Report of the Ad Hoc Investigatory Committee

Academic Freedom & Collegial Governance at the Peter Wall Institute for Advanced Studies, University of British Columbia

October 2021

Kevin Kane
University of Alberta, Chair

Jacqueline Holler
University of Northern British Columbia

CAUT ACPPU

Canadian Association of University Teachers
Association canadienne des professeures et professeurs d'université
www.caut.ca

This report originates from the resignation of the Director of the Peter Wall Institute for Advanced Studies (PWIAS) in November 2018 in response to actions taken by the Board of Trustees of the PWIAS and the University of British Columbia (UBC) Administration. According to the Director, the Board of Trustees (BoT) mandated that the most significant research activities at PWIAS must align with existing Research Excellence Clusters under the aegis of UBC's Vice President of Research.[1] The alignment would require PWIAS Scholars to engage directly with Research Excellence Clusters, include a new thematic program to enhance and complement the work of existing clusters, and direct funding primarily to members of those clusters. The aforementioned changes would be accompanied by elimination of "a majority" of PWIAS programs, according to the Director, and by modification of remaining programs to align more closely with existing VP Research Excellence Clusters. Issuing a public letter of resignation, the Director of the PWIAS made clear that his decision to leave the directorship was a direct result of what he and others perceived as a lack of collegial decision-making in reaching this decision.

Our investigation has found the following:

1. The requirement by the Board of Trustees and the UBC administration that the PWIAS and its faculty align with existing research clusters under the Vice-President of Research and Innovation constitutes an infringement upon *intramural academic freedom* of these faculty. Moreover, the requirement that faculty align with clusters carries significant potential to infringe upon *academic freedom in research* and may conflict with the "positive obligation" of UBC to uphold academic freedom.
2. The structures that govern the PWIAS internally and within the University of British Columbia do not adhere to principles of collegial governance and therefore raise significant concerns about intramural academic freedom in the day-to-day functioning of the PWIAS.
3. The actions taken by the PWIAS Board of Trustees in November 2018 appear inconsistent with principles of collegial governance, including but not limited to openness, transparency, and the primacy of academics over academic decision-making.
4. While the resignation of PWIAS Director Dr. Philippe Tortell was arguably the most significant crisis faced by the PWIAS in its history, the resignation forms part of a history of failed governance at PWIAS. The PWIAS Deed of Trust, which allows non-academic board members to make academic decisions at PWIAS, and the governance of the Wall Endowment that supports PWIAS run counter to university policy and collegial governance and are thus urgent matters for the consideration of the Board of Governors and Senate respectively.
5. In our view, attending to governance at PWIAS will not only protect and support academic freedom, but also is the best way to ensure that PWIAS endures and prospers as a space of free and unfettered inquiry. The first steps in this regard have been taken, but more remains to be done. Moreover, the most recent administrative turnovers at the PWIAS suggest that the governance issues that have beset the institute continue.

CAUT's involvement

The Canadian Association of University Teachers was first made aware of the controversy at PWIAS on 20 November 2018 when Director Philippe Tortell publicly announced his resignation at the UBC Deans, Heads and Directors meeting.[2] An audio recording and transcript of Dr. Tortell's resignation announcement were posted online. Dr. Tortell explained his reasoning as follows:

> On November 16th, I received a letter from Santa Ono, Chair of the PWIAS Board of Trustees, outlining a series of directives for the future of Institute programs (Appendix I). These directives were approved by the Trustees during an in-camera session, excluding myself and the two

1. UBC Research & Innovation, "Research Excellence Clusters." https://research.ubc.ca/vpri-competitions-initiatives/research-excellence-clusters
2. "PWIAS Director Philippe Tortell announces his resignation." 20 November 2018. https://pwias.ubc.ca/announcements/pwias-director-philippe-tortell-announces-his-resignation

> current Wall Distinguished Professors, Brett Finlay and Derek Gregory. The Trustees voted to eliminate the majority of PWIAS programs (including International Research Roundtables, Distinguished Visiting Professor and Wall Solutions Initiative), and to modify the remaining programs to achieve closer alignment with the existing VPR Research Excellence Clusters. Under the new plan, the Wall Scholars program will be significantly scaled back, and awardees will be expected to 'engage directly' with existing UBC Research Excellence Clusters. Moreover, a major new thematic program will be developed to 'enhance and complement the work of existing Research Clusters', with 'funding being awarded primarily to members of those clusters. Under this scenario, a large fraction of PWIAS funds will thus be used to support an on-going UBC program run by the VP Research and VP Academic.
>
> I am deeply troubled by this new approach and feel that the mandated re-alignment of PWIAS programs is entirely misguided. It poses an existential threat to the Institute's core mission, academic independence, and capacity to catalyze truly innovative and creative research. It also highlights an ongoing and pernicious governance problem at PWIAS and sets a dangerous precedent of senior administrators directing research at UBC. For these reasons, I feel that I have no choice but to resign as Director of the Peter Wall Institute. I cannot, in good faith, lead the Institute towards a path with which I disagree profoundly, and one that I see as wholly inconsistent with its mission and mandate.

Upon learning of the incident, the CAUT Executive Director consulted with the University of British Columbia Faculty Association (UBCFA). On November 24th, the matter was discussed at the CAUT Council meeting at which time the following motion was unanimously adopted:

> CAUT Council notes the resignation of the Director of the Peter Wall Institute for Advanced Studies over allegations that the academic independence of the institute was violated. Council calls on the CAUT Executive Director to work with the UBC Faculty Association to gather further information about the matter and report to the CAUT Academic Freedom and Tenure Committee.

The following day, the UBCFA wrote to University President Santa Ono communicating the motion passed by Council and its concerns about the apparent violations of collegial governance at the PWIAS. The CAUT Executive Director wrote to President Ono on December 11th and indicated that based upon the evidence collected to date the concerns expressed by Dr. Tortell appeared to have merit.

President Ono replied to the CAUT letter on 8 February 2019, denying there was any violation of collegial governance or academic freedom arising from the PWIAS matter. The CAUT Executive Director replied to President Ono's letter on February 28th. By this time, CAUT had obtained a copy of the Deed of Trust governing the PWIAS and had legal counsel review. That review indicated that the Deed provides the Board of Trustees, composed of a majority of non-academic staff, with the power to "implement and manage programs" and to select scholars and research projects. This governance structure, the Executive Director communicated to President Ono, "is contrary to principles of academic freedom insofar as it grants decision-making power over programs, research, and personnel matters to non-academic staff." CAUT urged the UBC administration to review the governance structure of the PWIAS to ensure it conforms to widely understood practices of collegial governance and academic freedom.

The case was discussed at the March 2019 meeting of the CAUT Academic Freedom and Tenure Committee. After reviewing the information and materials gathered, the Committee recommended that, if the UBC Administration continued to take no action to address the governance and academic freedom concerns within the PWIAS, the Executive Committee of CAUT establish an ad hoc investigation into the matter pursuant to CAUT's Procedures in Academic Freedom Cases. On 27 May 2019, in the absence of any informal resolution to the case, the Executive Committee authorized the creation of the ad hoc investigatory committee.

Terms of Reference for the CAUT Ad Hoc Investigatory Committee

The terms of reference for the CAUT *Ad Hoc* Investigatory Committee were:

1. to examine the circumstances surrounding the resignation of the Director of the Peter Wall Institute for Advanced Studies in November 2018, and to determine if a violation of academic freedom occurred; and,

2. to investigate the governance structure of the PWIAS in order to determine whether it adheres to principles of collegial governance.

The CAUT *Ad Hoc* Investigatory Committee operated under the *CAUT Procedures in Academic Freedom Cases.* In accordance with these procedures, the committee gathered relevant documentation and sought interviews with a large number of people with current and historical knowledge related to the questions above. Consistent with CAUT procedures in investigating academic freedom cases, parties who may be adversely affected by the findings of the report were notified in advance of publication and permitted an opportunity to provide comment and further information.

In August 2019, the committee interviewed former director of the PWIAS, Dr. Philippe Tortell. In September 2019, the committee paid a visit to the University of British Columbia and, over the course of several days, interviewed a number of faculty members with knowledge of and involvement in the PWIAS and the UBC Senate. The President of the University of British Columbia, who also chaired the Board of the PWIAS at the time of the events discussed here, declined to participate (Appendix II), as did all other senior administrators involved in the institute and all members of the PWIAS Board. As a result, much of this report is based on the testimony of those people who were willing to meet with the investigatory committee. However, the committee was able to supplement this testimony with significant and comprehensive documentary evidence.

In March 2021, after receiving notice of the imminent completion of this report and its tentative findings, UBC issued a letter to the CAUT Executive Director and Investigatory Committee. The letter, authored by Dr. Moura Quayle in her capacity as Chair of the PWIAS Board of Trustees, expressed "serious consternation" in relation to the content of the notice and reiterated the commitment of UBC and the PWIAS Board "to clarifying the governance structure at the Institute within the legal framework of the Deed of Trust and the British Columbia *University Act."* The letter also offered additional information and perspectives that have been carefully considered and addressed in the final iteration of this report.

The Institution

The University of British Columbia was established in 1908 in Vancouver BC, by an Act of the provincial legislature. It commenced operations in 1915 at the so-called "Fairview shacks" adjacent to the Vancouver General Hospital, with its first staff and initial curriculum coming from McGill. Although the university's Point Grey site had been selected in 1910, only in 1925 did the university move to its current site. Enrolment grew slowly until after the Second World War. Thereafter, however, growth was steady. Between 1948 and 1964, five new faculties (Law, Graduate Studies, Pharmacy, Medicine, and Dentistry) were created; three other departments or schools (Forestry, Commerce, and Education) were elevated to the status of faculties; and the Faculty of Arts and Science split into two discrete faculties.

In the late 1980s, UBC commenced the first of its many successful funding campaigns. The "UBC Campaign," under the slogan "A World of Opportunity," sought to raise $66 million, but within four years had raised almost four times this amount ($262 million). Thus, at the beginning of the 1990s, UBC had 30,000 students, a new campus plan (1992), and funding success that exceeded all expectations. A new Fundraising and Acceptance of Donations Policy, adopted by the UBC Board of Governors in September 1993, marked the university's new status as an attractor of major donations. The 1990s were therefore not surprisingly a period of dramatic growth for the institution; expansion in enrolment, funding, and building accelerated under the presidency of Dr. Martha Piper, who was appointed in 1997. Many landmark donations followed. In the early 2000s, two $20-million gifts from forest-industry leaders created the Sauder

School of Business and the Irving K. Barber Learning Centre respectively. By 2006, when Dr. Stephen J. Toope became UBC's twelfth president, UBC was a very different institution from what it had been only twenty years before.

The same period also saw the expansion of UBC beyond its Vancouver campus. In 2004, then-premier Gordon Campbell and then-President of UBC Martha Piper announced that Kelowna's Okanagan University College would be split, with much of the college becoming part of the University of British Columbia as UBC-Okanagan. This occurred in 2005, with UBC-Okanagan maintaining an independent Senate but coming under the jurisdiction of the UBC Board of Governors. Today, UBC has 60,000 students, 4,000 faculty, 18 faculties, 17 schools and colleges, and many research institutes and centres across its two campuses.

UBC now ranks among the top three universities in Canada, and 34th in the world. External research support at UBC approaches $600 million, and research output from UBC is internationally recognized. Dr. Santa Ono assumed the presidency of UBC and the title of Vice Chancellor in August of 2016. He also serves as Chair of the University Senate and served, until 2020, as the Chairman of the Board of Trustees (BoT) of the Peter Wall Institute of Advanced Studies.

