



OFFICE OF THE INTEGRITY COMMISSIONER

REPORT REGARDING THE CONDUCT OF THEN-MAYOR ROB FORD

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Integrity Commissioner
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INTRODUCTION

On November 18, 2013, then-Mayor Rob Ford ran through the Council Chamber and collided with then-Councillor Pam McConnell, causing her physical and emotional harm.¹ Councillor McConnell filed this complaint as a way to assert her right to participate in her workplace in a manner that is free from violence, bullying and harassment.

In this report, I find that when Councillor Ford ran through the Council Chamber on November 18, 2013 he was acting in a manner that was unnecessarily reckless, lacking in decorum, and contrary to the *Code of Conduct for Members of Council (Code of Conduct)*.

Councillor Ford accepts the findings in this report. To express his regret for his actions and the harm that he caused, he offered to make a payment to an organization of Councillor McConnell's choice. Councillor McConnell was amenable to this resolution and suggested that the funds could be directed to a City-operated program within her ward. I have intentionally refrained from identifying the program in this report to avoid drawing unnecessary attention to it.

In consideration of Councillor Ford's acceptance of the findings and his decision to demonstrate his regret for his actions by making such a payment, I recommend that Council adopt a finding that Councillor Ford's conduct contravened the *Code of Conduct* and that no further penalty or consequence is warranted.

INQUIRY STEPS

In July 2014, Councillor McConnell filed a formal complaint alleging that Councillor Rob Ford contravened Articles XI (Conduct at Meetings) and XIV (Discreditable Conduct) of the *Code of Conduct* for the way he behaved on November 18, 2013 and March 24, 2014.

The complaint was classified and received pursuant to the *Code of Conduct Complaint Protocol for Members of Council (the "Complaint Protocol")*. Responses and replies were exchanged. I met with Councillor McConnell. I sought and received additional information from Councillor Ford through correspondence and in-person meetings. I reviewed video recordings of both incidents, the final security report prepared by the

¹ Unless it is required for clarity, I will refer to both members of Council as Councillor and not their former or current official titles as Mayor or Deputy Mayor.

City of Toronto Security Division in relation to November 2013 events and the recent report of the Toronto Ombudsman, *An Investigation into Toronto City Hall Security*.²

In furtherance of my obligation in section 5(3) of the *Complaint Protocol*, prior to finalizing my report I met with Councillor Ford to receive submissions about my proposed findings.

FINDINGS OF FACT

On November 18, 2013, Toronto City Council convened a special meeting to consider a motion to remove all non-statutorily assigned duties and powers from Mayor Ford. During a recess of the November meeting, Mayor Ford and his brother, then-Member of Council Doug Ford, were involved in verbal altercations with individuals sitting in the public gallery. At some point, the two men became separated: Mayor Ford was located near the Speaker's podium and Councillor Doug Ford remained near the public gallery.

The next series of events took place in less than five seconds.

Mayor Ford stood momentarily by the Speaker's podium. It came to his attention that his brother may have been about to engage in an altercation with someone in the public gallery. Suddenly, Mayor Ford began to run through the Council Chamber from the Speaker's podium past the seats designated for staff; he then turned to his left toward where his brother was. While running, he crashed into Councillor McConnell, knocking her backwards off her feet. The events have been captured by video.

The incident became notorious on an international scale. This fact is relevant because Councillor McConnell has unwillingly become indelibly connected to the incident and its notoriety.

Councillor McConnell was knocked down but was quickly assisted to an upright position. Councillor McConnell's face was bruised and she suffered hip and shoulder injuries for which she required treatment.

Councillor Ford said that the reason he ran through the Chamber was to protect his brother. Councillor Rob Ford explained that he and his brother, Doug Ford, are very close and that he acted out of an overwhelming sense of family and personal obligation. This is the same sentiment he expressed on the very day in question when he rose in Council to say:

² "[An Investigation into Toronto City Hall Security](http://ombudstoronto.ca/sites/default/files/Corp%20Sec%20Final%20Report%20April%202015.pdf)", Ombudsman Report April 2015. (<http://ombudstoronto.ca/sites/default/files/Corp%20Sec%20Final%20Report%20April%202015.pdf>).

