



HOUSE OF COMMONS
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CANADA

A STUDY ON SEXUAL HARASSMENT IN THE FEDERAL WORKPLACE

Report of the Standing Committee on the Status of Women

**Hélène LeBlanc
Chair**

FEBRUARY 2014

41st PARLIAMENT, SECOND SESSION

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Havi Echenberg and Laura Munn-Rivard, analysts

With assistance from Martha Butler and Erin Shaw, analysts

THE STANDING COMMITTEE ON THE STATUS OF WOMEN

has the honour to present its

SECOND REPORT

Pursuant to its mandate under Standing Order 108(2), the Committee has studied sexual harassment in the federal workplace, and has agreed to report the following:

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A STUDY ON SEXUAL HARASSMENT IN THE FEDERAL WORKPLACE

INTRODUCTION

A. Overview

On 16 May 2012, the House of Commons Standing Committee on the Status of Women (the Committee) adopted the following motion:

It was agreed, – That the Committee conduct a study of sexual harassment in workplaces in the federal jurisdiction; the impact and cost of sexual harassment; whether the current complaint/reporting channels of federal organizations are effective in addressing sexual harassment; whether current policies – Treasury Board and organization specific policies – should be amended or improved.¹

In total, the Committee devoted 25 meetings to the study of sexual harassment in the federal workplace, and heard from 78 witnesses, all in the 1st Session of the 41st Parliament.

For the purposes of this study, the federal workplace means the federal public administration, including both civilian and non-civilian components of the Royal Canadian Mounted Police (RCMP) and the Canadian Forces (CF); federally regulated industries; and Parliamentary workplaces, including the House of Commons, the Senate and the Library of Parliament.

This report provides a summary of information received and testimony heard by the Committee with respect to the current legal and regulatory framework for both civilians and military and police, a discussion about the incidence and prevalence of sexual harassment in the federal workplace, the processes for responding to complaints of sexual harassment and factors affecting sexual harassment in the workplace. Based on this information, the Committee has also put forward recommendations.

B. Defining Sexual Harassment

Despite both national and international efforts to prevent and resolve sexual harassment in the workplace, there is no single definition of what constitutes such behaviour. According to the United Nations General Recommendation 19 made by the *Convention on the Elimination of all Forms of Discrimination Against Women*, sexual harassment:

1 House of Commons, Standing Committee on the Status of Women [FEWO], [Minutes of Proceedings](#), 16 May 2012.

[I]ncludes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demand, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.²

It should be noted that in this definition and those contained in Canadian laws and policies (discussed in greater detail in the next sections of this report), sexual harassment is not intended to include sexual assault or other criminal behaviour, which is outside the parameters of this study and the relevant laws and policies for prevention and resolution of sexual harassment.

C. Chronology

In Canada, the road to the current policies and legislative framework begins in 1977, with the *Canadian Human Rights Act* (CHRA) coming into force, and continues to 2012, with a new Treasury Board policy with respect to preventing and resolving sexual harassment in the workplace. These initiatives are outlined below.

- 1977** – *Canadian Human Rights Act* comes into force
- 1985** – Equality provisions of the *Canadian Charter of Rights and Freedoms* come into force (section 15)
Sexual harassment provisions of the *Canada Labour Code* come into force
- 1987** – Supreme Court of Canada finds that employers may be held liable for the conduct of employees who engage in sexual harassment
- 1989** – Supreme Court of Canada finds that sexual harassment constitutes discrimination on the basis of sex
- 1998** – Parliament amends the *Canadian Human Rights Act* to prohibit retaliation against complainants or victims of harassment
- 2001** – Treasury Board publishes its *Policy on Prevention and Resolution of Harassment in the Workplace*
- 2012** – Treasury Board publishes its updated *Policy on Harassment Prevention and Resolution*

Dates of developments more specific to the CF and the RCMP are addressed in a later section of this report.

2 [United Nations: Division for the Advancement of Women – Department of Economic and Social Affairs, *Convention on the Elimination of All Forms of Discrimination against Women – General recommendations made by the Committee on the Elimination of Discrimination against Women.*](#)

D. Understanding Sexual Harassment

The Committee was told that sexual harassment is often regarded as the inappropriate sexual advances of one individual — a “bad apple” — towards another individual, and this characterization places the causes of harassment in the private sphere.³ Using this perspective, sexual harassment is portrayed as sexual in motive and as a situation emerging from the relationship between two people.⁴

A number of witnesses indicated that the understanding of sexual harassment should expand beyond the private sphere of individual relationships; sexual harassment can be upheld by a workplace culture and can be systemic in nature.⁵ Organizational factors, such as policies, procedures and daily practices can establish systemic trends or patterns that contribute to an environment predisposed to sexual harassment.⁶ As one witness explained, a workplace must not only address individual conduct, but should also be willing to scrutinize and change a wide range of institutional policies, procedures and daily practices to prevent sexual harassment.⁷

The Committee was informed that while the general public understands the stereotypical image of sexual harassment of a female secretary or woman working at a bar, sexual harassment can happen in any other workplace environment.⁸ In addition, the Committee heard that manifestations and behaviours in sexual harassment can range from very subtle language that permeates workplaces to sexual assault, which is a criminal offence.⁹ As noted above, for the purpose of this study, the Committee focused on sexual harassment that is not criminal in nature.

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- 3 FEWO, *Evidence*, 1st Session, 41st Parliament, 22 April 2013, 1805 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual); FEWO, *Evidence*, 12 February 2013, 1130 (PO 1 Shanna Wilson, National Military Co-Chair, Defence Women’s Advisory Organization); FEWO, *Evidence*, 16 April 2013, 1150 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual). Please note that all evidence cited in this report, unless otherwise noted, was presented during the 1st Session of the 41st Parliament.
 - 4 FEWO, *Evidence*, 16 April 2013, 1150 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual); FEWO, *Evidence*, 12 February 2013, 1130 (PO 1 Shanna Wilson, National Military Co-Chair, Defence Women’s Advisory Organization).
 - 5 FEWO, *Evidence*, 31 January 2013, 1140 (Ms. Ann Therese MacEachern, Vice-President, Human Resources, Canada Post); FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women’s and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 16 April 2013, 1205 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).
 - 6 FEWO, *Evidence*, 12 February 2013, 1130 (PO 1 Shanna Wilson, National Military Co-Chair, Defence Women’s Advisory Organization); Lynn Bowes-Sperry et al., “Sexual Harassment at Work: Moving Research Forward,” *Journal of Management*, Vol. 35, p. 503.
 - 7 FEWO, *Evidence*, 16 April 2013, 1145 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).
 - 8 FEWO, *Evidence*, 26 March 2013, 1120 (Ms. Cindy Viau, Director’s Advisor, The Quebec Help and Information Centre on Harassment in the Workplace).
 - 9 FEWO, *Evidence*, 22 April 2013, 1815 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

As the Committee has learned, sexual harassment is no longer seen as just a “women’s issue,” and is now recognized as illegal and immoral behaviour that harms everyone in a workplace.¹⁰

The Committee heard that there are serious personal and organizational costs to sexual harassment, addressed in greater detail below.

1. Impacts on Individuals

Victims of sexual harassment experience a range of physical, emotional and financial costs.¹¹ The negative effects can begin immediately after the first incident and can last long after the harassment stops,¹² but can be mitigated by a healthy workplace culture.¹³ The Committee was told that the consequences of sexual harassment can be more severe if the targeted individual cannot escape the situation (for example, for financial reasons),¹⁴ if the individual has been previously victimized, either at work or in her or his personal life,¹⁵ or if the harassment becomes physically violent in nature.¹⁶

As the Committee learned, a 2004 Centre for Research & Education on Violence against Women & Children publication, funded in part by Status of Women Canada, noted that women cope with sexual harassment through externally focused behavioural strategies (such as avoidance, assertion, seeking support from family or friends, and seeking help from management) and internally focused psychological strategies (such as denial, detachment, endurance, defining the situation in a way that it is not seen as sexual harassment, and self-blame).¹⁷

10 Jennifer Berdahl et al., “[Sexual Harassment in Organizations: A Decade of Research in Review](#),” *The Sage Handbook of Organizational Behavior*, 2008, p. 492.

11 FEWO, *Evidence*, 23 May 2013, 1200 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual); “Partial transcription of testimony given at a public meeting on 22 April 2013,” transcript distributed to FEWO (Ms. Krista Carle), p. 17.

12 FEWO, *Evidence*, 23 May 2013, 1210 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual).

13 Ibid.

14 Ibid., 1215.

15 Ibid., 1220.

16 Ibid., 1215.

17 Barbara MacQuarrie et al., [Workplace Harassment and Violence Report](#), Centre for Research & Education on Violence Against Women & Children, 2004, p. 86.