The Institute

The Peter Wall Institute for Advanced Studies (PWIAS) is one of five prominent research centres at UBC. It was established in 1991 by a $15-million donation to the UBC Foundation from Peter Wall, a Vancouver real estate developer. At the time, the donation was heralded as "the largest donation made to UBC in its 75-year history."[3] The gift consisted of 6.5 million shares of Wall Financial Corporation (WFC) stock, which established the Peter Wall Endowment with the exclusive purpose of funding the PWIAS. Dividends from the gifted stock, cash donations from the Peter Wall Charitable Foundation, and interest accumulated from these sources were primary sources of cash intended to fund the PWIAS. Additional and sizable financial support has also been provided by UBC from the Hampton Endowment, a $10-million fund added to the resources of PWIAS in 1994. The PWIAS instituted its first programs in 1994, and its first Director, Ken MacCrimmon, was appointed in 1996. In 1999, the institute moved to its current home in the Leon and Thea Koerner University Centre.

Governance & oversight

The governing body of the PWIAS is the Board of Trustees, constituted under the *Deed of Trust for the Establishment of the Peter Wall Endowment (1991).* The board comprises five members, who meet twice per year and share the mandated responsibility "to govern and manage the Peter Wall Endowment." [4]

According to the Deed, the BoT is to be chaired by the President of UBC or his/her designate. At the time of the events considered in this report and until September 2020, the board was chaired by the UBC President, Dr. Santa Ono. It is currently chaired by his designate, Dr. Moura Quayle.

The PWIAS BoT includes, in addition to the Chair, two trustees appointed by UBC. At the time of the events considered in this report, faculty members Dr. Judy Illes (Professor of Neurology and Canada Research Chair in Neuroethics) and Dr. Maxwell Cameron (Professor, Department of Political Science) served as the UBC-appointed trustees. In February 2021, Dr. Ono announced two new appointees: Dr. Jennifer Berdahl of the Department of Sociology as President's Appointee and Dr. Sathish Gopalakrishnan of the Electrical & Computer Engineering Department as the UBC Foundation delegate.[5] These appointments followed an open nomination process announced by Dr. Ono at the Senate meeting of 18 November 2020.[6]

Finally, the board also includes a representative of the donor family and a representative of the Wall Financial Corporation. At the time of the events considered

3. https://www.library.ubc.ca/archives/pdfs/ubcreports/UBC_Reports_1991_04_18.pdf
4. https://pwias.ubc.ca/node/1502
5. https://pwias.ubc.ca/announcements/new-ubc-appointees-the-peter-wall-endowment-board-trustees
6. https://senate.ubc.ca/sites/senate.ubc.ca/files/downloads/20201118%20Vancouver%20Senate%20Minutes%20Final%20Draft.pdf

here and at present, these positions were and are held by Sonya Wall and Bruno Wall respectively.

There are five "Official Observers" who attend meetings of the Board. These are the Director of the PWIAS, *ex officio*; the Vice-President Research and Innovation (VPRI); the Provost and Vice-President Academic (VPA); and the two Peter Wall Distinguished Professors.

Until 2015, the Board was assisted by the Academic Advisory Committee, a group of researchers whose duty was to reinforce the academic integrity of the institute and provide input on program changes, international partnerships, and Distinguished Visiting Professor appointments. Currently, the PWIAS has an Academic Advisory Board chaired by the Director and comprising nine members, most of whom are UBC faculty. This board was reconstituted in September 2020 and includes, according to the PWIAS website:[7]

> Carole P. Christensen, Professor Emeritus, School of Social Work
> Wade Davis, Professor, Department of Anthropology
> Michelle LeBaron, Professor, Peter A. Allard School of Law
> Renisa Mawani, Professor, Department of Sociology
> Sebastian Prange, Associate Professor, Department of History
> Olav Slaymaker, Professor Emeritus, Department of Geography
> Michelle Stack, Associate Professor, Department of Educational Studies
> Ali Tatum, Colour Wave Consulting
> Saraswathi Vedam, Department of Family Practice

The Director of the PWIAS reports to the Board of Trustees but has also for administrative purposes reported to UBC administrators: first, the Dean of Graduate Studies, and since 2004, the VPRI.

The PWIAS underwent external reviews in 2003 and 2011. In its meeting of 12 December 2018, in response to the events with which this report is concerned, the UBC Senate approved a motion to arrange for another external review of the PWIAS, which has since concluded. The terms of reference for the review, according to the Senate motion, were to "include an explicit mandate to investigate and make recommendations on the Institute's structure and governance (both academic and financial)."[8]

Purpose

The Wall Institute may be described as an incubator for broad-based, curiosity-driven, innovative, interdisciplinary research. The Deed of Trust mandated that the President of UBC, then David Strangway, should develop the concept for PWIAS. In 1991, Strangway stated:

> Peter [Wall] realized that there was an opportunity to create a university-based institute for advanced research which doesn't exist anywhere else. He made it clear from the outset that the money had to be used to generate new ideas and initiatives that wouldn't happen otherwise.[9]

The institute's declared mandate was "to support fundamental, interdisciplinary research and creative activities which have the potential to result in significant advances to knowledge."[10]

Programs

The Institute's mandate has been supported by the programs of the PWIAS, including Wall Scholarships, Distinguished Professorships, Distinguished Visiting Professorships, Solutions Initiatives, and International Research Roundtables, among others. The overarching emphasis of the PWIAS is to gather excellent researchers from highly diverse disciplines, to be in residence together (at PWIAS or abroad), in order to create unique synergies that may contribute to novel interdisciplinary research and subsequent solutions to large-scale problems.

---

7. PWIAS. "PWIAS Academic Advisory Board Members." 28 September 2020. https://pwias.ubc.ca/announcements/pwias-academic-advisory-board-members ; https://pwias.ubc.ca/node/1502
8. UBC Vancouver Senate, Minutes, 12 December 2018. https://senate.ubc.ca/sites/senate.ubc.ca/files/downloads/Item%202%2020181212%20Vancouver%20Senate%20Minutes%20Final%20Draft.pdf
9. Charles Ker, "Wall Institute to meld best minds in research." UBC News, 12 December 1996. https://news.ubc.ca/1996/12/12/archive-ubcreports-1996-96dec12-wall2/
10. UBC Calendar. http://www.calendar.ubc.ca/vancouver//pdf/UBC_Vancouver_Calendar_Research_Units_Centres_and_Institutes.pdf

Distinguished Professors are the core of the institute and are semi-permanent members, serving five-year renewable terms. The first Distinguished Professors were Nobel Laureate Dr. Michael Smith, who was appointed in 1994 and held a professorship until his death in 2001; and Dr. Raphael Amit, who held his professorship from 1994 until his resignation in 2000. Current DPs are Dr. Brett Finlay, appointed in July 2002, and Dr. Derek Gregory, appointed in July 2011.

Under the WSRA program, up to 10 UBC faculty members are appointed for a year in residence. In 2019, nine faculty members from across UBC were so appointed, a number that rose to 10 in 2020 and 12 in 2021.

In addition, visiting scholars are in residence at the Institute throughout any given year through the IVRS program. In 2019, ten faculty members from various nations and institutions were hosted by the institute. Because of the ongoing COVID pandemic, this program is currently suspended.

Along with these core programs, the institute engages in international partnerships and offers grant-funded exploratory workshops, major thematic grants, and the successful Wall Exchange, a high-profile lecture series held off campus.

The Case

In 2016, Professor Philippe Tortell of UBC's Department of Earth, Ocean and Atmospheric Sciences assumed the Directorship of the PWIAS, replacing interim director Dr. Gastón Gordillo.

In 2017, Dr. Tortell was asked by the VP Research and the Wall Institute BoT to develop a new strategic plan for the Institute. The most recent strategic plan had been prepared in 2009. In 2017/18, Tortell worked to create a renewed vision for the Institute. He consulted with a variety of stakeholders on campus, including the Wall Distinguished Professors, Deans of Faculties, the VP Research, and others. He also consulted with international Wall Institute partners.

Tortell submitted a draft strategic plan for the Institute's future to the BoT in May 2018. According to Tortell, after review of the draft document, the BoT directed him to undertake a second attempt to create an acceptable strategic plan. Tortell submitted a revised draft strategic plan to the BoT in October 2018. Following this submission, the BoT met *in camera* with neither Tortell nor the Institute Distinguished Professors present at the meeting. As detailed above, Tortell, Finlay, and Gregory all have the status of Official Observers to Institute BoT meetings, and Tortell as Institute Director is an *ex officio* member of the Board of Trustees. According to the Distinguished Professors, neither was notified of the *in-camera* BoT meeting.

On 16 November 2018, Tortell received a letter from UBC President Santa Ono, who was at the time also the Chair of the BoT. The letter contained what Tortell described as "a list of directives" from the Institute BoT for the future of PWIAS Institute programs, approved by the BoT in its aforementioned *in camera* session. The letter, according to Tortell, proposed the elimination of a "majority" of PWIAS programs and modification of remaining programs to align more closely with existing VP Research Excellence Clusters. Most significantly, the alignment would require Wall Scholars to engage directly with Research Excellence Clusters, including a new thematic program to enhance and complement the work of existing Research Clusters, with funding being awarded primarily to members of those clusters.

Dr. Ono's letter to Dr. Tortell constitutes one of the most significant milestones in these events. In her letter of March 2021, Dr. Quayle contests Tortell's description of the Ono letter as a "list of directives," calling this an "inaccurate and biased characterization." According to Dr. Quayle, "CAUT's inquiry is premised on the fallacious assumption that the Board had issued directives to eliminate the majority of the Institute's programs and modify the remaining programs to realign with existing research clusters. The letter from Professor Ono to Professor Tortell did not state this at all."

Dr. Quayle notes that the PWIAS budget had not been finalized "and no final decisions had been made." Instead, Dr., Quayle suggests, Professor Ono was providing feedback and recommendations rather than "directives," and "any alignment within the larger university ecosystem were [sic] made solely in the best interests of the institute." In particular, Dr. Quayle

notes that "It is not the case that our Colleagues decided that all the remaining programs were to be aligned with UBC's existing research clusters. Only one program, Thematic Groups, was recommended to be realigned with UBC's research clusters, while another, Wall Scholars, was to be encouraged to directly engage with them."

Because of the role of President Ono's letter to the PWIAS Director in precipitating the Tortell resignation and the events that followed, the two contrasting characterizations of the letter—Tortell's and Quayle's—require consideration. Certainly, the letter from Dr. Ono of 26 November 2018 does list as its purpose the sharing of "feedback, recommendations, and requests from the Board of Trustees," the body charged with approving the strategic plan and budget. However, the letter contained the following statement with regard to the Wall Scholars: "Scholars will be *expected* [emphasis added] to engage directly with relevant Research Excellence Clusters." The distinction between being "encouraged" to do something and being "expected" to do something is substantial enough that it appears reasonable for Dr. Tortell to have viewed this as a "directive."

In addition, with regard to the Thematic Research Fellows and Research Cluster alignment, Dr. Ono's letter stated that:

> In keeping with the Board's desire to enable greater alignment with the new UBC strategic plan and recognizing the success and impact of the [UBC] Clusters of Research Excellence program, *it will be important that a large portion of that funding go to enhance and complement the work of existing Research Clusters* [emphasis added]. We recognize the importance of keeping some funds available for new themes that emerge within the Institute. However, *the focus of this program should be on the existing Clusters program, with funding being awarded primarily to members of those Clusters* [emphasis added].

