

Office of the Public Sector
Integrity Commissioner
of Canada




Commissariat à l'intégrité
du secteur public
du Canada

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

Correctional Service of Canada

Case Report
March 2020



The Report is available on our website at www.psic-isp.gc.ca.

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Cat. No.: PG4-26/2020E-PDF
ISBN: 978-0-660-33948-1

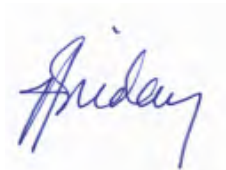
The Honourable George J. Furey, Q.C.
Speaker of the Senate
The Senate
Ottawa, Ontario
K1A 0A4

Dear Mr. Speaker:

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

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

Yours sincerely,

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

Joe Friday
Public Sector Integrity Commissioner
Ottawa, March 2020

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

Dear Mr. Speaker:

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

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

Yours sincerely,

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Joe Friday
Public Sector Integrity Commissioner
Ottawa, March 2020

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Foreword

This Case Report of founded wrongdoing has been tabled in Parliament as required by the Public Servants Disclosure Protection Act, S.C., 2005, c. 46 (the Act). The Report presents the findings of an investigation at the Correctional Service of Canada (CSC) Archambault Institution in the region of Quebec.

Following a disclosure to my Office, I launched an investigation into allegations that the CSC neglected to take adequate action to stop acts of insubordination, and harassment and intimidation by several Correctional Officers against other employees within the Regional Mental Health Centre (RMHC), at the Archambault Institution.

Considering the systemic nature of the incidents, this Case Report focuses on the CSC's overall responsibility in this matter, rather than a determination of the personal responsibility of the various employees who may have engaged in misconduct, which is a matter for the Commissioner of the CSC to determine, and which is addressed in my recommendations. It is important to underscore that, while the actions of individual Correctional Officers were highly unacceptable, the inability of the CSC to adequately address the incidents that occurred within the RMHC is a serious breach of the employer's responsibility to provide a safe and healthy work environment for all employees. These incidents also jeopardized the RMHC's ability to meet its operational mandate by putting employees at risk of harm.

My hope is that this Report can serve as a reminder that organizations have a duty to maintain a healthy and safe workplace for all employees, and that responses to unacceptable behaviour must be timely and effective.

Joe Friday
Public Sector Integrity Commissioner

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

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;
- by reporting founded cases of wrongdoing to Parliament and making recommendations to chief executives on corrective measures; and
- by 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.

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

Section 8 of the Act defines wrongdoing as:

- (a) a contravention of any Act of Parliament or of the legislature of a province, or of any regulations made under any such Act, other than a contravention of section 19 of this Act;
- (b) a misuse of public funds or a public asset;
- (c) a gross mismanagement in the public sector;
- (d) an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of a public servant;
- (e) a serious breach of a code of conduct established under section 5 or 6;
- (f) knowingly directing or counselling a person to commit a wrongdoing set out in any of paragraphs 8(a) to 8(e).

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

The Disclosure

On October 28, 2018, my Office received a disclosure of wrongdoing relating to several incidents involving Correctional Officers at the Regional Mental Health Centre (RMHC), which is co-located with the Archambault Institution, at the Sainte-Anne-des-Plaines complex, in the province of Quebec. My Office launched an investigation into the Correctional Service of Canada's (CSC) inadequate action in addressing the behaviour of the Correctional Officers in the RMHC. The investigation dealt with events that happened over a one-year period in 2017–18.

About the Organization

The RMHC is a multi-level security facility, which, according to the CSC, deals with inmates who have various mental health needs. This includes those suffering from mental health disorders and personality disorders. It also includes inmates who need continuing care and inmates who suffer from multiple mental health issues at the same time.

While Correctional Officers report to management of the Archambault Institution (Archambault management) and employees of the RMHC report to management of the RMHC (RMHC management), all are employees of the CSC. The role of Correctional Officers working in the RMHC is to ensure the security of inmates, employees and the premises.