Witnesses described the severe impact that sexual harassment can have on a victim's health, leading to physical and psychological problems.¹⁸ Physical consequences of sexual harassment can include fatigue, headaches, gastrointestinal disorders, teeth grinding, eating disorders and nausea.¹⁹ On a psychological level,²⁰ cases of sexual harassment can lead to emotional responses such as humiliation, embarrassment, fear, stress,²¹ loss of self-esteem and growth of self-doubt,²² social isolation and alienation,²³ and helplessness and vulnerability.²⁴ Mental health conditions caused by psychological

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- 18 FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 16 October 2012, 0950 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner's Office, Canadian Human Rights Commission); FEWO, *Evidence*, 14 February 2013, 1220 (Mr. Robin Kers, Labour Relations Officer, National Office, Union of Solicitor General Employees); FEWO, *Evidence*, 28 May 2013, 1205 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).
- 19 FEWO, *Evidence*, 23 May 2013, 1205 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual).
- 20 FEWO, *Evidence*, 16 October 2012, 0950 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner's Office, Canadian Human Rights Commission); FEWO, *Evidence*, 16 April 2013, 1145 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); Treasury Board Secretariat, "Workplace Harassment Prevention and Resolution," submitted to FEWO, 13 December 2012; "Partial transcription of testimony given at a public meeting on 22 April 2013," transcript distributed to FEWO (Ms. Jamie Hanlon), p. 13.
- 21 See for example: FEWO, *Evidence*, 23 May 2013, 1145 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual); FEWO, *Evidence*, 23 May 2013, 1200 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1110 (Ms. Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP, Women's Legal Education and Action Fund); FEWO, *Evidence*, 28 May 2013, 1235 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).
- 22 FEWO, *Evidence*, 7 March 2013, 1110 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual); Treasury Board Secretariat, "Workplace Harassment Prevention and Resolution," submitted to FEWO, 13 December 2012; FEWO, *Evidence*, 23 May 2013, 1200 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual); "Partial transcription of testimony given at a public meeting on 22 April 2013," transcript distributed to FEWO (Ms. Krista Carle), p. 16.
- 23 FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 26 March 2013, 1130 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace); Treasury Board Secretariat, "Workplace Harassment Prevention and Resolution," submitted to FEWO, 13 December 2012.
- 24 Linda L. Collinsworth et al., "[In Harm's Way: Factors Related to Psychological Distress Following Sexual Harassment](#)," *Psychology of Women Quarterly*, Vol. 33, 2009, p. 475.

distress²⁵ can include depression and anxiety,²⁶ and post-traumatic stress disorder,²⁷ and can lead to suicidal thoughts.²⁸

Witnesses explained that often victims end up on stress leave or sick leave, both before reporting sexual harassment and during the reporting process.²⁹ The Committee was also told that victims may start abusing drugs or alcohol in an attempt to cope with the sexual harassment.³⁰

Witnesses told the Committee that sexual harassment can have an impact on a victim's ability to maintain healthy relationships or form meaningful new ones, leading to the suffering of family, particularly spouses and children.³¹ An additional source of

25 FEWO, *Evidence*, 26 March 2013, 1115 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace); Treasury Board Secretariat, "Workplace Harassment Prevention and Resolution," submitted to FEWO, 13 December 2012.

26 See for example: FEWO, *Evidence*, 26 March 2013, 1110 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace); FEWO, *Evidence*, 23 May 2013, 1205 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1110 (Ms. Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP, Women's Legal Education and Action Fund); "Partial transcription of testimony given at a public meeting on 22 April 2013," transcript distributed to FEWO (Ms. Sherry Lee Benson-Podolchuk), p. 2; (Ms. Jamie Hanlon), p. 15; (Ms. Krista Carle), p. 16.

27 FEWO, *Evidence*, 14 February 2013, 1220 (Mr. Robin Kers, Labour Relations Officer, National Office, Union of Solicitor General Employees); FEWO, *Evidence*, 23 May 2013, 1205 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1110 (Ms. Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP, Women's Legal Education and Action Fund); "Partial transcription of testimony given at a public meeting on 22 April 2013," transcript distributed to FEWO (Ms. Sherry Lee Benson-Podolchuk), p. 4; (Ms. Jamie Hanlon), p. 15; (Ms. Krista Carle), p. 16.

28 FEWO, *Evidence*, 23 May 2013, 1140 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

29 See for example: FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 26 March 2013, 1115 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace); FEWO, *Evidence*, 28 May 2013, 1110 (Ms. Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP, Women's Legal Education and Action Fund); "Partial transcription of testimony given at a public meeting on 22 April 2013," transcript distributed to FEWO (Ms. Catherine Galliford), p. 21.

30 FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); "Partial transcription of testimony given at a public meeting on 22 April 2013", transcript distributed to FEWO (Ms. Jamie Hanlon), p. 15; (Ms. Catherine Galliford), p. 22.

31 FEWO, *Evidence*, 7 March 2013, 1115 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual); FEWO, *Evidence*, 26 March 2013, 1130 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace); Treasury Board Secretariat, "Workplace Harassment Prevention and Resolution," submitted to FEWO, 13 December 2012; "Partial transcription of testimony given at a public meeting on 22 April 2013," transcript distributed to FEWO (Ms. Jamie Hanlon), p. 15; (Ms. Krista Carle), p. 16.

pressure on the individual and on her or his family members is the financial cost of taking stress leave or sick leave and of the reporting process, particularly legal fees.³²

Another serious consequence of sexual harassment, highlighted by witnesses, is that some victims choose to quit their jobs, change careers, or take early retirement.³³ One witness indicated that in her research of sexual harassment complaint files in Australia, only around one in six complainants remained employed in the organization where the sexual harassment allegedly occurred.³⁴

Although a rare occurrence, the Committee heard that the most serious consequence of sexual harassment is violence, including fatal violence.³⁵ One witness spoke of a severe case of workplace sexual harassment where harassment of a female employee by her boss escalated to the point where she was murdered by him.³⁶

2. Impacts on Organizations

In addition to higher levels of turnover, the Committee heard that cases of sexual harassment, whether they have been reported or not, can lead to tension and conflicts in the workplace.³⁷ Incidents of sexual harassment can have “a radiating effect,” which

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- 32 FEWO, *Evidence*, 26 March 2013, 1110 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace); FEWO, *Evidence*, 16 April 2013, 1145 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 28 May 2013, 1110 (Ms. Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP, Women's Legal Education and Action Fund); “Partial transcription of testimony given at a public meeting on 22 April 2013,” transcript distributed to FEWO (Ms. Krista Carle), p. 17.
- 33 See for example: FEWO, *Evidence*, 7 March 2013, 1110 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual); FEWO, *Evidence*, 4 December 2012, 0905 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 12 February 2013, 1115 (LCol Karen Davis, Defence Scientist, Director General Military Personnel Research and Analysis, Canadian Forces Leadership Institute, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1110 (Ms. Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP, Women's Legal Education and Action Fund); “Partial transcription of testimony given at a public meeting on 22 April 2013,” transcript distributed to FEWO (Ms. Jamie Hanlon), p. 12; (Ms. Krista Carle), p. 16.
- 34 FEWO, *Evidence*, 22 April 2013, 1805 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).
- 35 FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 23 May 2013, 1115 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1205 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).
- 36 FEWO, *Evidence*, 16 April 2013, 1140 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).
- 37 FEWO, *Evidence*, 29 January 2013, 1100 (Ms. Robyn Benson, National President, Public Service Alliance of Canada); FEWO, *Evidence*, 7 February 2013, 1155 (Ms. Paula Turtle, Canadian Counsel, United Steelworkers); FEWO, *Evidence*, 18 April 2013, 1210 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police); FEWO, *Evidence*, 28 May 2013, 1205 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

creates a poisoned work environment.³⁸ Witnesses described workplace problems for both victims and their colleagues, including poor performance, lack of focus, a decrease in productivity and low morale.³⁹ As noted above, high staff turnover⁴⁰ and absenteeism⁴¹ can also become problems.

As well, the Committee heard from many witnesses that sexual harassment can result in important financial costs to the organization and employer, such as the direct costs of a case settlement⁴² or indirect costs in the form of lost productivity.⁴³

38 FEWO, *Evidence*, 26 March 2013, 1215 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service); FEWO, *Evidence*, 23 May 2013, 1110 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1115 (Ms. Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP, Women's Legal Education and Action Fund); FEWO, *Evidence*, 28 May 2013, 1210 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

39 See for example: FEWO, *Evidence*, 16 October 2012, 0950 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner's Office, Canadian Human Rights Commission); FEWO, *Evidence*, 29 November 2012, 1005 (Ms. Pat Langan-Torell, Director, Values and Ethics, Department of Foreign Affairs and International Trade); FEWO, *Evidence*, 26 March 2013, 1215 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service); FEWO, *Evidence*, 16 April 2013, 1220 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); Treasury Board Secretariat, "Workplace Harassment Prevention and Resolution," submitted to FEWO, 13 December 2012.