I ran around because I thought my brother was getting into an altercation. I apologized and I picked her up. I do apologize. I apologize to anyone I accidentally hit when my brother was in an altercation over there. It was a complete accident. I do sincerely apologize to you Councillor McConnell.

It was an accident that Councillor Ford ran into Councillor McConnell. However, there was nothing accidental about Councillor Ford's decision to run through the Chamber. His expressly-stated reason was to assist in some manner with an altercation brewing between his brother and a member of the public.

Councillor Ford explained that the day was very unusual and that things were out of control in the Council Chamber. I agree with Councillor Ford's assessment. The Council Chamber was out of control. While Councillor Ford bears some responsibility, he was not singularly responsible for the state of the room. Some of the factors that led to the state of the room were examined by the Toronto Ombudsman in a report titled, *An Investigation into Toronto City Hall Security*.

One thing is clear. Councillor Ford's decision to run through the Chamber did not assist with the overall state of the Chamber. His decision to do so was reckless and it was unbecoming of the position he held at the time, Mayor of Toronto. When I met with Councillor Ford to discuss the proposed findings, he agreed with me that the way he behaved was unbecoming of a member of council.

I characterize his behaviour as reckless and unbecoming primarily because of the venue within which it took place. The Council Chamber is not a room like any other. It is the place where the most important decisions of the City of Toronto are debated and decided. Out of respect for the institution, all members of Council, staff and the public are expected to act with a high degree of decorum and respect while in the Chamber. The Mayor, of all the individuals who conduct business in the Chamber, must emulate the highest standard of decorum.

Councillor Ford says that he has apologized to Councillor McConnell for running into her and for the harm that he caused to her on November 18. He advised that he sent her flowers as a way to apologize. Councillor Ford has also apologized to Council.

Councillor McConnell remained stoic after the November incident. She did not immediately appreciate the physical consequences to her and it was not for many months that she began to realize that the incident had taken a toll on her emotional well being. This realization took place on March 24, 2014.

At a March 24, 2014 Executive Committee meeting, Councillor Ford had an interaction with Councillor McConnell that she found upsetting and caused her to feel unsafe.

The Executive Committee was meeting in the Council Chamber on that day. Councillor McConnell's recollection is that Councillor Ford began to yell at her in objection to a point of privilege she attempted to raise during the meeting. Councillor McConnell was not a member of Executive Committee and could not intervene in the manner that she had. The Chair of the meeting correctly ruled Councillor McConnell's intervention out of order and the meeting continued.

After the ruling, Councillor Ford walked toward Councillor McConnell in a way that, from the perspective of Councillor McConnell, mimicked the posture of a football player. Councillor Ford's hands were out to his side. Councillor McConnell felt threatened by Councillor Ford and she began to worry that he might run her over as he did in the November 2013 Council meeting.

Councillor McConnell recalls that she asked Councillor Ford to stay away and in response he shouted "Come on. Come, on Pam. You are the best tight end Toronto has." Councillor McConnell became overwhelmed and upset, so much so that she immediately left her seat in the Council Chamber, leaving her belongings on her desk.

In her own words, she immediately felt "silly" because she realized that Councillor Ford was acting in jest. As I understand it, the reaction she had that day made her realize that perhaps she had not recovered from the trauma of having been run over by Councillor Ford in November 2013.

Councillor Ford did not remember the March 2014 incident. However, he explained that whatever happened, he believed that he was offering a "light hearted comment between colleagues" and he denies that it had any reference to the prior incident.

The video confirms that there was an interaction between Councillor Ford and Councillor McConnell. The recording does not focus on the particular incident as it is a recording of the proceedings. The video also shows that Councillor Ford did walk toward Councillor McConnell after her objection and he began speaking to her. He appears to be walking toward her in a light hearted manner but his hands are slightly out to his side. There was no real threat that Councillor Ford intended to contact Councillor McConnell because the two individuals were separated by a row of desks and he was not moving quickly. The video shows Councillor McConnell leaving the room in haste, as she described.

