public sector culture that supports confidently coming forward when something is wrong.

The Annual Report is not only our primary tool for accountability and transparency, it is also a means to communicate with public servants and all Canadians. Highlighting key achievements, the Report provides an overview of the successes of the Office. The challenges faced throughout 2021–22 are also described, providing a full accounting of the Office’s work. In addition to the Annual Report, the Office informs public servants and all Canadians about the Public Servants Disclosure Protection Act (the Act) through ongoing education and outreach activities.

The Office was established in 2007 and is responsible for the external whistleblowing regime of the federal public sector. Following a legislative review of the Act in 2017, I made a number of focused and practical recommendations for strengthening the regime to better support



whistleblowers, provide greater protection from reprisal and increase flexibility within the regime. Having expressed my disappointment at the time that no action was taken to amend the Act, I am now pleased to note that the Prime Minister has included a commitment in the mandate letter of the President of the Treasury Board to explore possible amendments to the Act, and that funding has been provided to support that work. I look forward to playing a central role in this initiative by recommending specific and substantive changes, based on the Office’s direct experience and substantive knowledge. These changes will advance the state of whistleblowing in the Canadian federal public sector, and they will serve as a model of excellence for others, as the refinement and evolution of whistleblowing regimes around the world continue.

## OPERATIONAL ACTIVITIES

The Office received 142 disclosures of wrongdoing this year. Over the past five years, the Office has also received a high number of disclosures, with more than 140 received each year. The Office also received 47 reprisal complaints, which is in line with last year's total of 46.

A reprisal complaint is a serious and very personal matter, and as such can greatly impact those involved. Determinations of whether a reprisal has occurred rest with the Public Servants Disclosure Protection Tribunal, a quasi-judicial body that operates much like a court of law; as a result, any complaints that move beyond the investigation phase can be especially stressful. During an investigation of a reprisal complaint, the Office can offer conciliation to the parties. The [conciliation process](#) established under the Act provides an effective means of settling reprisal complaints confidentially and to the satisfaction of the parties. To date, the Office has supported 19 successful conciliations. Conciliation provides a timelier and less onerous process by allowing for resolution of reprisal cases without the time, cost and stress typically associated with a formal adjudicative process.

Given the legal complexity of cases related to wrongdoing and reprisal, the Office has a [legal assistance program](#), which supports individuals by providing direct funding for legal advice. The program is unique in Canada, and allows eligible individuals to choose their own lawyer

and receive funding from the Office to obtain legal advice on the disclosure or reprisal complaint process. The Office continues to promote the program through the website and social media, and maintains online information to assist clients in choosing their lawyers, including questions and answers, practical tips and links to provincial law societies.

## SERVICE STANDARDS

In 2013, we developed [service standards](#) to guide the completion of our work in a timely manner. Our target is to meet these standards in 80% of cases with the exception of reprisal complaints, for which the target is 100%.

Timeliness is critical, as people expect and deserve to have their cases dealt with quickly and thoroughly. Our standards are as follows:

- » To determine whether to investigate a disclosure of wrongdoing within 90 days;
- » To determine whether to investigate a reprisal complaint within 15 days (as specifically required by the Act);
- » To complete investigations within one year; and
- » To respond to general inquiries within one working day.



This year, we met or exceeded all but one target:

Service Standards	Yearly Targets	2021–22 Results
Decision whether to investigate a disclosure of wrongdoing is made within 90 days	80%	91%
Decision whether to investigate a reprisal complaint is made within 15 days	100%	100%
Investigations are completed within one year	80%	44%
General inquiries are responded to within one working day	80%	91%

As the COVID-19 pandemic continues, the Office has not seen a substantial reduction or increase in protected disclosures and reprisal complaints received. We have successfully adjusted to working remotely, and this new paradigm has not impacted our ability to meet our service standards for the analysis phase, or for general inquiries. However, the new reality of telework and hybrid workplaces, coupled with ongoing uncertainty, has had an impact on our ability to carry out investigations in as timely a manner as usual. We continue to launch investigations, but have seen some slowing in investigative work due to the pandemic’s impact on travel, availability of witnesses for in-person meetings, and in some cases a lack of timely access to documents, as affected organizations continue to adjust to new ways of working.