Results of the Investigation

The investigation found the following:

- The CSC committed gross mismanagement, a wrongdoing under paragraph 8(c) of the Act, by failing to take adequate measures to address several serious incidents of inappropriate behaviour by a group of Correctional Officers, including:
 - committing acts of insubordination;
 - failing to ensure the security of employees of the RMHC; and
 - harassing employees.
- The CSC also created a substantial and specific danger to the life, health or safety of an employee, a wrongdoing under paragraph 8(d) of the Act, when it failed to take adequate measures to prevent a group of Correctional Officers from deliberately putting at risk the life or health of an employee who has a life-threatening allergy.

Overview of the Investigation

Two Senior Investigators with my Office, Mr. Alain Joanisse and Mr. Christian Santarossa, led the investigation. During the course of the investigation, they interviewed 28 witnesses, and reviewed numerous documents and video footage.

As required under the Act, the CSC and its personnel cooperated with the investigation.

In keeping with our obligation to uphold natural justice and procedural fairness, my Office provided the CSC with full and ample opportunity to respond to the allegations through the provision of a preliminary investigation report for review and comment.

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

Factors Considered in Determining Wrongdoing

Gross Mismanagement

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

- matters of significant importance;
- serious errors that are not debatable among reasonable people;
- more than minor wrongdoing or negligence;
- management action or inaction that creates a substantial risk of significant adverse impact upon the ability of an organization, office or unit to carry out its mandate;
- management action or inaction that poses a serious threat to public confidence in the integrity of the public service, and that does not primarily concern a personal matter, such as individual harassment complaints or individual workplace grievances;
- the deliberate nature of the wrongdoing; and
- the systemic nature of the wrongdoing.

Substantial and Specific Danger to Life, Health or Safety

In determining whether an act or omission creates a substantial and specific danger to the life, health or safety of persons, other than a danger that is inherent in the performance of their duties or functions under paragraph 8(d) of the Act, the following is considered:

- This type of wrongdoing contemplates a serious situation whereby the qualifiers “substantial” and “specific” are a clear expression of Parliament’s intention that less serious situations – where the possibility of creating a danger was somewhat remote – would not be qualified as “wrongdoing” under the Act.
- The definition of “danger” means an exposure or liability to injury, pain, harm, or loss.

Summary of Findings

Information obtained during the investigation shows that a group of Correctional Officers at the RMHC openly demonstrated their disrespect and disregard for other employees, rules and procedures. Their disrespect and disregard manifested itself in serious incidents of misconduct.

Targeting of an Employee

In late 2017, a psychologist working at the RMHC was given permission to hold interviews with inmates in her new office. Despite approval having been given by Archambault management at the time, some Correctional Officers refused to comply, leading to the following serious incidents:

- Some Correctional Officers stated to Archambault management that they “didn’t care” [translation] about the safety of others and that only their own safety mattered.
- Despite the psychologist having the authorization, two Correctional Officers confronted her in her office and said, “What did you not understand? You know you can’t conduct interviews in your office. [A Correctional Officer] told you so...” [translation]
- When another RMHC employee intervened and told the Correctional Officers that their behaviour toward the psychologist was unacceptable, the Correctional Officers told her to mind her own business and called her a “stool” when she informed RMHC management of the situation.
- Some Correctional Officers threatened to evict the psychologist from her office, refused to escort inmates to her office and placed a note on her door stating that no interviews were allowed.

The above incidents led to a verbal warning to one Correctional Officer and the distribution of an official note from Archambault management that interviews were indeed allowed in the psychologist's office. Despite management's intervention, targeted harassment and acts of insubordination persisted as described below.

Abandonment of Post

One of the most egregious incidents concerned an abandonment of post by a Correctional Officer. The evidence demonstrates that in January 2018, a Correctional Officer assigned the duty of ensuring the security of activities and employees in the RMHC purposely abandoned his functions in protest that management was allowing the psychologist to conduct interviews in her office. The Correctional Officer was encouraged at the time of the event by one of his colleague to take this action. The Correctional Officer's abandonment of post resulted in the following consequences:

- Several RMHC employees were left locked in their offices with inmates without anyone there to ensure their safety.
- A nurse was left locked in an inmates' sector without protection.
- When the Correctional Officer in question returned to the area to let the nurse out, he then failed to lock the security gate, allowing inmates to circulate freely between their sector and the RMHC. Fortunately, an inmate took it upon himself to ensure no other inmates passed through the unlocked security gate.