I will now turn to whether any of the conduct constitutes a contravention of the *Code of Conduct*.

ANALYSIS

Code of Conduct and Policy Provisions

The issues at stake in this case require consideration of the *Code of Conduct* and the City's *Human Rights and Anti-Harassment Policy*³, which is incorporated by express reference into the *Code of Conduct*. The relevant provisions are repeated below.

The relevant *Code of Conduct* provisions are:

PREAMBLE

Improving the quality of public administration and governance can be achieved by encouraging high standards of conduct on the part of all government officials. In particular, the public is entitled to expect the highest standards of conduct from the members that it elects to local government. In turn, adherence to these standards will protect and maintain the City of Toronto's reputation and integrity.

[...]

XI. CONDUCT AT COUNCIL AND COMMITTEE MEETINGS

Members shall conduct themselves with decorum at Council and committee meetings in accordance with the provisions of Chapter 27, Council Procedures, of the Municipal Code (the Council Procedures By-law).

XIV. DISCREDITABLE CONDUCT

All members of Council have a duty to treat members of the public, one another, and staff appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The Ontario Human Rights Code applies and if applicable, the City's Human Rights and Anti-harassment Policy, and Hate Activity Policy.

The Human Rights and Anti-harassment Policy contains the following policy statement:

The City condemns harassment, denigration, discriminatory actions, and the promotion of hatred. The City of Toronto will not tolerate, ignore, or condone discrimination or harassment and is committed to promoting respectful conduct, tolerance and diversity at all times. All employees are responsible for respecting

³ [City of Toronto Human Rights and Anti-Harassment/Discrimination Policy](https://wx.toronto.ca/intra/hr/policies.nsf/a8170e9c63677876852577d7004f8/c8c007fd9cd24c6585257d4e00653676?OpenDocument)
<https://wx.toronto.ca/intra/hr/policies.nsf/a8170e9c63677876852577d7004f8/c8c007fd9cd24c6585257d4e00653676?OpenDocument>

the dignity and rights of their co-workers and the public they serve. The City's Human Rights and Anti-Harassment/Discrimination Complaint Procedures provide a range of dispute resolution options for employees, service recipients and Members of Toronto City Council who believe that they may have experienced discrimination and/or harassment.

[emphasis added]

The definition of workplace harassment is:

4.9 Workplace Harassment: is harassment that is not related to a prohibited ground identified in the Ontario Human Rights Code. Workplace harassment, defined in the Occupational Health and Safety Act means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.

Workplace harassment often involves a course or grouping of behaviours. However a single serious incident of such behaviour that has a lasting harmful effect on an employee may also constitute workplace harassment.

...

[emphasis added]

Discussion

This complaint consists of two components: a complaint about the specific conduct of Councillor Ford; and, Councillor McConnell's reasonable expectation that she can attend City Hall free from the unwelcome conduct of Councillor Ford.

The *Code of Conduct* requires members to conduct themselves with decorum and to treat each other with respect. The *Code* specifically acknowledges that the public expects the "highest standards of conduct from the members that it elects to local government."

I have found that Councillor Ford did not intend to harm Councillor McConnell on November 18. However, I have also expressly found that he intended to run through the Chamber. I have concluded that Councillor Ford's decision to run through the Chamber to assist in a possible altercation with his brother was unbecoming of his position, lacked decorum and was disrespectful to the institution of City Council. Of particular concern is the fact that the conduct occurred while in the Council Chamber although it did not occur while the proceedings were underway. Making matters worse, someone was in fact harmed by his reckless conduct – one of his Council colleagues.

What requires consideration is whether the particular circumstances of the day or Councillor Ford's sense of duty and obligation to his brother were a reasonable justification for his actions. While I am sympathetic to the dilemma Councillor Ford faced – he perceived that his brother faced a possible physical threat – I simply cannot find that this justified his decision to run toward the altercation in the manner that he did. Councillor Ford should have considered how his immediate actions created risk of harm to those immediately around him and, as a member of Council, he could have taken other steps such as alerting security personnel to the situation.