40 FEWO, *Evidence*, 26 March 2013, 1210 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service); FEWO, *Evidence*, 6 December 2012, 0930 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); Treasury Board Secretariat, "Workplace Harassment Prevention and Resolution," submitted to FEWO, 13 December 2012; FEWO, *Evidence*, 28 May 2013, 1110 (Ms. Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP, Women's Legal Education and Action Fund).

41 FEWO, *Evidence*, 29 November 2012, 1005 (Ms. Pat Langan-Torell, Director, Values and Ethics, Department of Foreign Affairs and International Trade); FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 26 March 2013, 1210 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service).

42 FEWO, *Evidence*, 23 October 2012, 0950 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O'Brien Payne); FEWO, *Evidence*, 26 March 2013, 1215 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service).

43 See for example: FEWO, *Evidence*, 14 February 2013, 1220 (Mr. Robin Kers, Labour Relations Officer, National Office, Union of Solicitor General Employees); FEWO, *Evidence*, 26 February 2013, 1100 (Mr. Ian McPhail, Interim Chair, Chair's Office, Royal Canadian Mounted Police Public Complaints Commission); FEWO, *Evidence*, 7 March 2013, 1120 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual); FEWO, *Evidence*, 29 November 2012, 1005 (Ms. Pat Langan-Torell, Director, Values and Ethics, Department of Foreign Affairs and International Trade).

LEGAL AND REGULATORY FRAMEWORK – CIVILIAN

In the federal jurisdiction, there are several different categories of employers, and a plethora of legislation and regulation that governs how employers seek to prevent and respond to sexual harassment in the workplace. This section provides an overview of that legislation that is relevant to civilian employees in federal workplaces, with particular attention to definitions and jurisdiction in each. Later sections address the legal and regulatory framework that covers members of the Canadian Forces and constables in the Royal Canadian Mounted Police, and the mechanisms created or required by all relevant laws and regulations.

A. Overview

Parliament has jurisdiction over employment conditions and labour relations in the public service and in workplaces that are engaged in activities that come under section 91 of the *Constitution Act, 1867*.⁴⁴

One of the leading texts on employment in the federal public sector provides a useful outline of the public service for purposes of regulating working conditions.⁴⁵

The term “public service” is defined in both the *Public Service Labour Relations Act* and the *Public Service Employment Act* by reference to certain schedules of the *Financial Administration Act* (FAA). The entire “public service” is comprised of positions in or under Schedules I, IV, and V of the FAA. The “public service” is then divided into two parts: the “core public administration” (those positions in or under Schedules I and IV of the FAA) and “separate agencies” (those positions in or under Schedule V of the FAA).

The employer for the “core public administration” or Schedules I and IV of the *Financial Administration Act* is the Treasury Board. The employer for those employed by “separate agencies” (Schedule V), is the agency itself. A separate statute governs employment relations for those employees. For example, the Canada Revenue Agency and the Canadian Food Inspection Agency are employers pursuant to the *Canada Customs and Revenue Agency Act* and the *Canadian Food Inspection Agency Act* respectively.

The *Royal Canadian Mounted Police Act* and the *National Defence Act* apply to members of the RCMP and the CF.

Schedule III of the *Financial Administration Act* lists crown corporations, which are subject to the *Canada Labour Code* (the Code) with the employer being the corporation.

44 For recent analyses of the federal labour and employment law jurisdiction, see *Consolidated Fastfrate Inc. v. Western Canada Council of Teamsters*, [2009] 3 S.C.R. 407 (inter-provincial transport); *NIL/TU, O Child and Family Services Society v. B.C. Government and Service Employees’ Union*, [2010] 2 S.C.R. 696 (Aboriginal child and family services).

45 Christopher Rootham, *Labour and Employment Law in the Federal Public Service*, Irwin Law, Toronto, 2007, p. 55 [Rootham].

The *Parliamentary Employment and Staff Relations Act* governs employment for parliamentary employees.⁴⁶ The Treasury Board has no jurisdiction over employment of parliamentary employees. Each chamber is responsible for its own employees, and each parliamentarian is the employer of his or her staff persons.

In addition, there are statutes of general application that may have an impact on employment and labour relations in the public sector or public service, including the *Canadian Human Rights Act*, the *Privacy Act*, the *Public Servants' Disclosure Protection Act*, the *Public Sector Equitable Compensation Act* and other acts.

Finally, employment and labour relations in the federally regulated private sector are governed by the Code.

B. Statutes

There are two primary pieces of federal legislation that expressly address sexual harassment in federally regulated workplaces: the Code and the CHRA. The Code defines sexual harassment, establishes the rights of employees and obligations of employers, and sets out the required contents of a policy against sexual harassment. The CHRA prohibits sexual harassment in the workplace and prescribes a mechanism for hearing, investigating, and providing remedies for complaints. Also, while it does not address sexual harassment directly, the *Public Service Labour Relations Act* (PSLRA) is important in the context of grievances relating to sexual harassment for public servants subject to a collective agreement. For parliamentary employees, the *Parliamentary Employment and Staff Relations Act* is the applicable statute that governs terms and conditions of employment and labour relations.

Harassment, whether sexual or not, may become a criminal offence if it causes the harassed person to fear for their safety or that of others. Section 264 of the *Criminal Code* sets out the elements of “criminal harassment”, an offence that includes the behaviour commonly known as stalking.⁴⁷

1. Canada Labour Code

a. Overview

The Code governs working conditions and labour relations in federally regulated private sector workplaces and in Crown corporations. The Code specifically defines these workplaces as those that do “work, undertaking or business that is within the legislative authority of Parliament.”⁴⁸ Workplaces that are under the authority of the Code include

46 Subject to possible exceptions for employees who may be considered essential to enable parliamentarians to fulfill their core responsibilities as legislators. See *Canada (House of Commons) v. Vaid*, [2005] 1 S.C.R. 667.

47 *Criminal Code*, R.S.C. 1985, c. C-46.

48 *Canada Labour Code*, R.S.C. 1985, c. L-2, s. 2.

those related to navigation and shipping, railways and canals that extend beyond a single province, international and interprovincial ferries, air transport, radio broadcasting, banks and works that are beyond the legislative authority of a single province.

The Code defines sexual harassment as “any conduct, comment, gesture or contact of a sexual nature that is likely to cause offence or humiliation to any employee; or that might, on reasonable grounds, be perceived by that employee as placing a condition of a sexual nature on employment or on any opportunity for training or promotion.”⁴⁹ It states that all employees are entitled to a workplace free of sexual harassment and requires employers to “make every reasonable effort to ensure that no employee is subjected to sexual harassment.”⁵⁰ Under the Code, employers must, after consulting with employees, issue a policy statement on sexual harassment and make it known to employees. The Code also requires that the policy include statements that:

- define sexual harassment substantially the same way as in the Code; and
- explain how to bring complaints of sexual harassment to the employer.

As well, the Code specifies that:

- every employee is entitled to employment free of sexual harassment;
- the employer will make every reasonable effort to prevent sexual harassment;
- the employer will take any disciplinary measures they deem appropriate against any person under the employer’s direction who subjects any employee to sexual harassment;
- the employer will not disclose the complainant’s name or the circumstances of the complaint to any person except where necessary for investigating the complaint or taking disciplinary measures; and
- the employer will inform employees of the discriminatory practices provisions of the *Canadian Human Rights Act* that pertain to rights of persons to seek redress under that Act in respect of sexual harassment.⁵¹

As the last point suggests, the Code does not contain its own provisions on remedies, but rather refers complainants to the CHRA.

49 Ibid., s. 247.1.

50 Ibid., s. 247.3.

51 Ibid., s. 247.4(1).

Amendments in 2008 to the Code under Occupational Health and Safety Regulations address workplace violence⁵² and also offer remedies for sexual harassment in the workplace. These regulations⁵³ make explicit the obligations of employers and employees in preventing and addressing workplace violence. While they do not include a specific reference to sexual harassment, the definition does include psychological violence. Officials responsible for the administration of the Code confirmed that “it can also be applied to sexual harassment.”⁵⁴

In order to be in compliance with these regulations, employers must educate their employees “in any skills that would allow them to identify, prevent, or avoid any workplace violence.”⁵⁵

b. Witness Information and Observations

Government officials pointed out to the Committee a difference between requirements of public service versus federally regulated employers: “[i]n comparison with the federal public service, federally regulated workplaces are required to have a policy that addresses sexual harassment specifically, while the Treasury Board policy on harassment prevention and resolution addresses all types of harassment.”⁵⁶

The Committee heard that compliance activities related to sexual harassment and violence prevention by federal officials responsible for the Code’s implementation “range from proactive counselling and inspections to reactive investigations of employees’ complaints, and finally, as a last recourse, to prosecutions.”⁵⁷

Witnesses, particularly from unions representing employees in federal workplaces, described the broader scope of the violence prevention regulations as being a preferable approach, particularly with respect to the open-ended timing of a complaint, which can be filed at any point if the situation putting workers at risk persists and that no complaint is required to launch an investigation.⁵⁸ As well, the Committee heard that these regulations require employers to take preventive as well as remedial actions to correct any situation reported to them.⁵⁹

52 Ibid., s. 125(1)(z.16).

53 [“Violence Prevention in the Workplace.”](#) *Canada Occupational Health and Safety Regulations*, Part XX.

