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Patrick Weiler, MP,  
House of Commons,  
Ottawa, Ontario,  
Canada  
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Feb. 12, 2021

Subject: News- report Feb. 9, 2021 – HUFFPOST – **“Trudeau Won’t Commit To Strengthening Federal Whistleblower Law, Despite Calls For Transparency”**.

Dear Mr. Weiler:

I am writing you as you are my Member of Parliament and also a member of the OGGO Committee.

I was very troubled to read the above story.

To get through the pandemic successfully, building and maintaining public trust is key. People today grant their trust based on two distinct attributes: competence (delivering on promises – no “say-do” gap) and ethical behavior (doing the right thing and working to improve society).<sup>1</sup>

On the Whistleblower protection file, Canada’s major parties fail these tests. To understand and fully appreciate how we have arrived at the appalling current situation, a brief look at the history of the origins of Public Servant Disclosure Protection Act (PSDPA) is instructive:

- a. The PSDPA came into force in 2007 as a result of the outrage of Canadians following the Sponsorship scandal in the early 2000’s which saw the handing out of taxpayers’ money to “friends” of the government contrary to all the rules and regulations. This scandal caused the fall of one government and the Public Servant Disclosure Protection Act was passed and implemented by the succeeding government. It was the result of negotiations among all the parties to try to ensure no such unethical/illegal use of taxpayers’ money would happen again. And further, that no other public servant who tried to do the right thing would be treated the way the whistleblower in this case was treated.
- b. Since then, there is a long litany of, at best foot-dragging in the implementation of this law and at worse outright wrongdoing by successive governments which has ensured that the law is of no use whatsoever in achieving its purpose. Here is an abbreviated list of questionable/wrong/illegal /unethical actions related to this law, ensuring the status quo is maintained i.e. no protection, no change:
  - i. Successive Public Sector Integrity Commissioners all came from backgrounds in the Public Service, contrary to the recommendations of many experts including the first

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<sup>1</sup> [Edelman Trust Barometer 2020](#)

- Public Service Integrity Officer, Dr. Edward Keyserlingk. He strongly advocated for an “independent” Commissioner as have many experts before and since. This seems to have contributed to the diminished trust as documented by the current Commissioner.<sup>2</sup>
- ii. The implementing Conservative government flouted the law by simply not doing what the law mandated – conduct an “independent” review within five years and lay copies of the report before the Senate and the House of Commons, the due date being 2012. The purpose of such reviews is to see how the law is working and if improvements are needed.
  - iii. In 2017 the then Liberal government tasked the OGGO committee to conduct a review five years too late. While the original omission was not theirs, such omissions are a serious breach according to the Canadian Bar Association in a submission to the House of Commons on another act.<sup>3</sup> Further, the OGGO Committee was not the “independent” committee the PSDPA mandated.
  - iv. Nevertheless, the OGGO committee conducted an extensive review and submitted their unanimous Report to the House on June 16, 2017. The Report contained a number of recommendations to amend the law to include “best practices”. Instead of asking the House to consider the report (which would be expected in the situation of a unanimous report), the Chair of the committee asked for a “comprehensive” reply from government thus no debate could take place under the rules of the House. The government would then have 120 days to reply. Unfortunately, the Rules do not define “comprehensive” as successive Speakers have decided it should be left to the government to determine what “comprehensive” is.
  - v. Exactly 120 days later on Oct. 16, 2017 the President of the Treasury Board- Scott Brison, the Minister responsible, quietly filed a 1 ¼ page letter in reply with the Clerk. The letter did not even mention the most important part, the amendments to the Act, but rather talked about improving administration. Sadly, “comprehensive” is a word, the meaning of which I suspect, our government and most Canadians would disagree on.
  - vi. Inquiries I have made indicate the OGGO Committee Report No. 9 was never submitted to the Senate which was a statutory requirement.

I am also President and Executive Director of Whistleblowing Canada research Society. As such I can say that Canadians who are aware of these details are deeply troubled by this behaviour on the part of our leaders and are organizing to marshal support for doing the right thing in this regard. No one is above the law in Canada including our political leaders or they shouldn't be if we are still to claim we are a “rule of law” country.

These breaches are warning signs that signal we could be on the way to worse wrongdoing, not only by governments but also Canadians, particularly with all of the government programs/money flowing to support people who have lost jobs during the pandemic. Further, continuing to suppress whistle-blowers

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<sup>2</sup> Friday, Joe. Public Sector Integrity Commissioner. [Appearance before Standing Committee on Government Operations and Estimates](#). Opening Remarks – April 26, 2018.

<sup>3</sup> Canadian Bar Association, “Statutory Review of the Conflict of Interest Act.” February 2013.

as this law does, will cost not only money, but likely lives. To make matters worse, a Canadian study has shown that the provincial whistleblower protection laws have been modeled, for the most part, after the Federal law with all its weaknesses.<sup>4</sup> Another study done by The Government Accountability Project and the International Bar Association indicates that Canada's current law does not have even one best practice and ties with Lebanon for last place in that regard.<sup>5</sup>

Sadly, not rectifying this situation will be seen by many as showing not only contempt for Canadians who were promised better in the early 2000's when the Sponsorship scandal broke, but also contempt for the law, by not conducting an independent review, or presenting the Report to the Senate. It could also be seen as contempt for the Members of Parliament who worked hard and participated sincerely in the review, and who are trying to represent Canadians. One could even see this as contempt for Parliament itself through manipulating unclear rules (to evade debate of a unanimous report, no definition for "comprehensive") in such a way as to prevent them from discussing the report and doing their jobs.

I do not believe if more Canadians knew the extent of this disrespect for our law and our Parliament they would find it acceptable behaviour. Honest employees acting in the public interest, often at great risk to themselves, are to be valued and lauded. It is aberrant behaviour to punish them for this. As it is, their careers and lives are wrongfully devastated when they speak up. This is both illegal and morally reprehensible. The current commissioner noted in 2018 that less than 50% of public servants felt they could safely speak up according to surveys. He further stated that culture change was needed and it needed to be led from the top.<sup>6</sup>

I strongly believe the government would reap great returns in trust and a belief in its sincerity, when your members say repeatedly you are always trying to improve things, by moving to implement the recommended changes and expand the law to cover all of the public and private sector under a workable law build on internationally recognized best practices with the necessary emphasis on culture change. Without this emphasis on culture, no law, no matter how loop-hole free will be successfully implemented.

Yours Sincerely,

*Pamela Forward*

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<sup>4</sup> Martin-Bariteau, Florian. [Whistleblowing in Canada. A Knowledge Synthesis Report.](#) U. of Ottawa, Feb. 2018

<sup>5</sup> Tom Devine. Government Accountability Project. Washington, D.C.

<sup>6</sup> PSIC <https://www.psic-ispc.gc.ca/en/joe-fridays-opening-remarks-oggo-april-26-2018>