While Councillor Ford is free to make the choices that he makes, he must also bear the responsibility for his actions. His actions were inconsistent with the obligation to act with decorum, to meet the highest standards of conduct and to act with respect to his Council colleagues. He acted contrary to the *Code of Conduct* without sufficient justification.

I will now turn to the second component of the complaint. Due to Councillor Ford's actions, Councillor McConnell was harmed and on at least one occasion felt an extreme feeling of threat and anxiety. She has made this complaint as a way in which to assert her right to be able to engage in her workplace in a manner free from unwelcome conduct. Councillor McConnell bases this component of her complaint in the *Code of Conduct* and the City's *Human Rights and Anti-harassment Policy*, which specifically states that the harassment will not be tolerated and that members must be committed to promoting respectful conduct at all times.

Elected officials are not employees and do not have workplaces in the traditional sense. For instance, elected officials are required to engage in political debate which sometimes includes heckling and yelling, conduct that by definition would not be acceptable in a regular workplace. Councillor McConnell herself admits that she can "dish it out" as well as take it as a long time elected official in Council.

However, there is a limit. As is reflected in the *Code of Conduct*, members must have a collegial and professional relationship with each other. The manner by which members of Council treat each other is a measure of the strength of the institution. It is therefore obviously unacceptable that Councillor McConnell felt threatened and unnecessarily subjected to further anxiety while performing her duties as a member of Council engaged in committee work.

I find that Councillor Ford's conduct on March 24, 2014 was unwelcome and that Councillor Ford ought to have acted with a greater level of sensitivity toward his colleague. However, I also find that he did not appreciate the long-standing impact that his prior conduct had on his colleague. While he ought to have acted with greater

sensitivity, I do not find that he intended to engage in intentional harassing behaviour toward Councillor McConnell. It is now incumbent on him to continue to act with appropriate care and sensitivity toward Councillor McConnell in the future. Councillor Ford has been aware of this since the complaint was filed in July 2014 and as I understand it, there have been no additional incidents.

A Note about Jurisdiction

There is an established body of rulings with respect to the jurisdiction of the Integrity Commissioner over conduct at council and committee meetings.⁴ The consistent approach of prior Integrity Commissioners has been that conduct of members of Council while engaged in a meeting is the domain of the Speaker not the Integrity Commissioner. The basis for this jurisdictional limit is that the *City of Toronto Act, 2006* (the "COTA") and the City's procedural by-law make plain that keeping order over a Council meetings is the responsibility of the duly-appointed Speaker.⁵

The strong policy principle behind this approach is that the Integrity Commissioner ought not to interfere with the conduct and management of any particular meeting. This makes good sense. The Speaker, or any Chair of a meeting, requires a certain degree of autonomy to ensure that a meeting is conducted in accordance with the procedural bylaw and as specifically stated therein, to oversee order and behaviour of members (s. 27-43(C)). So, if a councillor uses an insulting term against another councillor, in an effort to ensure decorum, the speaker might rule the question out of order and seek some remedial measure such as an apology or – in a serious case – an ejection from the meeting. In most cases, these issues are resolved and the meeting proceeds. There would be little gained by a subsequent referral to the Integrity Commissioner to review the actions.

The circumstances of this case are different and after much consideration, for the following reasons, I determined that I did have jurisdiction in this matter. The November 2013 conduct did not occur during the course of debate; it occurred while there was a recess. The conduct on both dates was incidental to the meeting. Finally, the essence of the complaint was that Councillor Ford potentially directed a pattern of unwelcome

⁴ 2008-07-08 – Integrity Commissioner End of Term Report – 2008 by Commissioner David Mullan, page 13. (<http://www.toronto.ca/legdocs/mmis/2008/cc/bgrd/backgroundfile-14756.pdf>); 2009-07-29 – Integrity Commissioner Annual Report – 2009 by Commissioner Lorne Sossin, page 12. (<http://www.toronto.ca/legdocs/mmis/2009/cc/bgrd/backgroundfile-22620.pdf>); and 2010-07-28 – Integrity Commissioner Annual Report – 2010 by Commissioner Janet Leiper, page 4. (<http://www.toronto.ca/legdocs/mmis/2010/cc/bgrd/backgroundfile-31794.pdf>).