Finally, with regard to the elimination of what Tortell characterized as a "majority" of PWIAS programs, Dr. Quayle notes in her letter of 2021 that "[o]ut of a total of 14 programs and initiatives…, the Board made a recommendation that only four programs be discontinued, one of which was already dormant." Again, the question of "recommendation" versus "directive" appears to be in dispute between UBC and Dr. Tortell. The language of the letter is therefore relevant. Dr. Ono's letter stated:

> The Board decided that the International Research Roundtable, the Distinguished Visiting Professor, and the Wall Solutions Initiative *will be* [emphasis added] discontinued as of April 1st, 2019. The combined budget lines for International Partnerships and New Research Initiatives will be reconfigured into a single budget item in the amount of $110,000 for FY20, which will be a discretionary amount for the PWIAS Director. The Board will expect an annual report that captures the use, outcomes, and impact of this funding.

The question of whether the number of programs involved constituted a "majority" is not germane to this report or its findings. However, it is noteworthy that regardless of the number of programs the PWIAS has (the PWIAS website lists six, currently), and the number discontinued, the programs whose discontinuance was in fact directed were highly significant ones.

In response to the Ono letter, Tortell resigned on 20 November 2018, arguing that the Board's vision was "wholly inconsistent" with the Institute's values.[11] Tortell further stated to CBC News that "UBC's problem is that they are trying to dictate from the top, from the administrator's role, what research should be done. And good research doesn't work like that."[12] Tortell went on to post online that "the mandated re-alignment of PWIAS programs … poses an existential threat to the Institute's core mission, academic independence, and capacity to catalyze truly innovative and creative research. It also highlights an on-going and pernicious governance problem at PWIAS and sets a dangerous precedent of senior administrators directing research at UBC." [13]

11. https://pwias.ubc.ca/sites/default/files/media_files/Philippe_Tortell_letter.pdf
12. https://www.cbc.ca/news/canada/british-columbia/peter-wall-institute-director-1.4914839
13. https://nghoussoub.com/2018/11/21/why-i-am-resigning-from-the-directorship-of-the-wall-institute/

On 21 November 2018, President Santa Ono met with PWIAS Distinguished Professors Brett Finlay and Derek Gregory to discuss with them the resignation of Dr. Tortell and the PWIAS strategic plan. Dr. Ono also stated that he had received about 24 communications from faculty members regarding PWIAS. To CBC News, President Ono expressed his disappointment in Tortell's resignation, but CBC noted that "the Institute's direction is ultimately shaped by the university's president, according to its founding agreement, so the Board has the ability to make directives."[14] Dr. Max Cameron, a UBC professor and one of the five members of the Peter Wall Institute BoT, stated in the *Globe and Mail* that "The goal of the board was to find ways of aligning the institute with the strategic plan of the university… There was certainly no question of infringing on academic freedom."[15] In the same article, Tortell was quoted stating that the "university must be a bastion of curiosity-driven fundamental research, where great minds freely explore new intellectual horizons through unfettered and unscripted work."[16] He also called the Peter Wall Institute "a special place at UBC that sits outside existing faculty structures. It brings together scholars and scientists and artists from across the university, and internationally, in a way that doesn't answer to any particular university research project. It's meant to have them interact in a free and intense way to generate new ideas and projects that would not happen any other way."

Tortell's resignation drew an outcry from faculty online, according to the CBC.[17] UBC psychology professor Kalina Christoff, who was a Wall Scholar in 2017 and became PWIAS Interim Director in May 2019, said "Tortell's resignation was demoralizing for faculty and […] points to administration dictating research interests."

Subsequently, according to CBC News (25 November 2018),[18] the PWIAS Board reversed course, at least temporarily. It would keep the Institute's scholar program, and not ask scholars at the Institute to align their work with existing research at UBC, at least through 2019. President Ono, speaking on behalf of the Board at the time, did not address the program's future beyond 2019.

Based on calls for programs and announcements on the PWIAS website https://pwias.ubc.ca/announcements/2021-wall-scholars-announced, the PWIAS Board approved a continuation of existing Institute programs for fiscal year 2020-2021 (aside from the pandemic disruptions noted above). Ono also stated that the five-person board would consult with members of the Institute on future directions. Tortell responded, "the changes were a welcome move… but making decisions from the top then reversing them isn't the right way to steer an institute".[19]

The Tortell resignation and media coverage thereof brought intense scrutiny to the PWIAS. At its meeting of 12 December 2018, the UBC Senate mandated an External Review of the Wall Institute. This review was conducted by a team comprising four eminent international scholars, of whom three are directors of comparable research institutes. The reviewers rendered their report on 24 January 2020; it is discussed later in this report.

In Fall 2019, PWIAS Interim Director Christoff and President Ono recommended the engagement of a consultancy firm to undertake a confidential Governance Diagnostic Review of the PWIAS and its BoT. That review was made available to the External Reviewers and is considered in their report.

In November 2020, the PWIAS Interim Director and BoT issued their response to the 2019 External Review. Of note are the steps undertaken by UBC and the PWIAS to provide transparency. First, the Wall Institute has acted with transparency in providing the 2003, 2011,

14. https://www.cbc.ca/news/canada/british-columbia/peter-wall-institute-director-1.4914839
15. Joe Friesen, "Head of UBC research institute resigns over academic freedom concern." Globe & Mail, 22 November 2018. https://www.theglobeandmail.com/canada/article-head-of-ubc-research-institute-resigns-over-academic-freedom-concern/
16. Friesen, "Head of UBC research institute resigns."
17. https://www.cbc.ca/news/canada/british-columbia/peter-wall-institute-director-1.4914839
18. https://www.cbc.ca/news/canada/british-columbia/peter-wall-institute-changes-1.4919668
19. Alex Migdal, "Changes to independent UBC research institute reversed after director resigns." CBC News, 25 November 2018. https://www.cbc.ca/news/canada/british-columbia/peter-wall-institute-changes-1.4919668

and 2019 External Review documents on its own website. In addition, the consultants' Governance Diagnostic Review (the "Watson Report") was made available in March 2020 on the PWIAS website, in keeping with a recommendation of the 2019 External Review.

However, also of note with respect to process and collegial governance at UBC are delays in sharing the full External Review Report. The Provost withheld the External Review Report from Senate until a Response to the External Review, prepared by the PWIAS Interim Director and BoT, could accompany the External Review Report. In January 2021, Vice-Provost Moura Quayle presented to Senate on the full year's cycle of External Reviews. The relevant Senate minutes summarize her comments:

> Professor Quayle said that overall UBC can be very proud of the generally excellent reviewer comments and how seriously our units took the recommendations made. In terms of themes emerging, she referenced finding models of experiential education that are sustainable, including general improvement from learning environments: recruitment of indigenous faculty members and plans for indigenous engagement and indigenous content and curriculum; equity, diversity, and inclusion leadership and how those were built into and should be built into the unit strategic plans; improving graduate student experiences; some focus on administrative restructuring and a number of the units always space and facility challenges [sic] and some reference to new models for academic faculty appointments, especially in some of our professional schools.[20]

The delay in providing the External Review truncated Senate's opportunity to contribute to the Response to External Review at this stage of the process. The Senate Standing Committee on Research (co-chaired by Drs. James Stewart and Guy Faulkner), however, has the External Report and the Response to the External Report. This Senate Committee has begun assessing the Report and the Response to Report and was due to report to Senate in spring 2021.[21]

On 11 May 2021, the PWIAS announced that Interim Director Dr. Christoff would not be seeking another term at the expiry of her contract on 31 May 2021. A call for expressions of interest in a one-year Acting Director position was issued, with applications due by 20 May 2021- just a 9-day posting.

On 4 June 2021, the PWIAS announced the appointment of Professor Emeritus John Gilbert (Faculty of Medicine, College of Health Disciplines, School of Audiology & Speech Sciences) as Acting Interim Director of the institute. Dr. Gilbert brings exceptional scholarly qualifications, but his appointment is nonetheless concerning for two reasons.

First, appointments of emeriti to positions such as the PWIAS directorship are unusual to say the least. Previous directors have been drawn from the ranks of faculty members currently in the employ of UBC.

Second, the appointment of yet another Interim Director is concerning given this watershed moment in the history of the PWIAS. Interim and acting positions are not unusual where searches fail, or vacancies arise unexpectedly. Neither should have been the case in the PWIAS's current circumstance, where an Interim Director had been in place for two years. Since 2014, the PWIAS has been led by a duly appointed non-interim Director for only two of seven years, with three (and now a fourth) Interim Directors leading the institute the majority of the time. This is clearly an untenable situation for any research institute, let alone for one of PWIAS's stature.

---

20. https://senate.ubc.ca/sites/senate.ubc.ca/files/downloads/20210120%20Vancouver%20Senate%20Minutes%20Final%20Draft.pdf

21. Publicly available Senate minutes at the time of this report include only meetings up to and including the March 2021 meeting, so it is possible that this report has been made.

The UBC Faculty Association's involvement

On November 25, 2018, the UBC Faculty Association (UBCFA) sent a letter[22] to President Ono stating the approved Canadian Association of University Teachers (CAUT) Council motion:

> CAUT Council notes the resignation of the Director of the Peter Wall Institute for Advanced Studies over allegations that the academic independence of the institute was violated. Council calls on the CAUT Executive Director to work with the UBC Faculty Association to gather further information about the matter and report to the CAUT Academic Freedom and Tenure Committee.

The letter also stated that the UBCFA, in conjunction with CAUT, would gather information on what avenues of collegial consultation were employed to formulate the new mandate for the PWIAS and what procedures were used to adopt this mandate. Further, the UBCFA stated that:

> We are concerned about whether your administration believes that the implementation of the University's strategic plan authorized the central administration to alter the research or teaching missions of academic units without sufficient collegial consultation, both with the members of the unit and with UBC's wider academic community, and without approval of Senate.

The UBCFA expressed the view that such actions constituted "potential incursions upon the academic freedom and autonomy of UBC's academic units, as well as usurpations of the academic governance powers of Senate". Citing the Collective Agreement signed between the parties and the report of the Honourable Lyn Smith, QC, the UBCFA noted the positive duty upon all members of UBC for "supporting, safeguarding, and preserving" academic freedom.

In response to the UBCFA letter of 25 November, President Ono sent a letter (Appendix III) dated 17 December to the UBCFA. In this letter, he stated that "in line with its fiduciary and governance responsibilities, the Board asked Professor Tortell in September 2017 to develop a strategic plan for the Institute.… Professor Tortell was encouraged to consult with stakeholders across the University." The President also stated, "We wish to reiterate that as a public academic institution, UBC places paramount value on academic freedom, and on supporting interdisciplinary research. We are committed to maintaining the Wall Institute's unique role and mission at UBC and to ensuring that the institute continues to support and nurture the outstanding research for which it is known."

Discussion

Academic freedom

The UBC Faculty Association, formed in 1920, has a longstanding commitment to academic freedom. In 1948, the UBCFA urged the UBC Board of Governors to endorse the American Association of University Professors' 1940 statement on tenure and academic freedom, which the board did in 1949, enshrining UBC's institutional commitment to these core principles of the academy.

After the UBCFA became sole faculty bargaining agent under the BC Labour Code in 2000, tenure and academic freedom were enshrined in collective agreement provisions. Language on academic freedom entered the agreement preamble in 2006 in the form still present in the Collective Agreement today.[23] The preamble reads as follows:

> …members of the University enjoy certain rights and privileges essential to fulfillment of its primary functions: instruction and pursuit of knowledge. Central among these rights is the freedom, within the law, to pursue what seems to them as fruitful avenues of inquiry, to teach and to learn unhindered by external or non-academic constraints.... Suppression of this freedom, whether by institutions of the state, the officers of the University or the actions of private individuals, would prevent the University from carrying out its primary functions. All members of the University must recognize this fundamental principle and must share responsibility for supporting, safeguarding and preserving this central freedom."