54 FEWO, *Evidence*, 23 October 2012, 0850 (Mrs. Caroline Cyr, Director General, Workplace Directorate, Labour Program, Department of Human Resources and Skills Development).

55 Ibid., 0905.

56 Ibid., 0850.

57 Ibid., 0855.

58 FEWO, *Evidence*, 29 January 2013, 1125 (Mr. Bob Kingston, National President, Agriculture Union, Co-Chair, Public Service Wide Policy Committee on Health and Safety, Public Service Alliance of Canada).

59 Ibid., 1125.

In a written submission to the Committee, Dave Ritchie, General Vice-President for Canada, International Association of Machinists and Aerospace Workers, recommended that:

[T]here should be a further legislated requirement for all federal workplaces to have an active policy against workplace sexual harassment, including:

- A clear, publicly-posted anti-harassment policy in every workplace – with an ongoing communications component – brochures, posters, etc. ...[and]
- Onsite training, for all management and workers, on how to deal to deal with harassment.⁶⁰

The same brief recommended “that the definition of harassment in the Code should be expanded, as in Quebec, to explicitly include psychological harassment.”⁶¹

Another witness suggested a joint worker-management human rights committee in every workplace to address sexual harassment.⁶²

Paula Turtle, Canadian Counsel for the United Steelworkers, told the Committee that:

[T]he issue of workplace harassment cannot be addressed without addressing workplace violence, including workplace violence connected to domestic violence. Workplace violence may be separate from but may also arise from a source outside of the workplace.⁶³

She continued: “given the stigma associated with domestic violence, especially if the victim and aggressor are colleagues, provisions that relate specifically to domestic violence are required.”⁶⁴

60 Mr. Dave Ritchie, General Vice President for Canada, International Association of Machinists and Aerospace Workers, “Written Submission by the International Association of Machinists and Aerospace Workers to the House of Commons Standing Committee on the Status of Women concerning Sexual Harassment in Federal Workplaces,” pp. 1–2.

61 *Ibid.*, p. 1.

62 FEWO, *Evidence*, 7 February 2013, 1200 (Ms. Paula Turtle, Canadian Counsel, United Steelworkers).

63 *Ibid.*

64 *Ibid.*

2. Canadian Human Rights Act

a. Overview

The CHRA applies more broadly than the Code to all “matters coming within the legislative authority of Parliament.”⁶⁵ The Supreme Court of Canada has held that the CHRA applies “to all employees of the federal government, including those working for Parliament.”⁶⁶

The CHRA addresses sexual harassment in two stages; first, it prohibits harassment as a discriminatory practice:

14. (1) It is a discriminatory practice,

(a) in the provision of goods, services, facilities or accommodation customarily available to the general public,

(b) in the provision of commercial premises or residential accommodation, or

(c) in matters related to employment, to harass an individual on a prohibited ground of discrimination.⁶⁷

It then goes on to specify that sexual harassment is “harassment on a prohibited ground of discrimination.”⁶⁸

The CHRA also establishes the Canadian Human Rights Commission (CHRC). The CHRC hears complaints of discriminatory practices. More information on the complaint processes is provided in the section of the report “Official Complaints Processes”.

b. Witness Information and Observations

The Acting Commissioner of the CHRC told the Committee that 332 complaints in the previous 5 years were related to sexual harassment, more than 85% of which were filed by women.⁶⁹ He also pointed to the limitations of existing policies and laws, as they do not serve to prevent harassment, nor can they protect those who are unwilling to report such incidents.⁷⁰

65 *Canadian Human Rights Act*, R.S.C. 1985, c. H-6, s. 2.

66 *Vaid*, at para. 79.

67 CHRA, s. 14(1).

68 *Ibid.*, s. 14(2).

69 FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission).

70 *Ibid.*

The Committee also heard that of 600 complaints referred to the Canadian Human Rights Tribunal in the same period, 36 were related to employment-related harassment and discrimination based on sex.⁷¹ Where the Tribunal finds that an individual, government department or a federally regulated corporation is found to have discriminated against or sexually harassed an individual, it can issue remedial orders for training, revise existing policies, or offer monetary payment to the complainant.⁷² The Committee also heard that the Tribunal is unable to award legal costs to a victim of harassment, which could mean that the expense of pursuing this remedy could exceed any awards.⁷³

Witnesses told the Committee that the CHRC can refuse to refer a complaint to the Tribunal for several reasons. These include the availability of other forms of recourse, including a grievance or the process identified in the Treasury Board policy for federal public servants;⁷⁴ or the offer of what the CHRC considers a reasonable settlement.⁷⁵ Several witnesses confirmed that referrals to the CHRC could be a late or last step in the process of pursuing a harassment complaint.⁷⁶

Witnesses also told the Committee that the lengthy investigation process could be a deterrent to individuals using the CHRC and Tribunal as a means of pursuing a sexual harassment complaint.⁷⁷

3. Public Service Labour Relations Act

While the *Public Service Labour Relations Act* does not address the issue of sexual harassment directly, it regulates the relationship between unionized federal workers and their employer for purposes of collective bargaining. Specifically, the PSLRA sets out the framework for labour relations and collective bargaining between the Treasury Board and the federal employees under its authority. With respect to sexual harassment, it sets out the steps a complainant would have to take if he or she were unsatisfied with the results of a grievance he or she presented. More discussion and witness comments on the PSLRA appear below in the “Collective Agreements/Grievances” section.

71 FEWO, *Evidence*, 16 October 2012, 1005 (Mr. Susheel Gupta, Vice-Chairperson, Acting Chairperson and Chief Executive Officer, Canadian Human Rights Tribunal).

72 *Ibid.*, 1030.

73 FEWO, *Evidence*, 23 October 2012, 0950 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O'Brien Payne).

74 *Ibid.*, 0955.

75 *Ibid.*

76 See for example: FEWO, *Evidence*, 4 December 2012, 0855 (Mr. Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 29 January 2013, 1155 (Ms. Mary Chamberlain, Executive Vice-President, Union of National Defence Employees, Public Service Alliance of Canada); FEWO, *Evidence*, 7 February 2013, 1105 (Ms. Mary Dawson, Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner); FEWO, *Evidence*, 7 February 2013, 1245 (Mr. Vinay Sharma, Director of Human Rights, Canadian Auto Workers).

77 FEWO, *Evidence*, 23 October 2012, 0955 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O'Brien Payne); FEWO, *Evidence*, 7 February 2013, 1205 (Mr. Vinay Sharma, Director of Human Rights, Canadian Auto Workers).

C. Case Law

Much of sexual harassment case law comes from tribunal decisions, primarily the Public Service Labour Relations Board, the Canada Industrial Relations Board, and the Canadian Human Rights Tribunal, which are mandated by statute to determine matters relating to the workplace, and from the Federal Court, which hears applications for judicial review from federal tribunals. The Supreme Court of Canada has had occasion to hear a number of appeals relating to sexual harassment, but two cases, *Robichaud v. Canada (Treasury Board)* and *Janzen v. Platy Enterprises*, have been particularly influential in the development of the Canadian case law on the topic.

In *Robichaud v. Canada (Treasury Board)*, released in 1987,⁷⁸ the Supreme Court found that an employer, including the Crown, may be held liable for the discriminatory actions of its employees. In its decision, the Court quoted Justice Thurgood Marshall of the Supreme Court of the United States:

A supervisor's responsibilities do not begin and end with the power to hire, fire, and discipline employees, or with the power to recommend such actions. Rather, a supervisor is charged with the day-to-day supervision of the work environment and with ensuring a safe, productive, workplace. There is no reason why abuse of the latter authority should have different consequences than abuse of the former. In both cases it is the authority vested in the supervisor by the employer that enables him to commit the wrong: it is precisely because the supervisor is understood to be clothed with the employer's authority that he is able to impose unwelcome sexual conduct on subordinates.⁷⁹

Two years later, the Supreme Court held in *Janzen v. Platy Enterprises* that sexual harassment constitutes discrimination on the basis of sex.⁸⁰ Chief Justice Dickson, speaking for a unanimous Court, provided a definition of sexual harassment, which remains the leading definition in the Canadian case law:⁸¹

Without seeking to provide an exhaustive definition of the term, I am of the view that sexual harassment in the workplace may be broadly defined as unwelcome conduct of a sexual nature that detrimentally affects the work environment or leads to adverse job-related consequences for the victims of the harassment. It is ... an abuse of power. When sexual harassment occurs in the workplace, it is an abuse of both economic and sexual power. Sexual harassment is a demeaning practice, one that constitutes a profound affront to the dignity of the employees forced to endure it. By requiring an employee to contend with unwelcome sexual actions or explicit sexual demands, sexual harassment in the workplace attacks the dignity and self-respect of the victim both as an employee and as a human being.