## COURT DECISIONS

This year, two important decisions from the Federal Court of Appeal reinforced our existing practices and will help us move forward with a clearer and stronger understanding of the Act. The Court’s decisions in *Burlacu v. Attorney General of Canada*, 2022 FCA 10, and *Gordillo et al. v. Canada (Attorney General)*, 2022 FCA 23, provide invaluable guidance on the meaning of wrongdoing and the purpose of investigations under the Act. Both decisions also confirm my broad discretion in determining whether an investigation is warranted following disclosures of wrongdoing.

The *Burlacu* decision concerned allegations that public servants had misapplied the law in the course of their duties and therefore made unlawful decisions. I decided not to investigate this disclosure on the basis that disagreements over the interpretation and application of statutes generally do not constitute wrongdoing as defined under the Act. The Federal Court of Appeal agreed, finding that while the Act is intended to address “very serious problems”, it is not my role to review the “legality of government actions and decisions” rendered daily by public servants in the administration and interpretation of statutes.

The *Gordillo* case concerned my decision not to investigate allegations that officials at a Canadian Embassy committed wrongdoing by favouring the commercial interest of a Canadian company over the protection of human rights. While recognizing the importance of these issues, I determined that the allegations did not relate to breaches of any legal obligations that could be investigated

as potential wrongdoings. The Federal Court of Appeal held that it was reasonable for me to have found that it did not appear that the Embassy had committed wrongdoing. This decision confirms that investigations under the Act are not for the purpose of reviewing policy decisions. The Applicants have filed for leave to appeal to the Supreme Court of Canada in this matter.

## **OUTREACH AND STAKEHOLDER ENGAGEMENT**

We have been adjusting to the new normal of telework and hybrid workplaces, and despite the need to pivot to virtual events, we have managed to participate in a number of outreach activities. As organizations adapt, the Office has been able to provide virtual presentations and take part in online conferences. The Commissioner has also taken part in both online and in-person events, including speaking engagements at universities and a webinar for parliamentarians. The Office also continues to participate in events with provincial and territorial counterparts, sharing best practices and challenges.

This year, the Communications team undertook an important initiative to explore views about whistleblowing and fear of reprisal, by conducting focus group testing of public servants across the country. The [report](#) is accessible on our website, and highlights some key concerns and challenges faced by public servants when

it comes to blowing the whistle. Most notably, the report demonstrates that the fear of reprisal is still very much at the forefront of employees' considerations when deciding whether to report wrongdoing, and a culture shift across the federal public sector is needed in order to create a safe environment for those who blow the whistle.

Making a protected disclosure is a difficult and important decision, and the Office strives to provide the information necessary to ensure that potential whistleblowers understand the mechanisms available for disclosing. In support of public servants and all Canadians, the Office maintains a [website](#) with various materials, such as frequently asked questions, process flow charts, and videos about the disclosure process. The website also provides an online method for making protected disclosures, reprisal complaints and requests for legal assistance, and the majority of submissions to the Office are made through this online portal.

Face-to-face information sharing has proven to be an effective means of informing public servants about the Act, our mandate and our processes. Presentations on the Act and the Office can be provided to public servants on request. Length and focus of presentations can be tailored to meet the needs of various organizations. I encourage federal public servants to contact the Office for information about how to request and plan a presentation.