22. https://www.facultyassociation.ubc.ca/assets/media/25Nov18_LT-Pres-Ono-re-PWIAS.pdf

23. https://www.facultyassociation.ubc.ca/assets/media/Academic-Freedom-History-and-Principles_HonLynnSmith.pdf, p. 7.

The university's policy on academic freedom, enshrined in the university calendar,[24] restates much of the preceding commitment and extends it beyond the members of the UBCFA:

> … This freedom extends not only to the regular members of the University, but to all who are invited to participate in its forum. Suppression of this freedom, whether by institutions of the state, the officers of the University, or the actions of private individuals, would prevent the University from carrying out its primary functions. All members of the University must recognize this fundamental principle and must share responsibility for supporting, safeguarding and preserving this central freedom. Behaviour that obstructs free and full discussion, not only of ideas that are safe and accepted, but of those which may be unpopular or even abhorrent, vitally threatens the integrity of the University's forum. Such behaviour cannot be tolerated.

UBC's obligation to uphold academic freedom has been further elaborated by the Smith Report of October 2015,[25] itself a response to a significant concern about interference by the UBC Board of Governors in the academic freedom of a faculty member. In her report, Smith articulated the obligation of the UBC administration and community not merely to refrain from acts that might infringe upon academic freedom, but rather "to support and protect academic freedom at UBC"; that is, as a "positive obligation."

Our investigation was tasked, first, "to examine the circumstances surrounding the resignation of the Director of the Peter Wall Institute for Advanced Studies in November 2018, and to determine if a violation of academic freedom occurred."

We will first address the issue of "potential incursions on the academic freedom and autonomy of UBC's academic units" as put forth by the UBCFA, as a result of events leading to the resignation of the PWIAS Director. It is our understanding and working assumption that academic units in and of themselves do not possess academic freedom; as detailed in the CAUT Policy Statement on Academic Freedom, [26] "[a]cademic freedom is a right of members of the academic staff, not of the institution." Therefore, a violation of the academic freedom of an academic unit per se is not possible. Autonomy of academic units is determined through collegial governance processes within the unit and with the greater university. Collegial governance within PWIAS, and in conjunction with the University regarding PWIAS, will be addressed in subsequent sections of this report.

Next to be considered is the question of whether the academic freedom of the PWIAS Director and/or PWIAS members was violated. This question requires consideration of two aspects of academic freedom detailed in the CAUT Policy Statement on Academic Freedom. The first of these is *research-related*: "the right, without restriction by prescribed doctrine, to freedom to teach and discuss; freedom to carry out research and disseminate and publish the results thereof; [and] freedom to produce and perform creative works."

The PWIAS scholars were directed to "cluster up". Engaging with a cluster or clusters was mandatory ("required") as the result of a decision by the Board of Trustees. To compel academics to join an existing research cluster may narrow and focus research activity to certain areas in an institute such as the PWIAS, whose foundations lie in a commitment to unbounded and innovative inquiry without regard to scholarly trend, immediate utility, or institutional desires. The requirement to "cluster up" was contrary to the foundational charter and aspirations of the institute itself.

Despite these changes, which alter the noble aspirations and unique nature of the Institute, was the *research-related* academic freedom of the PWIAS Director and members violated? In 2019, there were 27 funded clusters, with themes from the specific ("Bee Health") to the broad (Biodiversity Research: An Emerging Global Research Priority").[27] The clusters are not

24. http://www.calendar.ubc.ca/vancouver/index.cfm?tree=3,33,86,0
25. https://www.facultyassociation.ubc.ca/assets/media/Academic-Freedom-History-and-Principles_HonLynnSmith.pdf
26. https://www.caut.ca/about-us/caut-policy/lists/caut-policy-statements/policy-statement-on-academic-freedom
27. https://research.ubc.ca/vpri-competitions-initiatives/research-excellence-clusters/research-excellence-clusters-funded-2019

infinitely broad, however, and it is easily possible to imagine a researcher whose work does not fit within *any* of the clusters listed on the VPR's website for 2018, 2019, 2020, or 2021.[28] Presumably, then, mandatory "research clustering" both within the PWIAS and at UBC carries the potential to infringe upon academic freedom, an issue that requires further and broader discussion at UBC.

A second aspect of academic freedom relevant in this case and described in the *CAUT Policy Statement on Academic Freedom* is *intramural* academic freedom:

> that is, the right to have representatives on and to participate in collegial governing bodies in accordance with their role in the fulfilment of the institution's academic and educational mission. Academic staff members shall constitute at least a majority on committees or collegial governing bodies responsible for academic matters including but not limited to curriculum, assessment procedures and standards, appointment, tenure and promotion" [emphasis added].[29]

Given that the directive to align with research clusters and the other academic changes to the PWIAS did not arise from collegial governing bodies containing a majority of academic staff, the decisions taken in November 2018 can be described as an infringement upon the intramural academic freedom of Dr. Tortell and the academic staff of the PWIAS.

In this regard, our findings on academic freedom are both similar to and different from those of the distinguished panel that conducted the 2019 External Review. That panel found that

> At issue, we believe, is not academic freedom *per se* but the equally important question of the appropriate level of autonomy of PWIAS leadership relative to the Board when it comes to decision-making about programs that best fit the academic mission of the Institute and the university. It is critical that a high degree of such autonomy be respected and preserved while still ensuring appropriate input and advice from other stakeholders, most importantly the Board of Trustees and relevant academic administrators and stakeholders. The establishment of mutual confidence and trust among the players is essential for the future of the PWIAS. As we argue below, significantly revised governance arrangements will provide the grounding for achieving productive and cooperative relationships.[30]

That is, the reviewers did not find that *research-related* academic freedom had been infringed upon, but they pointed to defects in governance that infringed upon the "autonomy of [academic] PWIAS leadership" in relation to academic decision-making: defects that relate directly to the intramural academic freedom referenced in the CAUT Policy Statement and defined above.

PWIAS adherence to principles of collegial governance

Our investigation was further tasked to investigate the governance structure of the PWIAS, in order to determine whether it adheres to principles of collegial governance. The PWIAS is not a freestanding institute but is a component of a major university. Because the PWIAS is affiliated with and part of UBC, the requirement to adhere to principles of collegial governance should apply not only to the PWIAS governance structure itself, but also to the structure of PWIAS-UBC relations.

Within the PWIAS, we believe, the principles of the *CAUT Policy Statement on Governance* should obtain, in that "Academic staff must play the decisive role in making academic decisions and setting academic policy in order for post-secondary institutions to fulfill their public responsibilities for the creation, preservation, and transmission of knowledge and for the education of students."[31] A governance structure that met this standard would allow faculty to take the central role in determining the academic direction of the institute.

In academic relations between the PWIAS and the broader university, appropriate governance would

28. https://research.ubc.ca/vpri-competitions-initiatives/research-excellence-clusters
29. https://www.caut.ca/about-us/caut-policy/lists/caut-policy-statements/policy-statement-on-academic-freedom
30. PWIAS External Review Report, January 2020, p. 3.
31. https://www.caut.ca/about-us/caut-policy/lists/caut-policy-statements/policy-statement-on-governance

imply a central role for Senate, in keeping with the CAUT Policy Statement, which states that:

> Academic decisions and setting of academic policy should be the responsibility of a senior academic body (typically called Senate) committed to collegial governance. Associated functions should include but should not be limited to articulating the academic mission of the institution, determining its programs of study and related curricular matters, determining academic standards, oversight of long-range academic planning and its implementation, and oversight of the academic operations of the institution.

A governance relationship that met this standard would see the UBC Senate take a central role in oversight of the PWIAS.

Our report reflects these fundamental tenets of collegial governance. We find that both within the governance structure of the Institute itself and in the governance of relations between the PWIAS and UBC, principles of collegial governance have been ignored and best practices neglected.

Internal structural governance of the PWIAS: The Board of Trustees

As discussed above, the PWIAS is governed by a five-person Board of Trustees including two members appointed by the donor family and the Wall Financial Corporation, respectively. The current structure represents an evolution of the structure originally anticipated by the Deed of Trust. The five trustees designated by the Deed are:

1. The President of the University, who is the Chair, or his/her designate;
2. The Chair of the UBC Foundation or his/her designate;
3. One person appointed by the President;
4. Peter Wall or a designate of his choosing; and
5. One person appointed by Peter Wall.

The members of the Wall Institute Board of Trustees in 2018 (and in 2021) include more academics than originally anticipated by the Deed. In 2018, the members were:

1. UBC President Santa Ono;
2. UBC Professor Judy Illes
3. UBC Professor Max Cameron
4. Mr. Bruno Wall (Wall Financial Corporation); and
5. Ms. Sonya Wall (donor family).

The Board of Trustees members listed here directed Dr. Tortell to produce the strategic plan, rejected the two draft plans, and produced and/or approved the letter stipulating that institute members and their activities should align with existing research clusters.

It is clear from this action of the BoT, from the Deed of Trust itself, and from the history of the PWIAS that the BoT has the authority to determine academic matters. The composition of the PWIAS Board of Trustees and its jurisdiction over academic matters are in conflict with the CAUT Guiding Principles for Donor Collaborations,[32] which articulate best practices for the maintenance of academic integrity as follow:

1. No donor or other collaborative agreement may be allowed to intrude on academic governance or contravene existing academic policies or collective agreements.

2. In no case, should a funder or a private collaborator or their representatives have any voice in matters related to the academic affairs of the institution or academic aspects of the collaboration.

3. Donor and other collaborative agreements should be governed by a committee at least 2/3 of which are elected faculty members who do not hold administrative positions. The administrative staff component should include both those who are involved in the agreement and those that are not.

4. The day-to-day management of the agreement should be conducted predominantly by university faculty, not by representatives of the external funder.

Despite the presence of two UBC faculty members, the strong presence of the donor family anticipated by the Deed continues to dictate the composition of the

32. https://www.caut.ca/sites/default/files/guiding-principles-for-university-collaborations-april-20121.pdf, p. 7.

board. Bruno and Sonya Wall are non-academics and are relatives of Peter Wall, the donor who created the Wall Endowment. The board's composition thus also militates against UBC's own Fundraising and Acceptance of Donations Policy.[33] As discussed above, this policy was adopted in September 1993, after the announcement of the Wall donation but, importantly, before the constitution of the institute itself. The policy states that:

> A donation is a voluntary transfer of property from a donor to UBC without any expectation of return or benefit… UBC *values and will protect* its integrity, autonomy, and academic freedom, and will not accept donations when a condition of such acceptance would compromise these fundamental principles. [emphasis added]

The very composition of the PWIAS Board of Trustees envisioned in the Deed of Trust, however, appears to constitute "a condition of such acceptance" with significant potential to "compromise these fundamental principles."