78 [1987] 2 S.C.R. 84.

79 *Ibid.*, at para. 17, citing *Meritor Savings Bank, FSB v. Vinson*, 106 S.Ct. 2399 (1986), at pp. 2410–2411.

80 [1989] 1 S.C.R. 1252.

81 *Ibid.*, at para. 57.

D. Policy Framework

Legislation always carries more legal authority than policy. Nevertheless, some policies may seem more immediately relevant to employees because they are more familiar with policies, or because policies have a more direct application in their day-to-day experiences at work. Courts have found that whether a policy is legally binding may depend on whether the policy was enacted under a permissive or mandatory provision of the enabling statute.⁸² In other words, the legal authority of a policy may depend on whether the provision of the statute under which the policy was enacted *required* the creation of that policy, or simply *authorized* or allowed it.

1. Treasury Board Policies

a. Policy on Harassment Prevention and Resolution

As the employer of the public service, the Treasury Board is responsible for setting guidelines against harassment for a significant portion of federal employees. This authority is derived from the *Financial Administration Act*, which establishes the Treasury Board and sets out its responsibilities. Subsection 7(1)(e) authorizes (or allows) the Treasury Board to “act for the Queen’s Privy Council for Canada on all matters relating to human resources management in the federal public administration.” Subsection 11.1(1)(i) further authorizes the Treasury Board to “establish policies or issue directives respecting the prevention of harassment in the workplace and the resolution of disputes relating to such harassment.” In reference to the discussion above, it is significant that the language of this provision is permissive, not mandatory. Courts have held that if the Treasury Board had intended for a given policy to have the same legal authority as legislation, it could have been created as a regulation under the enabling statute.⁸³

In 2001, the Treasury Board released a harassment policy that applied to the federal public service, the *Policy on Prevention and Resolution of Harassment in the Workplace* (2001 policy). On 1 October 2012, the Treasury Board replaced the 2001 policy with the *Policy on Harassment Prevention and Resolution* (2012 policy) and the associated *Directive on the Harassment Complaint Process*. Unlike the Code and the CHRA, the Treasury Board policies deal with harassment generally, and make no direct reference to sexual harassment.

The 2001 policy mandated compliance: “[d]epartments/organizations *must* meet the requirements of this policy.” The 2012 policy contains no such statement, although it does state that the Treasury Board will monitor results: “[t]he achievement of expected results by deputy heads will be assessed by Treasury Board of Canada Secretariat.”

While the 2001 policy was a self-contained document, the 2012 policy must be read in conjunction with the directive, mentioned above, and refers to several guides and

82 Rootham, p. 325.

83 *Glowinski v. Canada (Treasury Board)*, 2006 FC 78.

frameworks, many of which were under revision or inaccessible at the time of this study. Without having access to the revised guides and frameworks, it is difficult to outline the full scope of the 2012 policy. For this reason, and because it would seem that complaints brought before 1 October 2012 will still fall under the 2001 policy, this report deals primarily with the 2001 policy, while noting differences between the policies where relevant.

b. Application

The 2001 policy applied only to “employees”, which means that many federal workers were exempt from the policy. Individuals exempt from the policy included the following:

- a person appointed to a statutory position by the Governor in Council;
- a person locally engaged outside Canada;
- a person working part time, where the time amounts to less than a third of full time;
- a person who is a member or special constable of the Royal Canadian Mounted Police or who is employed by that force under terms and conditions substantially the same as those of one of its members;
- Canadian Security Intelligence Service employees other than those whose position is of a clerical or secretarial nature;
- a person employed on a casual basis;
- a person employed on a term basis for under three months;
- a person employed by the Public Service Labour Relations Board;
- a person who occupies a managerial or confidential position; and
- a person who is employed under a program designated by the employer as a student employment program.⁸⁴

The 2001 policy stated that while managers are not covered under the policy, they were expected to abide by it. Although it is not clear to what extent non-employees were protected, the policy required that “[c]orrective action ... be timely in all situations of harassment, whether it involves employees or other persons working for the Public Service.” In 2001, the Treasury Board developed the Non-represented Employee Advisors

84 *Public Service Labour Relations Act*, S.C. 2003, c. 22, s. 2.

Program to assist unrepresented employees through their complaint process.⁸⁵ However, the program no longer exists.⁸⁶

The 2012 policy appears to apply to a broader group of employees. Unlike the 2001 policy, the 2012 policy does not explicitly list exempted employees. The policy applies to several classes of employees that had been exempt previously. Section 2.1 of the 2012 policy states that it applies to:

[T]he core public administration which includes the organizations named in Schedule I and the other portions of the federal public administration named in Schedule IV of the *Financial Administration Act* unless excluded by specific acts, regulations or Orders in Council.

“Employee” is defined in the directive as follows:

[F]or the purpose of this directive, employee refers to those employed as indeterminate employees, part-time employees, term employees, seasonal employees, casual workers, students and part-time workers in organizations defined in section 2.1.

The 2012 policy does not explicitly state whether it applies to the remaining classes of employees exempt under the 2001 policy, but it does anticipate the exclusion of certain employees:

For individuals who are not employees as defined in [Appendix A](#) to the policy, managers must address any allegation of harassment from these individuals in accordance with the spirit of this directive.

It is important to note that the Treasury Board policies are simply instruments the Treasury Board has chosen to use to address sexual harassment in the workplace. They cannot purport to limit employees’ legislated rights.⁸⁷ Although the policies exclude certain employees, all employees retain their rights under the CHRA to bring a complaint to the CHRC.

c. Definition of Harassment

The 2001 policy defined harassment as follows:

[A]ny improper conduct by an individual, that is directed at and offensive to another person or persons in the workplace, and that the individual knew or ought reasonably to have known would cause offence or harm. It comprises any objectionable act, comment or display that demeans, belittles, or causes personal humiliation or embarrassment, and

85 Treasury Board, [Non-represented Employee Advisors Program](#), 2003.

86 As confirmed in a telephone conversation with Annie Gagnon, Senior Analyst with the Treasury Board of Canada Secretariat, Values and Ethics, 10 August 2012.

87 See generally *Vaid*.

any act of intimidation or threat. It includes harassment within the meaning of the *Canadian Human Rights Act*.⁸⁸

The 2012 policy definition is quite similar but includes some additions, which are in italics:

[I]mproper conduct by an individual, that is directed at and offensive to another individual in the workplace, *including at any event or any location related to work*, and that the individual knew or ought reasonably to have known would cause offence or harm. It comprises objectionable act(s), comment(s) or display(s) that demean, belittle, or cause personal humiliation or embarrassment, and any act of intimidation or threat. It also includes harassment within the meaning of the Canadian Human Rights Act (*i.e. based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and pardoned conviction*).

Harassment is normally a series of incidents but can be one severe incident which has a lasting impact on the individual.

While neither policy explicitly includes or defines sexual harassment, both definitions necessarily include sexual harassment, as they refer to the CHRA, which includes an explicit definition of sexual harassment. Cindy Viau, Director's Advisor at the Quebec Help and Information Centre on Harassment in the Workplace, told the Committee that "it would be a very good start if the federal level had a policy in which things were clearly defined, a policy that would include the definition of what sexual harassment is."⁸⁹

Recommendation 1

The Committee recommends the development of a policy at the federal level to clearly define sexual harassment, and that it be included in any policies by Treasury Board on sexual harassment for the federal workplace.

d. Witness Information and Observations

Officials from the Treasury Board Secretariat (TBS) told the Committee that the 2012 "policy instruments give deputy heads the flexibility to tailor harassment prevention and resolution mechanisms and practices to their operational needs ... [and] emphasize the need for organizations to restore the workplace following an allegation of harassment."⁹⁰ The Committee also heard that the newer policy puts a greater emphasis on informal resolution processes (addressed in greater detail later in this report), and on preventive activities.

88 Treasury Board, [Policy on Prevention and Resolution of Harassment in the Workplace](#), 2001.

89 FEWO, *Evidence*, 26 March 2013, 1150 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace).

90 FEWO, *Evidence*, 16 October 2012, 0905 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat).

Other witnesses described differences between the 2001 and 2012 policies, including in the definition of sexual harassment. One witness pointed out that the 2012 policy expands the scope of the workplace, and that the guidance documents associated with this new policy as to what behaviours constitute harassment and the manager's obligations with respect to harassment were not yet available.⁹¹

Robin Kers, National Representative of the Union of Solicitor General Employees, Public Service Alliance of Canada (PSAC), described the new policy as "dramatically weakened".⁹²

He told the Committee:

The old policy granted a complainant the right to review a final report before it became final and to provide additional witnesses, where necessary, documentation, and clarification. The new Treasury Board policy has eliminated that.⁹³

Mr. Kers recommended that all departments should be required to provide this opportunity to complainants in any harassment complaint, including sexual harassment.⁹⁴

Mr. Kers also pointed out that the Treasury Board policy does not guarantee a right to representation through the complaint process: "... with the internal harassment complaint process, there is no right to representation under Treasury Board policy and guidelines, but under the grievance process, there is a right to representation."⁹⁵

One witness recommended that human resources managers receive adequate training to take the next steps following an investigation of harassment under the Treasury Board policy.⁹⁶

One witness who sat on the bargaining agents' committee that negotiated the policy with Treasury Board questioned whether the revised Treasury Board policy complies with the Violence in the Work Place amendments to the Occupational Health and Safety Regulations of the Code.⁹⁷

91 FEWO, *Evidence*, 23 October 2012, 1005 (Mr. Steven Gaon, appearing appearing as an individual).

92 FEWO, *Evidence*, 29 January 2013, 1145 (Mr. Robin Kers, National Representative, Union of Solicitor General Employees, Public Service Alliance of Canada).