⁵ *City of Toronto Act, 2006*, s. 133(1)(b) (<http://www.ontario.ca/laws/statute/06c11#BK169>) and *Council Procedures Bylaw, Toronto Municipal Code, C. 27, s. 27-42, 27-43.* (http://www.toronto.ca/legdocs/municode/1184_027.pdf).

conduct at Councillor McConnell. There is no other place that a member of Council can turn to for this kind of complaint.

APPROPRIATE REMEDIAL ACTION OR SANCTIONS

In the case of misconduct, one might consider whether any reparations can be made or an apology given to repair the harm done. In this case, the conduct at issue cannot be undone or repaired.

Councillor Ford has already apologized to Council, the public and to Councillor McConnell. It is my view that Councillor Ford is genuinely contrite about this incident and in particular about any harm he caused to Councillor McConnell or to the reputation of the City. Although I believe Mr. Ford is sincere in his regret, a further apology will not serve to repair or address the harm caused.

I had two lengthy discussions with Councillor Ford about the report findings. While Councillor Ford made submissions to justify his actions (outlined above), he was respectful and accepting of the process and of my ultimate conclusion.

He made submissions to me about penalty. He said that to penalize him by suspending his pay would lead to no useful purpose and suggested instead that he might pay an amount to a good cause of Councillor McConnell's choosing. He indicated that he sought no recognition for the payment or any tax receipt or other benefit.

I informed Councillor McConnell of the proposal and sought her views. Councillor McConnell was amenable to this kind of a resolution because while she wished for there to be a clear accounting and findings about the *Code of Conduct* breach, a payment to benefit a good cause would be a positive way to resolve the matter and move forward. Councillor McConnell suggested a particular city program within her ward. Councillor McConnell took no position as to the amount of contribution.

I advised Councillor Ford that an appropriate amount to contribute was \$1000. In my view, this is a significant amount, roughly four days of pre-tax salary (\$298 per day), and it is within the range of penalty that, but for this voluntary action, I would have recommended that Council impose.

In determining the suitability of the amount, I took into consideration the fact that Councillor Ford's decision to make this payment is voluntary and will hopefully avoid the need for lengthy Council deliberations about whether to suspend his pay for any period of time, allowing it to come to a positive conclusion.

I have also taken into account that Councillor Ford has been aware of Councillor McConnell's overriding concerns about her safety since at least July 2014 and there has been no further conduct directed at Councillor McConnell.

Councillor Ford has provided me with a personal cheque in the amount of \$1000 to be used for the purpose described above. Councillor Ford will not receive a tax receipt for this payment and he seeks no recognition or good will with the payment.

In order to facilitate the payment, I am asking that Council authorize me to provide instructions to the appropriate General Manager within the City of Toronto to give effect to the settlement reflected above. Importantly, I have decided to refrain from identifying the program by name to avoid any unintended attention to the program.

In consideration of Councillor Ford's acceptance of the findings in this report and his decision to demonstrate his regret for his actions by making a payment in the manner described above, I recommend no further penalty or consequence be imposed on Councillor Ford.

Summary

I therefore recommend that:

1. Council adopt a finding that Councillor Ford contravened Articles XI (Conduct at Meetings) and XIV (Discreditable Conduct) for his actions on November 18, 2013 and the harm he caused to Councillor McConnell;
2. Council adopt a finding that no further action be taken in consideration of the apologies previously provided by Councillor Ford and his decision to make a payment to a good cause of Councillor McConnell's choice to further express regret for his actions; and,
3. Council authorize the Integrity Commissioner to transmit the cheque provided by Councillor Ford to the appropriate city division and provide all instructions necessary to ensure that the funds provided are used in the manner proposed by Councillor McConnell.

Valerie Jepson
Integrity Commissioner
September 22, 2015