With only five members, the Board of Trustees of the Wall Institute is exceedingly small. Just two members of the board have academic status. The UBC President is an administrator, occupied heavily with administrative duties including donor relations. It is not conceivable that a governance model with this Board composition can maintain appropriate academic decision-making. The Wall Board of Trustees governance structure appears to place non-academics in the inappropriate position of making decisions regarding the academic direction of the institute and the pursuits of Wall academics. The inappropriateness extends to their allowable influence as Wall Trustees on other academic activities of the Wall Institute, such as selection of Wall Scholars. Because our request to speak with members of the Board of Trustees was denied by email from President Ono (Appendix 2), we were unable definitively to answer this fundamental question: *What is the role, if any, of non-academic Board members in academic decisions, such as the re-alignment of PWIAS with existing research clusters at UBC?* In the absence of evidence to the contrary, and given the composition of the Board, we are forced to conclude that non-academic trustees engage in academic decision-making at PWIAS.

PWIAS service terms & service periods: Members of the Board of Trustees

PWIAS BoT members Drs. Max Cameron (appointed in 2017, by the Chairman of the UBC Foundation) and Judy Illes (appointed in 2018, by the UBC President) had served on the PWIAS BoT without designated term limits. Previous appointees to these positions on the BoT served fixed and defined terms of appointment. The Cameron and Illes appointments appear to be historical anomalies, and are not consistent with good governance, that requires turnover and replacement of Board members on a fixed and periodic basis. An effort to rectify this situation has been undertaken, as Drs. Jennifer Berdahl and Sathish Gopalakrishnan have been appointed to the BoT to replace Cameron and Illes, with the new appointees having defined terms and limits (three years, once renewable).

In addition to indeterminate terms of appointment, there are examples of extraordinarily long continuous terms of service on the BoT, whether as the appointee of the President (Akbar Lalani, 16 years; UBC foundation appointee (Les Peterson, 16 years), Peter Wall or appointee (Sonya Wall, 16 years and counting); or Peter Wall appointee (Robert H. Lee, 14 years).[34] It is unclear whether these appointments were perpetually renewed or a result of indeterminate terms. Regardless, they reflect poorly with respect to appropriate governance practices on a board. Defined term limits on Boards provide regular turnover of membership at determined intervals to ensure fresh perspectives and new leadership.

Internal structural governance of the PWIAS: The Advisory Committee

The Deed specifies that "the Peter Wall Endowment Trustees in consultation with the University will appoint a prestigious Advisory Panel composed of some of the world's most distinguished scholars to give it benefit of such persons' advice in selecting the best possible programs, projects and people." In practice, it appears that an Advisory Committee was

33. https://universitycounsel-2015.sites.olt.ubc.ca/files/2019/08/Fundraising-Policy_FM6.pdf

34. https://pwias.ubc.ca/sites/default/files/2019-12-10_PWIAS_Self_Study-FINAL_v2.pdf, p. 23.

established in 1996. The committee was a diverse group of UBC academics totaling 11 members.

It can be assumed that the Advisory Committee did not completely meet the requirements of the Deed, since "the world's most distinguished scholars" would presumably include some not located at UBC. Both the 2003[35] and 2011[36] External Reviews highlighted this deficit and urged the creation of a truly international advisory committee to produce more robust governance. The 2003 External Review urged that the Advisory Committee be given a formal role and enlarged to represent all academic constituencies served by the institute, while the 2011 Review explicitly identified potential conflicts of interest as a reason to recruit committee members external to UBC. While these recommendations seem not to have been adopted, the PWIAS Advisory Committee did provide academic input on the institute's academic mission until its demise in 2015. Had such a committee still existed at the time that strategic changes at PWIAS were under consideration (2018), it should have had a substantial role in any debate around the research direction of the Institute.

Similarly, the designation of Official Observers to meetings of the PWIAS board represents some modicum of academic oversight, although the observers had voice but no vote. As mentioned above, there are five (5) individuals who have Official Observer status at Wall Institute BoT meetings: The Director of the Wall Institute (*ex officio*); Dr. Gail Murphy, UBC Vice-President Research & Innovation; Dr. Andrew Szeri, UBC Provost and Vice-President Academic; and Drs. Brett Finlay and Derek Gregory, Peter Wall Distinguished Professors.

In sum, the structures of internal governance at the PWIAS do not conform with principles and best practices of collegial governance. Defects in governance extend beyond internal governance, to the relations between the institute and UBC's bodies of academic oversight.

UBC governance of the PWIAS: The role of Senate

In October 2001, the UBC Senate approved the "Status of Institutes and Centres" policy document.[37] In this document, section B regarding governance of Institutes and Centres is most relevant, mandating:

- That the governance of an inter-faculty Institute or Centre be provided by a Steering-Advisory Committee of representatives from proposing Faculties… and include the Director or and other participants as deemed appropriate.
- That the Steering-Advisory Committee have the following specific responsibilities: to recommend the appointment of a Director of the Institute or Centre on the advice of appropriately constituted search committee; to provide the Dean of the host faculty and the Director with advice on strategic direction and management of the Institute or Centre, to approve an annual report including a rolling three-year unit-based academic plan; to approve an annual budget…
- That the regular review of the Institute or Centre conform to common university practice and provide for the closure of an Institute or Centre when appropriate.
- That these recommendations come into force when a new Institute or Centre is proposed and inform the review of existing Institute or Centre.

Although the establishment of PWIAS pre-dates the adoption of the UBC policy on Status of Institutes and Centres, the policy clearly states that it is to inform the review of an existing "Institute or Centre", which we take to include the PWIAS, since it is a UBC institute.

We found no evidence that the University or the Wall Institute has engaged with, or conformed to, the common university practices laid out in the principles of governance and review contained within the UBC Senate's "Status of Institutes and Centres" document. In 2017, the BoT of the Wall Institute directed the Institute Director to develop a strategic plan. The Director was to consult stakeholders, and come back to the BoT with a draft strategic plan. From our analysis,

35. https://pwias.ubc.ca/sites/default/files/ExternalReviewReport_2003.pdf
36. https://pwias.ubc.ca/sites/default/files/110712_External_Review_Final_PWIAS_Report.pdf
37. https://senate.ubc.ca/vancouver/policies/status-institutes-centres

the drafting and approval of a Wall Institute strategic plan, from a policy and procedural perspective, was to be transactional between the Wall BoT and the Institute Director. This approach did not include consideration of existing institute and university policies for higher-level consultation and approval. The governance of the Wall Institute appears to be carried out solely by the Institute's Board of Trustees.

As indicated above, we found that UBC governance structures had not extended to the Wall Institute. This circumstance and associated concern were apparent at the UBC Senate meetings of 21 November and 12 December 2018. The minutes of those meetings[38] note that the UBC Senate lacked a senate research committee, and that the existence of such a committee is common practice in Canadian U15 universities. A motion passed at the 12 December Senate meeting directed the establishment of a senate standing committee on research and the drafting of its terms of reference, for presentation and Senate ratification in February of 2019. This occurred at the March meeting of Senate.[39] The intent was to provide Senate with a committee through which it can review the directions and practices of the PWIAS and other institutes, and inform the broader Senate for University approval, or not, of changes in these institutes.

The Senate went further at its December 12th meeting, passing a resolution that there be an External Review of the Wall Institute. This review has since occurred and is discussed in this report. The Senate Standing Committee on Research (co-chaired by Drs. James Stewart and Guy Faulkner) now has the External Report and the Response to the External Report. This Senate Committee will began assessing the Report and the Response to Report and was to report to Senate by the end of Spring 2021.[40] Note, however, that the Wall Institute has acted with transparency in providing the 2003, 2011, and 2019 External Review documents on its own website.

Governance of the Wall Institute: The actions of the Board of Trustees

While the structures that govern the PWIAS may lack conformity with principles of collegial governance, the *actions* taken by the board exacerbated any structural defects. Tortell, Finlay and Gregory were not invited in their role as observers to the pivotal Board of Trustees meeting that resulted in the dramatic shift in research focus to "clusters." The exclusion of observers violates good governance practices of any organization and is inconsistent with collegiality and collegial governance. Observers typically act as a resource if called upon by board members to provide information, assisting the development of an informed decision by a board. In excluding Wall Institute academic observers, the Board of Trustees limited the academic integrity of its decision-making.

The actions of the PWIAS Board of Trustees were further obscured by the fact that deliberations and decisions were made *in camera*, and minutes of the *in-camera* meeting were not made available in response to our request. The lack of transparency around these important academic decisions leaves the academic community in the dark regarding the factors that influenced the decisions that were made. Furthermore, the *in-camera* decision, made with no minutes available to the university community, leaves open the strong possibility that non-academic members of the Board of Trustees voted in support of academic changes at the Institute. This would be highly problematic, as indicated above.

PWIAS governance: Conflicts of interest & role confusion

A small Board of Trustees like the one that governs the PWIAS is arguably more vulnerable to the effects of conflict of interest and role confusion, given the disproportionate weight of each individual's voice and vote. In the consultations that preceded the Watson Report, an emergent theme was that "Some participants are seen to have *real or perceived* conflicts of interest between their obligations to the Institute

38. https://senate.ubc.ca/sites/senate.ubc.ca/files/downloads/Item%202%20-%2020181121%20Vancouver%20Senate%20Minutes%20Final%20Draft.pdf; https://senate.ubc.ca/sites/senate.ubc.ca/files/downloads/Item%202%2020181212%20Vancouver%20Senate%20Minutes%20Final%20Draft.pdf
39. https://senate.ubc.ca/sites/senate.ubc.ca/files/downloads/20190320%20Vancouver%20Senate%20Minutes%20Final%20Draft.pdf, p. 7.
40. We have not been able to confirm the reporting from the UBC Senate minutes, since April and May 2021 minutes have not been posted at the time of this report's finalization.

and personal or other competing interests, which are seen primarily as "structural conflicts."[41]

At the time of the events in question, Dr. Santa Ono served three simultaneous and prominent roles throughout the governance hierarchy. He is the University President and the Chair of the University Senate, and until recently was also the Chairman of the Wall Institute Board of Trustees. He exercised all three roles in the decision to change the direction of PWIAS and/or in the defence of that decision in its aftermath.

As noted by both the 2019 External Review Report and the Watson Report, the president brings stature to the role of PWIAS Chair, but it is unusual for a university president to serve as a Trustee of an institute on his/her campus. For the president to assume such a role may be especially concerning in an institute where relatives of the founding donor are also on its Board of Trustees. The president of any university, not least a major university such as UBC, is a primary fundraiser. Managing relations with significant donors such as the Walls is a key part of the presidential portfolio. Where a donor has made a major contribution and may make more in the future, problematic perceptions may arise, for example, that a university president could feel pressure to vote with donor family members on a small board. In her March 2021 letter, Dr. Quayle rejected any concerns about conflict of interest, indicating that Dr. Ono did not make any such decisions, and that he occupied the role of Chair in keeping with "statute and the Deed of Trust." We accept Dr. Quayle's characterization of Dr. Ono's conduct, but the potential *perception* of conflict of interest remains.

Previous UBC Presidents Toope and Gupta designated other university officials to act as chair of the Board of Trustees and represent the interests of the University. Because Drs. Toope and Gupta declined to meet with us, we could not confirm their reasons for designating alternate chairs for the PWIAS BoT, or their perceptions of potential conflicts of interest involved in serving as chair. It is not clear why this practice was discontinued by President Ono. Regardless, Dr. Ono made it clear at the Senate meeting of 21 November 2018 that he chaired the Wall Institute Board of Trustees, that "he had to take ownership of how that process unfolded," and that "[i]n the end, the trustees felt that focus and alignment would help both the institution and the institute."[42] Both the 2019 External Review and the Watson Report pointed to Dr. Ono's chairing the BoT in their recommendations for change. The External Review Report, in its fourth recommendation, called for the transfer of the chair to a suitable designate as soon as possible:

> We recognize the importance of having a senior university official serve as BOT chair. The university president in particular brings stature and prominence to the BOT and to the PWIAS. At the same time, we note that it is unusual for the president of a university, especially one as large and far flung as UBC, to assume this role. We also note that having the president as chair has attracted some concern, not about President Ono himself, but about the real or perceived conflict of interest in which the president is put in a position of having both the best interests of the PWIAS and of the university as a whole as his first priorities. There may indeed be situations where those interests are not aligned, placing the president in a position where, understandably, he must put the interests of the university as a whole as his first priority.