93 Ibid.

94 Ibid.

95 Ibid., 1125.

96 FEWO, *Evidence*, 23 October 2012, 1030 (Mr. Steven Gaon, appearing appearing as an individual).

97 FEWO, *Evidence*, 29 January 2013, 1155 (Mr. Bob Kingston, National President, Agriculture Union, Co-Chair, Public Service Wide Policy Committee on Health and Safety, Public Service Alliance of Canada).

e. Values and Ethics Code for the Public Sector

A Treasury Board official told the Committee that the harassment prevention policy is “tied” to the value of respect for people, articulated in the *Values and Ethics Code for the Public Sector*, introduced in April 2012.⁹⁸ It was described as “an opportunity for promotion of respect and development of related skills, mainly empathic listening, difficult conversations, emotional intelligence, and so forth, for all employees and especially managers,”⁹⁹ and as a condition of employment for all public servants.¹⁰⁰

The Committee heard from other public officials of implementation of more specific values and ethics code and/or program that applied to their department or agency more specifically.¹⁰¹ The Committee also learned that the Canada School of Public Service (CSPS) offers training specific to the *Values and Ethics Code for the Public Sector*.¹⁰²

2. Other Policies

Both the Code and the Treasury Board policies require employers under their respective authorities to establish individual departmental policies against harassment. Each requires that the subsidiary policies conform to minimum requirements set out by the Treasury Board policy and the Code, but the departmental policies may go beyond these basic requirements. This explains considerable variations among subsidiary policies.

Some policies are unique to their departments or agencies. Neither the Code nor the Treasury Board policies applies to RCMP officers, for example. The RCMP is discussed in greater detail later in this report.

E. Collective Agreements/Grievances

The last part of the sexual harassment framework that applies in many federally regulated workplaces, and sometimes the most important for unionized employees, are collective agreements. As noted above, the Committee heard that a grievance process

98 FEWO, *Evidence*, 16 October 2012, 0910 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat).

99 Ibid., 0905.

100 Ibid., 0910.

101 See for example: FEWO, *Evidence*, 29 November 2012, 0940 (Ms. Linda Savoie, Director General, Women’s Program and Regional Operations Directorate, Status of Women Canada); FEWO, *Evidence*, 27 November 2012, 0900 (Ms. Sonia L’Heureux, Parliamentary Librarian, Library of Parliament); FEWO, *Evidence*, 29 November 2012, 0955 (Ms. Marielle Doyon, Acting Assistant Deputy Minister, Human Resources Branch, Department of Public Works and Government Services); FEWO, *Evidence*, 29 November 2012, 0940 (Mr. Timothy Edwards, President, Professional Association of Foreign Service Officers); FEWO, *Evidence*, 7 February 2013, 1130 (Ms. Denise Benoit, Director, Corporate Management, Office of the Conflict of Interest and Ethics Commissioner).

102 FEWO, *Evidence*, 4 December 2012, 0945 (Mr. Jean-François Fleury, Acting Vice-President, Learning Programs, Canada School of Public Service).

provides the complainant with the right to representation, and that this is not guaranteed in the Treasury Board complaint process.¹⁰³

A collective agreement, negotiated by an employer and an employees' organization, or a union, sets out many of the terms and conditions of employment.¹⁰⁴ Under section 208 of the PSLRA, employees may present individual grievances "if they feel aggrieved as a result of any occurrence or matter affecting his or her terms and conditions of employment."

Under the CHRA, the CHRC has the option of declining to hear a complaint if it finds that the complainant ought to have pursued other reasonable review or grievance procedures. This makes a collective agreement particularly significant in the sexual harassment context as a grievance may represent a necessary first step to other avenues of recourse. Also, for workplaces subject to the PSLRA, an employee is barred from taking the complaint directly to court,¹⁰⁵ and is required to exercise his or her right to present a grievance under a collective agreement instead.

There are also options under the PSLRA beyond the individual grievance. For instance there are group grievances, where a bargaining agent (the union or employee organization representing a bargaining unit, which is the group of employees to which a collective agreement applies) may present a grievance on behalf of employees who feel aggrieved by the interpretation of part of the collective agreement. There are also policy grievances, where the bargaining agent may present a grievance in relation to the general application or interpretation of the collective agreement.

Bargaining agents may refer a grievance to adjudication if they are unsatisfied with the result of the grievance and the grievance relates to a breach of the collective agreement.¹⁰⁶ The matter then proceeds to the Public Service Labour Relations Board (the Board) for adjudication. When this happens, the CHRC must be given notice and may make submissions before the Board. The adjudication is then conducted either by a single adjudicator or by a three-member panel of members of the Board. The adjudicator or panel is empowered to interpret and apply the CHRA, meaning that remedies would be the same as those discussed above in reference to the CHRA process.

F. Non-unionized Employees

As discussed above, the CHRA is a statute of general application that protects all federally regulated employees. Non-unionized employees may bring a complaint to the CHRC. They are also entitled to present grievances under the PSLRA, although if they are unsatisfied with the results of a grievance, their only option is to apply to Federal Court and

103 FEWO, *Evidence*, 14 February 2013, 1225 (Mr. Robin Kers, National Representative, Union of Solicitor General Employees, Public Service Alliance of Canada).

104 *Halsbury's Laws of Canada, Labour*, 1st ed., LexisNexis, Markham, Ontario, 2011, p. 210.

105 *Public Service Labour Relations Act*, s. 236.

106 Rootham, p. 300.

seek a judicial review of either the CHRC's decision not to refer a matter to the Tribunal, or a Tribunal decision.¹⁰⁷

Unlike most unionized employees, non-unionized employees are free to seek redress through the courts. Employees might argue that the employer fundamentally breached the employment contract by creating an intolerable environment.¹⁰⁸

They may seek damages for constructive dismissal, which the Supreme Court of Canada describes as follows:

[W]here an employer unilaterally makes a fundamental or substantial change to an employee's contract of employment – a change that violates the contract's terms – the employer is committing a fundamental breach of the contract that results in its termination and entitles the employee to consider himself or herself constructively dismissed.¹⁰⁹

107 Ibid.

108 *Shah v. Xerox Canada Ltd.*, 2000 CanLII 2317 (ON CA).

109 *Farber v. Royal Trust Co.*, [1997] 1 S.C.R. 846, at para. 33.

LEGAL AND REGULATORY FRAMEWORK – MILITARY AND POLICE

A. Overview

As the Committee heard from the Acting Chief Commissioner of the CHRC, of the complaints made to the CHRC from the federal public service, 3% relate to sexual harassment, while 7% of complaints against the RCMP and 8% of all complaints against the CF relate to sexual harassment.¹¹⁰ He concluded, “[b]ased on the Commission’s experience, sexual harassment is more prevalent in hierarchical, male-dominated cultures.”¹¹¹

This observation is consistent with the domestic and international literature, which describes higher levels of sexual harassment in this type of organization. The higher levels of sexual harassment are generally attributed to the purpose and culture of organizations operating in life-threatening situations in which a chain of command, rather than a simple management structure, is critical to the success of its operations. For example, a New Zealand review of abuses in its military described the higher risks associated with these organizations:

There is a potential for a level of real or perceived [physical, sexual or other] abuse that is higher than in most civilian organisations because of: a demanding training; the emphasis on teamwork and discipline to achieve operational effectiveness and safety (which leads to peer pressure to perform); communal living, sometimes for long periods; and the hierarchical system in which superiors have a high degree of authority over their subordinates.¹¹²

The Canadian Forces and the Royal Canadian Mounted Police are federally regulated workplaces; however, they share a set of circumstances that differ significantly from those in other federally regulated workplaces. Although each has a civilian workforce that is covered by the more general Treasury Board policy, the non-civilian workforce is governed by legislation specific to each of them: the *National Defence Act* and the *Royal Canadian Mounted Police Act* respectively. (The legislation and policies governing civilian employees were included in the previous section of this report, and are not addressed here.)

110 FEWO, *Evidence*, 16 October 2013, 1005 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission).

111 *Ibid.*, 0955.

112 New Zealand Ministry of Defence, “[NZDF Policies and Practices Relating to Physical, Sexual, and Other Abuses](#),” 2005, pp. iii–iv.