It took approximately 30 minutes before a Correctional Manager arrived at the location to let the employees out of the offices. In the immediate aftermath of this incident, RMHC employees filed a refusal to work under the Canada Labour Code.

Continued Acts of Insubordination and Intimidation

Video footage shows that following the abandonment of post, three Correctional Officers surrounded the Correctional Manager who had unlocked the doors to the offices. According to testimonies of witnesses, the Correctional Officers intimidated the Correctional Manager by yelling and using aggressive language, expressing their disapproval with RMHC employees who refused to work after the incident. This altercation occurred in front of inmates, employees of the RHMC and other Correctional Officers.

The day after the abandonment of post, as a sign of further protest, a group of Correctional Officers at the RMHC forced the RMHC employees to walk through the inmates' sector to reach their work location. Management intervened when they were made aware of the situation. Archambault management confirmed to the investigators that the usual safe procedure is to go through the Correctional Officers' office, which offers a secure path to the RMHC without having to access inmate sectors.

In response to the refusal to work submitted by RMHC employees following the Correctional Officer's abandonment of post, both Archambault and RMHC management established a new procedure that allowed RMHC employees to have keys to unlock their offices. A group of Correctional Officers responded to this new procedure by acting as follows:

- When the new procedure was presented to the Correctional Officers and RMHC employees by Archambault and RMHC management, the Correctional Officers left the room to protest the new procedure and also to show support for a Correctional Officer who had been verbally reprimanded for her behaviour toward the psychologist.
- Some of the Correctional Officers told management that they would simply "close their doors" and leave RMHC employees to "figure it out themselves." [translation]

Archambault management disciplined the Correctional Officer who abandoned his post with one day of suspension and removed him from the Emergency Response Team for a period of time. As well, the CSC prepared an action plan to attempt to address the larger issue of the work environment within the RMHC. Nevertheless, further incidents of unacceptable behaviour by other Correctional Officers continued to occur:

- One Correctional Officer modified, without authorization, a procedure note issued by Archambault management regarding use of force. She then posted the modified note in the Correctional Officers' office.
- Some Correctional Officers exchanged emails showing their disagreement with managerial directions. One Correctional Officer wrote: "If, like me, you're [expletive] fed up of being mocked, I invite you to take your own decisions in order to not put your security in danger. No one else is going to do it for you." [translation]
- Some Correctional Officers working at the RMHC prevented the RMHC employees from administering medication to inmates and delivering other services by refusing to open cell doors. When a Manager ordered the Correctional Officers to open the doors, they refused to comply. The evidence demonstrates that the motivation behind the Correctional Officers' actions was to force the Manager to quit. The Manager left on sick leave that same day.

Archambault Management met with the Correctional Officers involved in the above-noted incident and warned them of possible consequences if such behaviour was to reoccur. No investigation was launched regarding the incident, nor was any discipline imposed against Correctional Officers.

Racist Behaviour

An Assistant Director of Operations was the target of racist behaviour, when a group of Correctional Officers displayed a stuffed toy in reference to a derogatory nickname he had been given several years ago in relation to his ethnicity. This stuffed toy, according to witnesses, remained on display for four months and was ultimately removed at the request of the Assistant Director of Operations.

Denigration of RMHC Employees

The investigation revealed other incidents of harassment directed at RMHC staff:

- Some Correctional Officers displayed a children's teddy bear as a pejorative reference to the work of RMHC employees.
- Some Correctional Officers made and displayed banners with discriminatory messages that belittled and mocked the RMHC inmates with mental health issues and the work of RMHC employees.

No Correctional Officer was ever disciplined for the incidents. However, following these incidents, Archambault management directed that all necessary actions be taken to ensure that employees were treated with respect, and the local union president was warned that corrective action would be taken against Correctional Officers if such behaviour continued. Despite the warning, the teddy bear was still on display when the investigators went to the RMHC to view the workplace.