In addition, when the issue of PWIAS governance and the change of Institute direction was on the agenda at the University Senate, instead of relinquishing the Senate Chair for that controversial topic due in part to his direct involvement as Chair of the Wall Institute Board of Trustees, Dr. Ono continued to chair the Senate while the issue was discussed.[43] Given Dr. Ono's status as University President (involved in high-profile donor relations) and his direct involvement in the decision as Chair of the Wall Board of Trustees, it would have been appropriate that he step out from the Chair position for the duration of the discussion. The

41. Watson Report, slide 10. https://pwias.ubc.ca/sites/default/files/Governance_Diagnostic_Report.pdf
42. https://senate.ubc.ca/sites/senate.ubc.ca/files/downloads/Item%202%20-%20201811121%20Vancouver%20Senate%20Minutes%20Final%20Draft.pdf
43. https://senate.ubc.ca/sites/senate.ubc.ca/files/downloads/Item%202%20-%20201811121%20Vancouver%20Senate%20Minutes%20Final%20Draft.pdf

custom of relinquishing the Chair in such a situation permits an individual to participate in discussion and debate of any motions (which could be relevant given Dr. Ono's role as PWIAS Board of Trustees Chair). Furthermore, relinquishing the Chair would have ensured that someone with a direct and prominent role in Institute governance, and a dominant position in the power balance at the University, could not be perceived as controlling the nature and course of discussion of the matter at Senate.

Dr. Quayle pointed out in her letter of March 2021 that Dr. Ono was "not required" to vacate the Chair of Senate whilst discussing the Wall Institute. This could be debated, depending on the form(s) of participation the President pursued at the Senate meeting. The UBC Senate Rules and Procedures (section 21.b [vi]) stipulate with regard to "Chair's Remarks" that "The Chair may report on issues of interest to the Senate. Members of the Senate shall have the opportunity to pose questions to the Chair regarding matters of interest to the Senate." On the other hand, however, Senate Rules and Procedures (section 22e) also state that "The President shall vacate the Chair to present a statement- other than under section 21 (b) (vi)- or participate in the debate."[44] We do not know the precise nature of the President's participation in the Senate as it relates to the Senate rules; it would be up to UBC Senators to debate and determine whether the President's conduct was in order in relation to the rules. Regardless, there was nothing preventing Dr. Ono from vacating the Chair to avoid any perceptions of conflict of interest.

Dr. Ono is not the only member of the Board of Trustees with regard to whom perceptions of conflicts of interest might arise. As discussed above, the Wall Board of Trustees made the decision to eliminate the majority of PWIAS programs and modify remaining programs to align more closely with existing VPRI Excellence Clusters. This would require Wall Scholars to engage directly with Research Excellence Clusters, including a new thematic program to enhance and complement the work of existing research clusters, with funding being awarded primarily to members of those clusters.

The two UBC-appointed academic members of the PWIAS Board of Trustees in 2018, as detailed above, were Drs. Judy Illes and Max Cameron, Professors of Neurology and Political Science, respectively. Both individuals had voting privileges on the Wall Board of Trustees and leadership roles in existing research clusters at UBC. Because Drs. Cameron and Illes declined via President Ono to speak to us, it was initially unclear whether they declared their involvement in research clusters as a potential conflict at the deciding PWIAS BoT meeting. In her letter of March 2021, however, Dr. Quayle writes that:

> Professors Cameron and Illes each declared to the Board their roles in UBC's research clusters prior to any budget discussions. Neither of them sought any funding from the Institute for the research cluster in which they participated. Both of them understood that they would be ineligible to apply for any funding from the Institute. At no time did either Professor Cameron or Professor Illes exercise decision-making authority over specific research projects funded by the Institute.

This is useful and welcome information. Nonetheless, these disclosures were unknown to those to whom we spoke. At the time, membership in research clusters, and leadership roles in such clusters in particular, could potentially be seen to have influenced the direction of Trustees' decisions to support a strategic model that would align Wall programs and resources toward the cluster model. Trustees' ability to make a disinterested vote in a decision to wholly align Institute research and resources with the cluster model was questioned. Indeed, the status of the faculty trustees as cluster leaders was considered significant enough to be raised at the 21 November 2018 UBC Senate meeting and confirmed by President Ono. Again, as with Dr. Ono, the point being made is *not* that Dr. Ono, Dr. Cameron, or Dr. Illes acted improperly. The point is, rather, that the governance structures in place, and the affiliations

44. UBC, Rules and Procedures of the Vancouver Senate. July 2020. https://senate.ubc.ca/sites/senate.ubc.ca/files/downloads/Rules-Procedures-20200722_0.pdf

they had or positions they held in the greater university, could give rise to *perceptions* of conflict of interest.

The aforementioned issues relating to conflict of interest existed despite a Conflict of Interest Declaration that was signed by all Trustees and noted in minutes of the BoT meeting on 27 June 2016.[45] The Institute does not have copies of these signed Conflict of Interest declarations. In 2019, the Trustees were asked by the Board Chair to renew the Conflict of Interest declarations by signing an updated Conflict of Interest form. A request was made to the Board Secretary by the Institute to receive a copy of the signed declarations of 2019, but signed declarations were not provided, according to the Self-Study. It is unclear whether this is in part an issue of poor record keeping, and/or is due to other causes. The existence and ready provision of conflict-of-interest declarations would support transparency and indicate commitment to strict avoidance of conflicts of interest by the BoT. Without this documentation, it is unclear what the position and intent of the BoT is towards transparency and conflict of interest, other than what can be concluded from the decisions of the BoT.

PWIAS financial governance & UBC policy

Provision 10.1 of Policy 114 of the UBC Board of Governors states that:

> It is UBC's general practice to sell securities immediately upon receipt. UBC reserves the right, on a case-by-case basis, to hold the shares or sell securities over a period of days, weeks, or months if UBC determines that regular trading volume is not sufficient to absorb the securities without significantly adversely affecting their value.[46]

The Deed of Trust for Establishment of the Peter Wall Endowment agreed to by UBC stipulates that should the Peter Wall Endowment Trustees designate a block of WFC shares to be sold, this must be arranged and approved by the Wall Financial Corporation. The indefinite holding of common shares in the Peter Wall Endowment or any other endowment by UBC, and the requirement for approval of a sale of such shares by a corporation, conflicts with and does not adhere to the aforementioned UBC policy 114 on fundraising and acceptance of donations. This arrangement would seem to be highly unusual in that it gives the donor, through his corporation, potential continuing and undue influence over financial decisions of the University.

The Deed also allows the Endowment Trustees (including donor family members) to direct the Management committee (including donor family members) to sell WFC shares. As with the Board of Trustees itself, two members of the four-to five-member management committee are donor family members. The UBC President and the donor family representatives serve not only on the Board of Trustees but on the Management Committee. The Deed of Trust stipulates that:

> the Management Committee may invest any moneys from time to time comprising the Endowment requiring investment in such manner and in such investments in their absolute discretion from time to time [they] think fit without being limited to investments permitted by law to trustees….

There are a number of linkages and restrictions to selling of Endowment shares associated with the share-selling activities of the Wall Financial Corporation. These financial governance structures conflict with UBC policy and would appear to place the financial governance of the PWIAS uncomfortably close to the activities of the Wall Corporation.

In addition, there are individual(s) who currently serve on both the Board of Trustees of the Wall Endowment at UBC and the Board of Directors of the Wall Financial Corporation. The Deed allows the University to have one appointee on the Board of Directors of the Wall Financial Corporation. The dual representation of donor family members and University representative(s) on respective Boards, Corporate and University Institute/Endowment, and restrictions on selling of Endowment shares based on Wall Corporate financial activities, raises potentially substantial questions regarding conflict of interest. Whose interests are being served by those who hold dual Board memberships? Those of the Corporation? Those of the University? What of instances where the interests of the

45. External Review Self Study https://pwias.ubc.ca/sites/default/files/2019-12-10_PWIAS_Self_Study-FINAL_v2.pdf.

46. https://universitycounsel-2015.sites.olt.ubc.ca/files/2019/08/Fundraising-Policy_FM6.pdf?file=2015/07/policy114.pdf

Corporation and the University conflict? How would those circumstances be resolved? How is University autonomy preserved under this type of arrangement?

This arrangement may be considered inappropriate and untenable, particularly because concerns about the financial governance of PWIAS are not new. The 2003 External Review noted "the complex financial history relating to the Institute" and expressed concern that (a) less-than-specified dividends from the Wall Financial Corporation had contributed to major long-term debt and (b) the donated shares had been associated with a cash debt of $2.75 million. By 2003, according to the External Review, these factors had resulted in limited funds for the PWIAS, which was further constrained by "extra Trustee initiatives" costing approximately $100,000 in the current and preceding fiscal years.

PWIAS financial governance: Trustee initiatives

Section I of the Deed of Trust, CONSTITUTION AND PURPOSE OF THE PETER WALL ENDOWMENT, states two points relevant to financial management: "The funds held in the Peter Wall Endowment trusts are for the exclusive benefit of the Peter Wall Institute for Advanced Studies at the University of British Columbia", and further, "The UBC Foundation shall employ the income and capital of the Peter Wall Endowment exclusively for the purpose of initiating, establishing, operating and funding the Peter Wall Institute for Advanced Studies."

Despite a clear mandate to focus investment exclusively on PWIAS by the Deed, Trustees on the Board began pursuing "Trustee Initiatives" in the year 2000, guided by their statement that "The Trustees can propose funding-worthy research, research-related activities or events that do not fit the criteria of the Institute's thematic or residential programs" (Appendix D of Self Study).

A number of Trustee initiatives listed in Appendix I of the 2019 PWIAS Self Study[47] might be in direct violation of the Deed and not uphold the responsibilities of Trustees on the PWIAS Board, such as investment in opera and other initiatives outside of PWIAS. Some of the trustee initiatives occurred post-2016, in spite of an additional document entitled "Procedures for the Operation of the Board of Trustees" at the Institute approved by the BoT in June of 2016 that states as one of its principles: "A requirement of the Trustees to not permit or institute, including the property, information, and opportunities of the Institutes to be used for the private benefit, advantage, or profit of any person."

In addition, Appendix I of the Self-Study indicates that the PWIAS Board gave a stipend for four consecutive years (2012- 2015), to a Wall family member (Sonya Wall) as compensation for serving on the PWIAS Board.[48] Although this is not an investment outside of PWIAS, it leads to a question as to whether it is appropriate for a Board to provide a Board member and donor family member with compensation from a University-held endowment established by the donor. Of equal concern, the Self Study indicates that in relation to the Trustee Initiatives there is no … formal record and decisions are sometimes only backed by email correspondence by the Board Secretary stating the Trustees have approved a specific amount to be used at the discretion of the donor…. Concerns have been raised by the University that the transfer of money to the donor Peter Wall, to be used upon his discretion to third parties where there is no connection to the purpose of PWIAS, would constitute him obtaining a personal benefit from a charitable trust, which would be in violation of the University's obligations under the PWIAS Trust and general charitable law.[49] Of additional concern, the Self Study states: "loans to the Wall Financial Corporation from the cash portion of the Peter Wall Endowment have been approved by the Board of Trustees, raising concerns regarding financial conflict of interests for members of the Peter Wall Endowment Board of Trustees who also serve the interest of the Wall Financial Corporation". University auditors, and/or external independent auditors, as well as University or

47. https://pwias.ubc.ca/sites/default/files/2019-12-10_PWIAS_Self_Study-FINAL_v2.pdf, p. A-24.
48. https://pwias.ubc.ca/sites/default/files/2019-12-10_PWIAS_Self_Study-FINAL_v2.pdf
49. https://pwias.ubc.ca/sites/default/files/2019-12-10_PWIAS_Self_Study-FINAL_v2.pdf

external legal counsel, should be able to provide definitive determinations on these important issues.