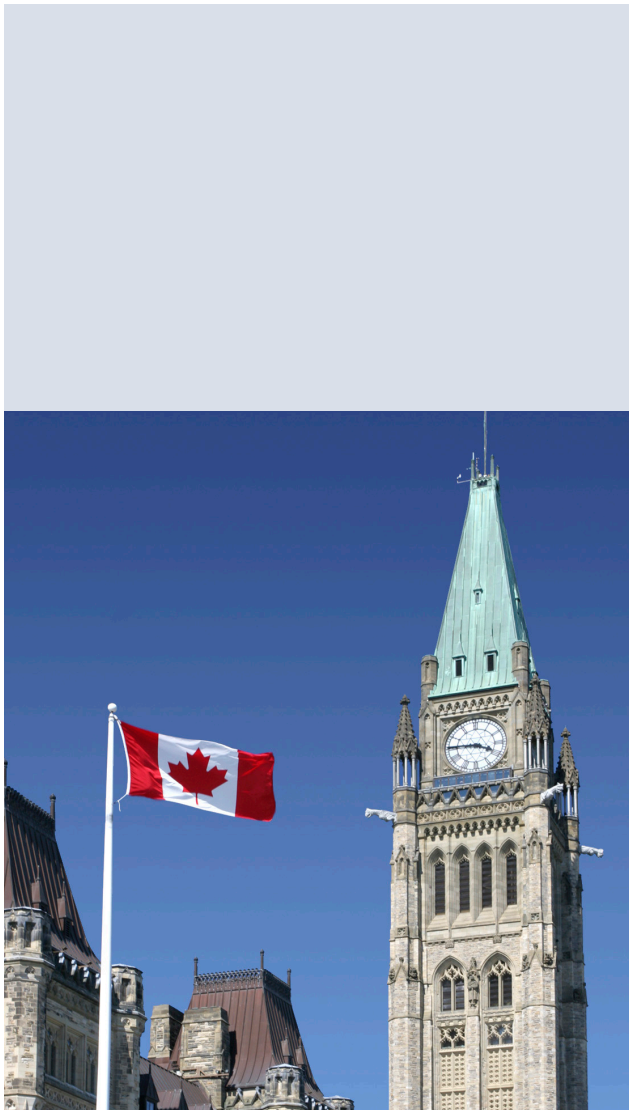
## HEALTHY WORKPLACE

A healthy workplace is foundational to supporting individuals in their decision to come forward when they see something wrong. As the Office responsible for the external whistleblowing regime of the federal public sector, I believe we must lead by example. Our management team strives to provide a safe environment in which employees feel valued and empowered to carry out their work. I am happy to report that the results of the Public Service Employee Survey indicate that our employees have confidence in management and feel comfortable coming forward to report wrongdoing without fear of reprisal. In fact, I am proud to say that our results were among the highest in the federal public sector.

In these challenging pandemic times, there is perhaps an even greater need to ensure employees are supported in maintaining their mental health. I believe that encouraging and helping employees to take care of their mental health is an important part of creating a safe work environment, and to that end, the Office continues to have a mental health committee chaired by an executive champion. The committee organizes learning events to support employees in the organization-wide goal of taking three hours per year of training related to mental health.

Individuals must feel comfortable coming forward when they see something wrong, and must be supported in doing so. Public servants in all federal organizations, including the Office, must commit to creating and upholding a culture that supports those who blow the whistle. The Office contributes to this goal by upholding our values every day and creating an environment where individuals feel safe coming forward.

**Do not hesitate to contact us with your comments and questions. We can assist you if you would like to make a disclosure of wrongdoing or reprisal complaint.**



## OPERATIONAL ACTIVITIES IN 2021–22

### Summary of New Activities

Number of general inquiries received	220
Number of new disclosures of wrongdoing received	142
Number of new reprisal complaints received	47

### Overall Disclosure Activities

<b>Total number of disclosures of wrongdoing handled in 2021–22</b>	<b>200</b>
» <i>Number of new disclosures received</i>	142
» <i>Number of disclosures or investigations carried over from 2020–21</i>	58
Number of files completed following an analysis	153
Number of investigations launched	8
Number of files resulting in a founded case of wrongdoing	0
» <i>Number of recommendations made by the Commissioner for founded cases of wrongdoing</i>	0
» <i>Number of follow-ups made on recommendations</i>	0
» <i>Number of recommendations actioned by chief executives</i>	0

### Overall Reprisal Activities

<b>Total number of reprisal complaints handled in 2021–22</b>	<b>73</b>
» <i>Number of new complaints received</i>	47
» <i>Number of complaints or investigations carried over from 2020–21</i>	26
Number of files completed following an analysis	47
Number of investigations launched	5
Number of files settled through conciliation	1
Number of applications to the Tribunal	0