Willful Disregard for an Employee's Life, Health and Safety

Both Archambault and RMHC management, as well as Correctional Officers, knew that an employee of the RMHC suffered from a life-threatening allergy to seafood. After this employee had been sent to the hospital by ambulance on two occasions because of allergic reactions, the Workplace Health and Safety Committee, along with the Archambault and RMHC management, banned all seafood on RMHC premises. Showing a complete disregard for the life, health and safety of the employee, several Correctional Officers at the RMHC acted in deliberate defiance of the ban.

The investigation revealed the following incidents:

- A group of Correctional Officers repeatedly removed posters located on the RMHC premises reminding employees not to bring seafood to work. The Correctional Officers' insubordination became so serious that management had to secure a poster under Plexiglas with special screws to prevent its removal.
- Some Correctional Officers protested the ban, feeling it was a breach of their "right" to consume seafood.
- One Correctional Officer told Archambault management "no one can stop me from eating shrimp," [translation] and that it was up to the employee suffering from the medical condition to get treatment.
- A group of Correctional Officers at the RMHC organized a "sushi evening" during which sushi was displayed and available for employees to eat. During this event, a Correctional Officer handed the employee in question a gas mask and told her: "You put that on or you die tonight." [translation] The employee left the work site as a precaution.
- Some Correctional Officers referred to the employee as "little shrimp" [translation] and other pejorative nicknames.
- A witness reported that one Correctional Officer told him that "I don't give a [expletive] whether shrimp kills her." [translation]
- On two occasions seafood was eaten on the premises and left in the garbage bins, as a result of which the employee had to leave the work site again.
- In the spring of 2018, with Archambault management's approval, the social committee, which includes Correctional Officers, arranged for a seafood truck to come onto the premises of the Sainte-Anne-des-Plaines complex. Although the seafood truck was outside of the RMHC, other than the ban, which had proven ineffective, Archambault management took no specific measures to prevent seafood from being brought inside the RMHC.

After all of these incidents, RMHC management asked Archambault management to come up with a better strategy to ensure the employee's safety or else they risk "losing her." [translation]

In fact, the employee left on sick leave soon after. Her return to work was scheduled several months later; however, RMHC Management confirmed to the investigators that they could not ensure the employee's safety and that all attempts to do so had failed. The employee resigned from the public service.

Conclusion

In an inherently dangerous environment, such as a penitentiary, and in particular a facility that houses inmates with various mental health needs, the employer must be even more vigilant in ensuring that employees are safe. Security in the RMHC is maintained by Correctional Officers, and it is vital that employees are able to trust Correctional Officers to do their utmost to maintain a safe environment.

The CSC took some measures in an attempt to correct the Correctional Officers' unacceptable behaviour, including the creation of an action plan in March 2018, which incorporates several strategies for improving the overall work environment within the RMHC. Despite the initial implementation of the action plan, the CSC was still not able to ensure a safe working environment, and serious incidents continued to occur that put the security of employees at risk.

These were not isolated incidents, instead systemic problems were created by a work environment in which a group of Correctional Officers were emboldened to be insubordinate with little or no consequence. The employees' rights to a safe work environment were breached by the CSC, which failed to ensure that Correctional Officers fulfilled their duties. In addition to acts of insubordination, an already challenging workplace was made more so by the continued harassment and denigration of employees.

These incidents, the behaviour of a group of Correctional Officers and lack of adequate action by the CSC led to two employees of the RMHC going on sick leave, one of whom eventually resigned. The inadequate action by the CSC led to the breakdown in trust between RMHC employees and Correctional Officers, which created a substantial risk of significant adverse impact upon the ability of the RMHC to carry out its mandate.

Accordingly, I find that the CSC's failures amount to gross mismanagement pursuant to paragraph 8(c) of the Act, as well as creating a substantial and specific danger to the life, health or safety of a person pursuant to paragraph 8(d).