PWIAS financial governance: Management/finance committee

The PWIAS Management Committee responsible for managing the finances and investments of the Wall Institute has undergone a number of iterations, including dissolution in 2007 and reconstitution in 2011 with its role reduced to advisory to the BoT from that time (Self Study). The name of the Management Committee was changed to Finance Committee in 2014, and there are no records of Finance committee meetings from 2014-2017. Apparently there have been large gaps in Management/Finance committee functions due to presumed non-existence of the committee, and lack of meetings when it has been in existence. This is unfortunate, as consistent functioning of this committee would have presumably been beneficial in stewarding and overseeing the finances of the endowment and financial activities by the BoT. The Finance Committee met three times over the years 2018 and 2019. Despite the fact that membership of the committee comprises the UBC Treasurer, Peter Wall or Appointee, an Appointee of Peter Wall and the UBC Comptroller (*pro tem*), the three meetings over 2018 and 2019 were chaired by the UBC President. Documentation indicating a change in the committee membership to allow the President to preside at these meetings appears lacking. This might receive consideration as another example of inappropriate governance practice at PWIAS.[50]

Recent developments: Toward improved governance at PWIAS

The Tortell resignation has catalyzed change. As indicated above, governance issues at PWIAS and between PWIAS and UBC resulted in two reviews of PWIAS in 2019-2020 and, subsequently, significant if preliminary developments to enhance governance practices at PWIAS. These changes include the following:

1. ***Appointment of presidential designate to chair the PWIAS BoT (2020)***. On 24 September 2020, Prof. Moura Quayle Vice Provost and Assoc. VP Academic Affairs was appointed to serve as President Ono's designate on the PWIAS BoT, and to chair the BoT.
2. ***Commissioning, completion and public release of Watson Report (2019-2020).*** In March 2020, the Watson Governance Diagnostic Review was made publicly available on the PWIAS website. The report indicates that there is no written framework for PWIAS governance and that such a framework is needed to provide clarity regarding roles and responsibilities. The Watson Report identified further issues, including informal practices in decision making at PWIAS instead of formalized ones; informal reporting; perceived conflicts of interest, vagueness of the Deed of Trust in many respects, and need for clarification of the relationship/integration of the PWIAS with UBC. The positioning of PWIAS, according to the Watson Report, lies between two models of governance: Academic/University Governance (multiple stakeholders, bi-cameral, processes are consultative and participatory) on one end, and Private/Trust, (closely held, defined beneficiaries, centralized decision making) on the other end.
3. ***Completion and public release of External Review (2019—2020).*** On 24 January 2020, the 2019 External Review Report of PWIAS was rendered. Terms of reference for the review included a mandate to investigate and make recommendations on the PWIAS structures and governance (both academic and financial). The review team included international experts (A. Bernstein, M. Levi, J. Ohlmeyer and V. Strang) in governance of institutes of advanced study.

The External Review outlined substantial recommendations relevant to governance, including academic governance. The review suggested that, based on current practices and deficiencies with respect to PWIAS governance identified in the Watson Governance Review (above), the recommendations of Watson Inc. be implemented namely: 1) Establish "guiding principles" that reflect principles of good governance and academic governance; 2) Develop a written governance framework; 3) Develop an authority matrix; and 4) Enhance meeting practices.

50. https://pwias.ubc.ca/sites/default/files/2019-12-10_PWIAS_Self_Study-FINAL_v2.pdf , pp.24-25

In addition, the External Review recommended that the Wall Endowment shares be sold, and resulting funds managed as part of the UBC endowment, in keeping with standard UBC and not-for-profit organization practice.

Furthermore, the External Review noted problematic aspects of the Deed of Trust, including ambiguous language not easily reconcilable with the University Act and academic/university governance structures. An obvious solution would be a re-negotiation of the Deed of Trust, but the External Review indicated that if that proved impossible, a second governance document should be signed off by the BoT to clarify a host of governance and authority relationships between the BoT and Institute Director, PWIAS and the University and others. This report was posted to the PWIAS website in late 2020.

4. ***Preparation and release of the PWIAS response to the External Review (2020)***. A response to the External Review Report was produced jointly by the PWIAS BoT and PWIAS Director and posted on 17 November 2020. The Joint Response indicates a commitment to develop the governance recommendations for PWIAS, proposed by Watson Inc. and promoted by the External Review. There was no corresponding commitment to selling of Wall shares to become compliant with standard UBC policy on donated shares. There was also no explicit commitment to prevent academic decision-making at PWIAS being made by non-academic members of the BoT.

As mentioned above, the External Review Report recommended that if the Deed of Trust cannot be revised, a second governance document should be created. The BoT has indicated that it will undertake to write the governance document. In light of the extensive governance issues at PWIAS, it would seem appropriate that the UBC BoG and Senate, and perhaps the Provost as well, sign off on any PWIAS governance document, in addition to the BoT. Since the Wall Institute is not a free-standing institute, but part of the University, there must be a strong formalized agreement with respect to an academic/collegial university governance model for the Institute's decisions.

5. ***Re-establishment of the PWIAS Academic Advisory Board***. An Academic Advisory Board (AAB) was re-established on 28 September 2020 to provide advice and recommendations on various matters relating to PWIAS, including its academic governance and mandate. All nine members of the AAB are from UBC, with no international membership. The AAB was re-constituted through co-appointment of members by UBC President Ono and PWIAS Interim Director Christoff. The creation of the AAB was done without the participation of the BoT. Therefore, the AAB has provided advice to the interim director and to the President, not to the BoT. The AAB has monthly meetings with the interim director and has actively participated in reviewing candidates to replace the two academic members of the BoT, Max Cameron and Judy Illes. As indicated above, the two new academic members of the PWIAS BoT are Dr. Jennifer Berdahl (President's appointee) and Dr. Sathish Gopalakrishnan (UBC Foundation delegate). This can be considered a positive development, as we were told that UBC's presidents previously appointed such academic BoT members without formal consultation with an academic committee.

While many of the governance issues enumerated above are not directly caused by the structures that govern the PWIAS and might have been ameliorated by individual actions, the governance structures in place have clearly failed to produce transparent, open, and academically sound decision-making. Our investigation found that while the resignation of Dr. Tortell was perhaps the greatest crisis the PWIAS has ever faced, problems in governance and leadership have beset the institute virtually from its inception. These problems have manifested, most significantly, in frequent turnover of Directors and delay in filling the Director position, issues that persist to this day. However, other problems include the lack of a truly international advisory committee and continued involvement of non-academics in academic decision-making.

Conclusions

1. The requirement that the PWIAS and its faculty align with existing research clusters under the Vice-President, Research and Innovation, and the manner in which it was determined, raise significant questions concerning the research-related academic freedom of PWIAS faculty members and, indeed, research-related academic freedom at UBC. We note with regard to these questions that UBC has a "positive obligation" to support and protect academic freedom as stated in the UBC collective agreement, and also articulated by Smith (2015), and should have carefully scrutinized mandatory alignment with research clusters in light of this positive obligation.

2. Given that the directive to align with research clusters and the other academic changes to the PWIAS did not arise from collegial governing bodies containing a majority of academic staff, the decisions taken in November 2018 can be described as an infringement upon the intramural academic freedom of Dr. Tortell and the academic staff of the PWIAS.

3. The events and decisions of November 2018 arose from longstanding structures and practices that govern the PWIAS internally and within the University of British Columbia. These structures and practices do not adhere to principles of collegial governance. We find that within the governance structure of the institute itself and in the governance of relations between the PWIAS and UBC, principles of collegial governance were ignored, and best practices neglected.

4. The actions taken by the PWIAS Board of Trustees in November 2018 specifically, were inconsistent with principles of collegial governance, including but not limited to openness, transparency, and the primacy of academics in academic decision-making.

5. While the resignation of PWIAS Director Dr. Philippe Tortell was arguably the most significant crisis faced by the PWIAS in its history, it forms part of a history of failed governance at PWIAS. Most problematic are potential conflicts of interest, deficiencies in the governance relationship between Senate and PWIAS, as well as the PWIAS Deed of Trust, unchanged from inception, which allows non-academic board members to make academic decisions at PWIAS. Furthermore, the Wall Endowment that supports PWIAS, is governed in a manner that runs counter to University policy, and supports non-academic PWIAS BoT member projects outside the stated mandate in the Deed.

In our view, attention to governance at PWIAS on the part of Senate, the UBC Board of Governors, and the PWIAS itself is urgently required to protect and support principles of academic freedom and collegial governance and to ensure compliance with the policies of UBC itself. We also believe that attending to governance is the best way to ensure that PWIAS endures and prospers as a space of free and unfettered inquiry and fulfils its unique mandate to perform deep and unconstrained research into some of the most profound questions and challenges facing humanity."[51]

October 2021

Ad Hoc Investigatory Committee

KEVIN KANE
(Medical Microbiology and Immunology)
University of Alberta, Chair

JACQUELINE HOLLER
(History, Women's Studies and Gender Studies)
University of Northern British Columbia

51. https://pwias.ubc.ca/about-us

Appendix I

THE UNIVERSITY OF BRITISH COLUMBIA

Professor Santa J. Ono
President and Vice-Chancellor

Office of the President
7th Floor, Walter C. Koerner Library
1958 Main Mall
Vancouver, BC V6T 1Z2

Phone 604 822 8300
www.president.ubc.ca

November 16, 2018

Dear Philippe,

Thank you for your time to prepare for and participate in the recent meeting of the PWIAS Board of Trustees. You are an enthusiastic leader of the Institute, and the energy that you bring to its mission is clear. For that we offer our sincere thanks.

As promised, I am writing to share feedback, recommendations, and requests from the Board of Trustees. We had a fulsome in-camera discussion of our perspective on the programmatic priorities for the Institute, and the related budgetary implications. The Board agrees on the catalytic and transformational role that the Institute should play at UBC. We are excited at the potential to realize that vision through the strategic plan that you are developing, and through increasing alignment with the *UBC's Next Century*.

I have included as an appendix to this letter a version of your budget that reflects the Board's thinking on the best path to a sustainable budget for the Institute. As I expressed to you and as the Board agreed, in light of our fiduciary responsibility to the Institute, we can only approve a budget model that is sustainable with the Institute's current resources. In addition, I have summarized the key decisions and recommendations from the Board below. Together, this information will serve as the Board's formal feedback on the version of the strategic plan that you presented to us.

The Board agreed that an important evolution would be to develop formal Terms of Reference for each of the core programs. These Terms will outline the conditions and expectations of funding, one of which will be reports of progress and impact to the Board. For programs such as the Wall Scholars and Distinguished Professors, they could serve as something of a position description, which we understand are not currently in place. It is our hope that this request signals the importance and value the Trustees place on these particular programs. We feel strongly that this additional degree of rigour will allow the Institute to have a more robust, structured understanding of the impact of its funding.