Self-reported incidents of harassment¹¹³ in the Department of National Defence (DND) and the RCMP in Canada are higher than in the public service in general, according to the Public Service Employee Survey (PSES). Greater detail on the incidence of sexual harassment in these two organizations is provided in this section of this report. More general public service-wide results are discussed in a later section of the report.

B. Canadian Forces and Department of National Defence

1. Integration of Women

The history of integration of women into the Canadian Forces¹¹⁴ in the current context was first triggered by the signing of the *Canadian Human Rights Act* in 1978. Integration was accelerated by the passage of the *Charter of Rights and Freedoms*, and a parliamentary recommendation to remove all barriers to employment for women in the CF in 1987. The complete integration followed a Canadian Human Rights Tribunal ruling in 1989 that required that exclusion of women from all trades, including combat roles, be discontinued. This ruling resulted in Canada becoming one of the first countries to integrate women into all areas of its military forces.

Studies in the late 1990s demonstrated the need for integration initiatives, indicating “that women in the combat arms still find themselves in an environment in which the dominant culture encourages their non-acceptance.”¹¹⁵

In a 2009 report to the Committee for Women in NATO (North Atlantic Treaty Organization) Forces, for example, the CF described progress in implementing that 1989 decision:

In March 2009, the CF held a “Working Group on Gender Integration” to review the original goals and objectives for gender integration dating from the decision of a Canadian Human Rights Tribunal in 1989 which first opened all military occupations to women. The group confirmed many successes and identified new areas of concern where proactive measures may be needed to create and sustain an environment that is appealing for attraction and retention of women in the CF.¹¹⁶

113 The [Public Service Employee Survey](#) of 2011, administered by Statistics Canada, includes questions on harassment, but these are not broken down by the type of harassment. Similarly, for both the RCMP and DND, there is no breakdown between civilians and those within the chain of command.

114 Historical information about the integration of women into the Canadian Forces is taken from Second Lieutenant M. Rzechowka, “[Gender Integration and Modern Military Forces: A Comparative Analysis](#),” *The Canadian Army Journal*, 2010, pp. 71–88.

115 Gwyn Harries-Jenkins, “Institution to Occupation to Diversity: Gender in the Military Today,” in [Challenge and Change in the Military: Gender and Diversity Issues](#), Franklin C. Pinch et. al. (editors), National Defence Canada, 2004, reprinted 2007, p. 46.

116 “[Canadian Forces 2009 National Report to the Committee for Women in NATO Forces \(CWINF\)](#),” 2009, p. 6.

The Committee also heard that DND and the CF have developed a joint military-civilian advisory group that offers women support and provides advice to both organizations with respect to integrating women.¹¹⁷

2. Incidence of Sexual Harassment

While the history cited above describes a largely positive experience with the integration process, other sources suggest that sexual harassment has not been an uncommon experience in the CF. The CF administered its own surveys in 1992 and 1998 that showed a decline in incidents of self-reported sexual harassment within the CF, but a rate much higher for women than for men, at 19.4% and 3% respectively in 1998.¹¹⁸

The Director General Military Personnel advised the Committee that a further survey on sexual harassment was carried out in 2012;¹¹⁹ the results of this survey were not available at the time this report was written.

The questions in the recent PSES do not provide information on sexual harassment specifically, nor do the results include military personnel. The same official told the Committee that “[w]e don’t use the public service employment survey because our members are not public servants.”¹²⁰ In describing the scope of the survey, Statistics Canada officials told the Committee that some organizations whose members are not public servants chose to participate in the 2011 survey, and gave as examples the non-civilian portion of the RCMP and the Canada Revenue Agency employees.¹²¹

3. Legislation and Policy

Canada’s focus on countering harassment in the military has not been unique. As described in one comparative study of harassment of women in military organizations, the authors provide the following description:

Harassment is a particularly salient issue within military organizations, as women and minority groups continue to be significantly under-represented; their small numbers and their relative newcomer status make them vulnerable to discrimination and harassment. Consequently, countering harassment has been demanding significant resources and attention as Western military organizations face increased pressure to effectively

117 FEWO, *Evidence*, 12 February 2013, 1110 (PO 1 Shanna Wilson, National Military Co-Chair, Defence Women’s Advisory Organization).

118 Nicola J. Holden and Karen D. Davis, “Harassment in the Military: Cross-National Comparisons,” in [Challenge and Change in the Military: Gender and Diversity Issues](#), Franklin C. Pinch et. al. (editors), National Defence Canada, 2004, reprinted 2007, p. 110.

119 FEWO, *Evidence*, 22 November 2012, 0850 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence).

120 *Ibid.*, 0955.

121 FEWO, *Evidence*, 1 November 2012, 0920 (Mr. Geoff Bowlby, Director, Special Surveys, Statistics Canada).

integrate representative numbers of women and men from national populations that are becoming more diverse.¹²²

Within DND and the CF, civilian and military personnel are covered by a single policy with respect to harassment, introduced in 2000.¹²³ This policy cites both the *Canadian Human Rights Act* definition of harassment and the 2001 Treasury Board *Policy on the Prevention and Resolution of Harassment in the Workplace* as sources. According to the policy,

DND and the CF define ‘harassment’ as “any improper conduct by an individual that is directed at and offensive to another person or persons in the workplace and which the individual knew or ought reasonably to have known would cause offence or harm. It comprises any objectionable act, comment or display that demeans, belittles or causes personal humiliation or embarrassment, or any act of intimidation or threat.”¹²⁴

The intent of the policy was to correct a situation in which civilian and military members were covered by different policies and grievance procedures.¹²⁵ The emphasis of the policy, according to a backgrounder released by DND in August 2012¹²⁶ and testimony before the Committee,¹²⁷ is on alternative dispute resolution mechanisms for resolving complaints wherever possible, including through intervention by a supervisor or mediation.

The Committee heard that the CF has a continuum of policies related to sexual behaviour, with regulation of fraternization and personal relationships at one end, and sexual misconduct at the other, and that the sexual harassment policy is in the middle of the spectrum.¹²⁸ Officials told the Committee that the sexual misconduct policy “deals with behaviours that are either sexual in nature or committed with the intent to commit an act or acts that are sexual in nature” which could include offences of indecent exposure and voyeurism.¹²⁹

122 Nicola J. Holden and Karen D. Davis, “Harassment in the Military: Cross-National Comparisons,” in [Challenge and Change in the Military: Gender and Diversity Issues](#), Franklin C. Pinch et. al. (editors), National Defence Canada, 2004, reprinted 2007, p. 97.

123 [Defence Administrative Orders and Directives, DAOD 5012-0, Harassment Prevention and Resolution](#), Chief Review Services, National Defence, *Evaluation of the Harassment Prevention and Resolution Policy and Program*, November 2006, p. ii.

124 Canadian Forces, “[BG-12.037](#),” *Military Administrative Law Manual*, Chapter 3, para. 35, 1 August 2012.

125 National Defence, Judge Advocate General, “[Chapter 22 – Harassment](#),” *Military Administrative Law Manual*.

126 Canadian Forces, “[BG-12.037](#),” *Military Administrative Law Manual*, Chapter 3, para. 35, 1 August 2012.

127 FEWO, *Evidence*, 22 November 2012, 0845 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence).

128 Ibid.

129 FEWO, *Evidence*, 22 November 2012, 0845 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence).

C. Royal Canadian Mounted Police

1. Integration of Women

By its own history,¹³⁰ the RCMP first engaged women as matrons and jail guards who dealt with female offenders starting in the 1890s. By the early 1900s, women filled scientific and medical roles within the force.

In its 1970 report, the Royal Commission on the Status of Women noted that 10% of civilian members¹³¹ of the RCMP were women; that maternity leave for the force was less generous than that in the public service, and that women were prohibited from enlisting as non-civilian “peace officers”. The Commission formally recommended “that enlistment in the Royal Canadian Mounted Police be opened to women.”¹³²

The first troop of women enlisted members graduated in 1974. That was later hailed as a turning point not only for the RCMP, but also for women’s status in the workforce in general: in marking the 25th anniversary of the hiring of women as regular members, a member of Parliament told the House of Commons that:

The appointment of women police officers not only radically changed the RCMP and other police forces, it also helped radically change the role of women in the workplace and to change public perception of this role and of the police.¹³³

One of the women in that first group of regular officers attributed significance to the women’s movement in general in a memoir written years later:

The Force’s decision to assume equality unless proven otherwise was unprecedented at the time. The theory that women could perform “male” roles was put to a true test, providing the experimental data the women’s movement required. The RCMP became a world leader in the women’s movement.¹³⁴

In 1985, the Subcommittee on Equality Rights of the House of Commons Standing Committee on Justice and Legal Affairs heard from the then-commissioner of the RCMP, who was questioned as to the number of women at various ranks within the force.¹³⁵ At that time, he reported that of fully trained “peace officers”, there were more than

130 Unless otherwise noted, historical information about women in the RCMP is taken from a section of its website, “[Women in the RCMP](#)”.