Commissioner's Recommendations and the Correctional Service of Canada's Response

In accordance with paragraph 22(h) of the Act, I have made the following recommendations to Ms. Anne Kelly, the Commissioner of the CSC, concerning corrective measures. I am satisfied with the Commissioner's responses to my recommendations and the measures taken to date to address the wrongdoing identified in this Report. In accordance with my usual practice, I will follow up on actions taken by the CSC in response to my recommendations within the next six months.

My recommendations and the Departmental responses follow.

I recommend that the CSC consider the need for individual disciplinary and corrective measures, given the serious nature of the above-noted incidents.

CSC is reviewing the additional information brought forward by the Office of the Public Sector Integrity Commissioner of Canada, and will ensure that appropriate action is taken to address any issues that may require disciplinary and/or corrective measures.

I recommend that the CSC review disciplinary practices by management of the Archambault Institution in relation to Correctional Officers working at the RMHC to ensure measures are consistent and effective, and consider conducting a similar review at the national level.

CSC will conduct a review of disciplinary practices by management at Archambault Institution to ensure measures are consistent and effective, and will conduct a similar review at the national level.

I recommend that the CSC develop and provide specific training on an ongoing basis for Correctional Officers and Managers on working in a multidisciplinary environment, such as the RMHC, which serves inmates with mental health issues. I also recommend that the CSC provide ongoing training on the CSC Code of Discipline and the Values and Ethics Code for the Public Sector.

Further to the incidents that took place in January 2018, CSC has provided an array of training and awareness sessions to correctional officers, other staff and managers at the RMHC to support them in working in a multidisciplinary manner with inmates who have serious mental health issues. CSC will continue to assess the need for refresher training.

Regarding the recommendation to provide ongoing training on the CSC Code of Discipline and the *Values and Ethics Code for the Public Sector*, all CSC staff are subject to mandatory training on Values and Ethics, Creating a Harassment-Free Workplace, Creating a Respectful Workplace, Diversity and Cultural Competency Training, as well as Ethical Leadership for senior managers.

I recommend that the CSC, in consultation with employees and the relevant bargaining agents, assess the need for a workplace wellness initiative in the RMHC to ensure a healthy workplace. I also recommend that, as a part of this initiative, the CSC considers reaching out to former and current employees affected by the events described in this Report to offer support and, if possible, remedies.

In the spring of 2018, following sessions with CSC's Office of Conflict Management, an action plan was developed by management in collaboration with bargaining agents to address workplace well-being at the RMHC. To further support the action plan and assess its effectiveness, an evaluation of the workplace climate will be undertaken by an external consultant. CSC will also support current and former employees affected by the events described in this report.

Additional Comments from the Correctional Service of Canada

I accept all your recommendations and believe that they will assist us in improving workplace health and employee well-being across CSC, and in the RMHC specifically. However, I do have concerns with your conclusion that CSC committed wrongdoing in this matter.

As noted in your report and in submissions made to you, numerous interventions were undertaken by local management, including collaborative approaches with union partners and staff, warnings to staff involved in the incidents, and ultimately administrative and disciplinary measures to try and correct the situations described in your report. In hindsight, perhaps stronger actions could have been taken, but I do not believe this amounts to a finding of wrongdoing by CSC.

That being said we take your recommendations as constructive measures to assist in the significant efforts that are being deployed in a range of areas to ensure that CSC is free from harassment, intimidation, bullying and violence and to ensure clear results are demonstrated across the organization. I assure you that dedication and leadership in support of these objectives are maintained, and concrete actions and initiatives will continue to be implemented so that CSC employees can benefit from the healthy, respectful and positive workplace they deserve. Improving workplace wellness is a priority for CSC, as demonstrated by the launch of a national Respectful Workplace

Campaign in early 2018, which includes a number of initiatives to raise awareness among employees across the organization, activities to promote well-being, and avenues for employees to report misconduct.

I take great pride in the professionalism and outstanding work of dedicated CSC staff, and am deeply concerned by the actions of the employees referred to in this Case Report. CSC employees make important contributions that protect the safety of Canadians, and I am committed to ensuring that CSC carries out this responsibility with the highest level of integrity, professionalism and excellence. It follows that workplace harassment and other forms of misconduct are unacceptable in any circumstances and have no place within the CSC.