Specific feedback on the Research Award programs is as follows:

Wall Scholars

- The Board is comfortable setting the capacity for this program at between 5-6 scholars per year;
- Funding will be used to support buy-out time and the research award that you described in the draft strategic plan;

- As will be established in Terms of Reference for this program, Scholars will be expected to engage directly with relevant Research Excellence Clusters. They will also be invited to report on their activity and the impact of the Institute's investment, to the Board on an annual basis.

International Visiting Scholars

- The Board recognizes this as an important, opportunistic program, and agrees with the forecast that you had suggested for FY20.

As will be set out in Terms of Reference for this program, these Scholars will also be invited to report to the Trustees on the impact of their award in their area of scholarship.

Thematic Groups

- The Board appreciated the thought you had put in to the Thematic Research Fellows program, and is comfortable with the annual budget amount you have proposed.
- In keeping with the Board's desire to enable greater alignment with the new UBC strategic plan, and recognizing the success and impact of the Clusters of Research Excellence program, it will be important that a large portion of that funding go to enhance and complement the work of existing Research Clusters. We recognize the importance of keeping some funds available for new themes that emerge within the Institute. However, the focus of this program should be on the existing Clusters program, with funding being awarded primarily to members of those Clusters.

The Board decided that the International Research Roundtable, the Distinguished Visiting Professor, and the Wall Solutions Initiative will be discontinued as of April 1st, 2019. The combined budget lines for International Partnerships and New Research Initiatives will be reconfigured into a single budget item in the amount of $110,000 for FY20, which will be a discretionary amount for the PWIAS Director. The Board will expect an annual report that captures the use, outcomes and impact of this funding.

The other substantive change that you will see in the revised budget is in the intent of funds currently earmarked for Facilities. The board considered some one-time improvements and specifically the installation of plumbing to the Ideas Lounge to enhance its usability. We will cease the annual transfer to the Ideas Lounge. Please advise the Board on the financial status of the Ideas Lounge vis-à-vis the prior use of this subsidy.

There is a regular cycle of Board and Finance Committee meetings to be scheduled in the next few months. Those meetings will be the opportunity for the Board to approve a one-year budget for FY20, along with the Institute's new strategic plan. The Board appreciates the consultation you have undertaken in developing the plan thus far, and look forward to seeing a

final plan later this year. Please continue to work with Gail Murphy and Andrew Szeri as you finalize the strategic plan and complete any remaining consultations that you wish to carry out.

The new PWIAS strategic plan marks an exciting milestone, Philippe, and we again thank you for your thoughtful and enthusiastic leadership of the Institute.

Sincerely,

Santa J. Ono
President and Vice-Chancellor

PWIAS FY19 - FY20 Forecast

	FY19 Approved Budget	FY19 Forecast	Difference Notes	FY20 Forecast	FY20 (Revised)	Notes
Research Awards and Expenses						
Wall Scholars [Note 1]	$ 470,000	$ 480,200	A	$ 1,443,000	$ 550,000	To accommodate 5-6 scholars / year, with full buy-out
Thematic Groups [Note 2]				$ 1,508,000	$ 1,500,000	To align primarily with Clusters of Research Excellence Program
International Visiting Research Scholars (IVRS) [Note 3]	$ 290,000	$ 183,700	B	$ 105,000	$ 105,000	
International Research Roundtables (IRR)	$ 290,000	$ 290,700	C	$ 293,000	$ -	This program will be discontinued
Distinguished Visiting Professor [Note 4]	$ -	$ 100,000	D	$ -	$ -	This program will be discontinued
Solutions Initiative [Note 5]	$ 470,000	$ 515,200	E	$ 518,000	$ -	This program is currently dormant, and will be discontinued
International Partnerships	$ 70,000	$ 65,000		$ 70,000	$ 70,000	Will transition this to a discretionary fund for the Director, and remove the express emphasis on
New research initiatives	$ 40,000	$ 40,000		$ 40,000	$ 40,000	International Partnerships
Subtotal	**$ 1,630,000**	**$ 1,674,800**		**$ 3,977,000**	**$ 2,265,000**	
5 year Professor Appointments						
Distinguished Professors Compensation [Note 6]	$ 327,123	$ 306,859	F	$ 492,080	$ 310,000	This distinction is conferred by the President. Plan to continue with two DPs.
Director Compensation [Note 7]	$ 360,000	$ 190,639	G	$ 207,335	$ 207,335	
Subtotal	**$ 687,123**	**$ 497,498**		**$ 699,416**	**$ 517,335**	
Other Activities						
Wall Exchange	$ 80,000	$ 110,000		$ 100,000	$ 80,000	
Communications/ Knowledge mobilization	$ 90,000	$ 63,900		$ 90,000	$ 70,000	
Arts Based Programs	$ 30,000	$ 55,000		$ 60,000	$ 60,000	This program will transition to one that is open to UBC scholars exclusively.
Int Academic Advisory Committee	$ 10,000	$ 10,000		$ 10,000	$ 10,000	
Associate Forums	$ 30,000	$ 30,000		$ 50,000	$ -	
External reviews	$ 10,000	$ 10,000		$ 10,000	$ -	
Subtotal	**$ 250,000**	**$ 278,900**		**$ 320,000**	**$ 220,000**	
Administration						
Staff	$ 401,670	$ 402,903	H	$ 500,804	$ 405,000	
Financial Management Support	$ 30,000	$ 50,000	I	$ 50,000	$ 50,000	
Operational Expenses [Note 8]	$ 59,700	$ 50,000	J	$ 60,000	$ 50,000	
Auditor Professional Fees	$ 10,000				$ 10,000	
Subtotal	**$ 501,370**	**$ 502,903**		**$ 610,804**	**$ 515,000**	
Facilities						
Facilities	$ 80,000	$ 89,551		$ 90,592	$ 90,000	
Subsidy Ideas Lounge [Note 9]	$ 30,000	$ 30,000		$ 30,000	$ 30,000	These funds are approved as a budget for one-time renovations for the Ideas Lounge.
Subtotal	**$ 110,000**	**$ 119,551**		**$ 120,592**	**$ 120,000**	
Other						
Opera Program				$ 200,000	$ 200,000	
Peter Wall Initiative	$ 50,000	$ 50,000		$ 50,000	$ 50,000	
Contingency	$ 10,000					
Subtotal	**$ 60,000**	**$ 50,000**		**$ 250,000**	**$ 250,000**	
Total Budget	**$ 3,238,493**	**$ 3,123,652**		**$ 5,977,811**	**$ 3,887,335**	

Appendix II

THE UNIVERSITY OF BRITISH COLUMBIA

OFFICE OF THE PROVOST AND VICE-PRESIDENT ACADEMIC

Walter C. Koerner Library
651 - 1958 Main Mall
Vancouver, BC Canada V6T 1Z2

Phone 604 822 1261
Fax 604 822 3134

June 18, 2019

Canadian Association of University Teachers
2705 Queensview Drive
Ottawa, Ontario K2B 8K2

Dear Mr. Robinson:

Re: Canadian Association of University Teachers ("CAUT") Appointment of Ad Hoc Investigatory Committee for the Peter Wall Institute of Advanced Studies ("PWIAS")

I am writing in response to your letter dated June 6, 2019 regarding the establishment of an Ad Hoc Investigatory Committee by the CAUT to examine allegations of academic freedom violations at the PWIAS (the "Investigation").

The University of British Columbia (the "University") is a community of students, faculty, staff and members of the community at large dedicated to the advancement of learning, the collection and dissemination of knowledge and skills, the intellectual development of its members and the betterment of society. We understand the vital importance of academic freedom for instruction and the pursuit of knowledge, and the particular importance that academic freedom has at educational institutions. We recognize that interference with the fundamental principle of academic freedom and failure to protect academic freedom would prevent the University from carrying out its primary functions. We are strongly committed to ensuring that students, faculty, staff and visitors are able to study and work in an environment that supports and upholds academic freedom. To this end, we have developed appropriate policies and procedures to protect and uphold academic freedom at our institution.

The University has carefully considered the unexpected November 2018 resignation of the Director of the PWIAS and the circumstances surrounding his resignation. Following the resignation of the Director of the PWIAS, the President of the University embarked on a process to receive feedback and input through an open dialogue with the University community. The President heard from a broad and engaged group of stakeholders, and was pleased to announce that Dr. Kalina Christoff has been appointed Interim Director of the PWIAS effective June 1, 2019. We are confident that the PWIAS will continue to provide a platform for meaningful work by faculty, students and staff, and uphold and promote academic freedom in a vibrant, interdisciplinary environment, as it has for many years.

Also, I have arranged for an external review of the PWIAS under the provisions of the Senate Policy on Review of Administrative Units and the Principles, Procedures and Guidelines for External Academic Unit Reviews. The terms of reference for the review include an explicit mandate to investigate and make recommendations on the structure and governance (both academic and

financial) of the PWIAS.

Lastly, thank you for providing a copy of the "CAUT Procedures in Academic Freedom Cases", which confirms that the Investigatory Committee has no statutory powers nor authority to compel individuals to participate in its inquiry. As this matter is already being reviewed within the policies and procedures of the University, we will therefore respectfully decline to participate in the Investigation.

Should you have any further comments or questions regarding this matter, please do not hesitate to contact me.

Sincerely yours,

Andrew Szeri
Provost and Vice-President, Academic

Appendix III

THE UNIVERSITY OF BRITISH COLUMBIA

Professor Santa J. Ono, FRSC, FCAHS
President and Vice-Chancellor

Office of the President
7th Floor, Walter C. Koerner Library
1958 Main Mall
Vancouver, BC V6T 1Z2

Phone 604 822 8300
www.president.ubc.ca

December 17th, 2018

Bronwen Sprout
President, UBC Faculty Association
112-1924 West Mall
Vancouver, BC V6T 1Z2

Dear Bronwen,

Thank you for your letter of November 25th with regards to the Peter Wall Institute for Advanced Studies. I am pleased to respond on behalf of the Institute's full Board of Trustees.

You asked for information on avenues of collegial consultation that were employed to formulate the new mandate for the PWIAS and the procedures used to adopt this mandate. In line with its fiduciary and governance responsibilities, the Board asked Professor Tortell in September of 2017 to develop a strategic plan for the institute. There were a number of discussions with the Board about the emerging strategic plan after that, both at Board meetings, and informally with all of the Trustees.

Throughout the past 14 months, Professor Tortell was encouraged to consult with stakeholders across the University. The Board would not be aware of who Professor Tortell met with during that time, so information about the avenues of collegial consultation that were employed in development of the strategic plan would best be directed to him. The Institute has four Advisory Committees which in my view would be excellent groups to consult with on a strategic plan. Professor Tortell would be able to tell you how he engaged with the community as he developed the plan.

The letter sent to Professor Tortell was part of the ongoing process to reach a consensus on the strategic approach and proposed budget of the institute. The Board was awaiting the director's response to the feedback letter on the budget, and was surprised and disappointed when he chose to resign.

We wish to reiterate that as a public academic institution, UBC places paramount value on academic freedom, and on supporting interdisciplinary research. We are committed to maintaining the Wall Institute's unique role and mission at UBC and to ensuring that the Institute continues to support and nurture the outstanding research for which it is known.

We trust this response will alleviate your expressed concerns, Bronwen. Thank you for your interest in the success of the Peter Wall Institute.

Sincerely,

Santa J. Ono
Chair, Board of Trustees
Peter Wall Institute for Advanced Studies