131 The RCMP includes both civilian members (not “peace officers”) and constables (both regular and special, who are peace officers). Data on the percentage of women in the force sometimes include both civilian and non-civilian members, while others include only the non-civilian portion.

132 Royal Commission on the Status of Women in Canada, [Report](#), 28 September 1970, pp. 133–134.

133 Jacques Saada, [Debates of Oct. 28th, 1999](#), House of Commons Hansard #13 of the 2nd Session, 36th Parliament.

134 Jane Hall, *The Red Wall: A Woman in the RCMP*, 2007, p. 7.

135 House of Commons, Subcommittee on Equality Rights of the Standing Committee on Justice and Legal Affairs, *Evidence*, 1st Session, 33rd Parliament, 1 May 1985, 1550 (Commissioner R.H. Simmonds, Royal Canadian Mounted Police).

12,000 males and fewer than 500 females. If special constables were added in, the number of males rose to more than 14,000 men and 1,200 women.¹³⁶

Targets for recruiting women have been in place for more than a decade. In 1998, a CHRC report noted that while the RCMP was not then covered by the *Employment Equity Act*:

The Commission has been monitoring progress in the RCMP based on an agreement arising from a joint voluntary employment equity review completed in 1995. Supported by a firm commitment from senior management to ensure improved equity, the RCMP has initiated significant measures and made good progress, including achieving most of the hiring and promotion goals established for regular members.

In particular, during the last three years for which the Commission has received data (1995 to 1997), women have received more than 30% of appointments.¹³⁷

However, RCMP data in annual federal government reports on employment equity showed that in the three fiscal years from 1 April 2005 to 31 March 2008, the percentage of women among non-civilian RCMP staff ranged from 9% to 12%.¹³⁸ Most recently, in its *Report on Plans and Priorities* for 2011–2012, the target for recruits of police officers was 30% women.¹³⁹ The current commitment is for 35% of new recruits to be women.¹⁴⁰ Recruitment advertisements in March 2012 indicated that 22% of “the RCMP workforce” is women.¹⁴¹

2. Incidence of Sexual Harassment

In recent months, media reports of sexual harassment within the RCMP have been frequent. A possible trigger has been the coming forward of one high-profile officer (now on leave) who suggested to the media that this harassment has been long-standing. According to a *Toronto Star* article, more than 1,000 harassment complaints (including gender-based harassment and bullying complaints) had been received by the RCMP between 2005 and the publication of the article in 2011.¹⁴² During testimony in front of the Committee, the RCMP Public Complaints Commission stated that they had reviewed 718 harassment complaints filed between 2005 and 2011, and upon examination, found

136 Ibid., 1605.

137 Canadian Human Rights Commission, “Employment Equity,” *1998 Annual Report*, p. 10.

138 Library of Parliament calculations based on Employment Equity reports for [2005–2006](#), pp. 81, 98; [2006–2007](#), pp. 95, 100; and [2007–2008, Appendix C](#).

139 RCMP, [Report on Plans and Priorities, 2011–12](#), p. 21.

140 RCMP, [Equal, Fair and Diverse Workforce](#).

141 “[Alberta RCMP looking for a few good women](#),” *Calgary News*, CJOB, March 2012.

142 Tonda MacCharles, “[RCMP reviewing 65 outstanding harassment complaints](#),” *Toronto Star*, 28 December 2011.

that the majority of cases were abuse of authority and bullying; however the Commission acknowledged that only formal complaints of harassment were reviewed.¹⁴³

A witness who had settled a sexual harassment complaint against the RCMP told the Committee that she feared that the public attention would mean that harassment will go “underground,” with a “silent kind of shunning.”¹⁴⁴ A participant in a roundtable of former female RCMP members identified that sexual harassment was widespread not only in the force itself, but that there was also “systemic harassment orchestrated by a group” among cadets in training.¹⁴⁵

The RCMP participated in the PSES for 2011, which included questions related to harassment and discrimination. It should be noted that the results included both civilian and non-civilian employees of the RCMP.

A gender analysis of the results shows that a greater proportion of women than men responded positively to questions related to liking their jobs, getting satisfaction from their work, and receiving recognition for work well done.¹⁴⁶ Women were less likely than their male counterparts to respond positively to questions about the way in which informal complaints were resolved within their work units and whether they had positive working relationships with co-workers.

For questions dealing with harassment, women were more likely to indicate in their responses that they had been harassed in the previous two years, particularly by co-workers; they were less likely than men to have reported being harassed by people with authority over them. Women and men both responded positively that their agency works hard to create a workplace that prevents harassment (72% of male respondents and 70% of women).

The survey questions also asked respondents to identify their experience with specific types of discrimination, with 53% of men indicating they had not experienced sex discrimination in the previous two years, compared to 35% of women, with the percentage of women having experienced sex discrimination more than twice in the previous two years (15%) being double that of men (7%).

The Committee also heard that sexual harassment was perceived to be widespread within the RCMP, both from a former member,¹⁴⁷ and from a report of the results of a

143 FEWO, *Evidence*, 26 February 2013, 1100 (Mr. Ian McPhail, Interim Chair, Chair’s Office, Royal Canadian Mounted Police Public Complaints Commission).

144 FEWO, *Evidence*, 23 May 2013, 1115 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

145 “Partial transcription of testimony given at a public meeting on 22 April 2013,” transcript distributed to FEWO (Ms. Jamie Hanlon), p. 12.

146 Gender-specific responses within the RCMP to the PSES are taken from Treasury Board of Canada Secretariat, [“2011 Public Service Employee Survey Demographic Results for Royal Canadian Mounted Police by Gender.”](#)

147 FEWO, *Evidence*, 23 May 2013, 1105 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

survey of “E” Division members.¹⁴⁸ This was also a view expressed by all participants in a roundtable meeting with former members of the RCMP.¹⁴⁹

As well, Ian McPhail, the Interim Chair of the RCMP Public Complaints Commission, told the Committee that the Commission recommended that “the RCMP develop a comprehensive method to evaluate respectful workplace efforts that is both measurable and quantifiable. The results of such evaluation must be publicly reported.”¹⁵⁰

3. Policy

Policies with respect to preventing and resolving sexual harassment complaints within the RCMP are complicated by different regimes “for discipline and dismissal” for each of three categories of employees: “regular members, civilian members and public service employees”.¹⁵¹

Public Safety Canada issued a news release that described the confusion that could result:

Currently, RCMP managers faced with harassment issues have two different processes they must follow: one under Treasury Board policy and one under the RCMP Act. These processes do not always align, which can lead to confusion about rights, responsibilities and approaches available. Moving forward, the Commissioner will have the authority to establish a single, comprehensive system for investigating and resolving harassment concerns.¹⁵²

Recent changes to the *Royal Canadian Mounted Police Act* give the Commissioner “the authority to investigate harassment in the workplace... and the obligation to establish an informal conflict management system.”¹⁵³ However, these provisions may apply only to regular and special constables, and not to civilians.

148 Royal Canadian Mounted Police, [Summary Report on Gender Based Harassment and Respectful Workplace Consultations](#), “E” Division, Final Version, 17 April 2012, p. 4.

149 “Partial transcription of testimony given at a public meeting on 22 April 2013,” transcript distributed to FEWO.

150 FEWO, *Evidence*, 26 February 2013, 1105 (Mr. Ian McPhail, Interim Chair, Chair’s Office, Royal Canadian Mounted Police Public Complaints Commission).

151 Public Safety Canada, [“Improving Accountability in Human Resources,”](#) News release, 20 June 2012.

152 Ibid.

153 Lyne Casavant and Dominique Valiquet, *Legislative Summary of Bill C-42: An Act to amend the Royal Canadian Mounted Police Act and to make related and consequential amendments to other Acts*, Publication no. 41-1-C42-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 10 September 2012, revised 7 November 2012, p. 6.

The Committee heard that decisions with respect to sexual harassment within the RCMP can be appealed to the RCMP External Review Committee, which can review decisions related to sexual harassment or sexual misconduct, which involve two separate complaint processes.¹⁵⁴

154 FEWO, *Evidence*, 20 November 2012, 1145 (Ms. Catherine Ebbs, Chair, Royal Canadian Mounted Police External Review Committee).

PREVALENCE OF SEXUAL HARASSMENT IN THE WORKPLACE

A. Data

The Committee was told that there is a dearth of recent data on sexual harassment in Canada, including data for workplaces in general and the federal realm specifically.¹⁵⁵ The Committee heard that the last major study that included a focus on sexual harassment in Canada, entitled the Violence Against Women Survey (VAWS), was conducted in 1993.¹⁵⁶

As the Committee learned, current data available and provided to the Committee came from three main sources:

- records of formal complaints within departments and agencies;
- appeals to particular agencies, such as commissions and tribunals; and
- the Public Service Employee Survey.

Witnesses noted that a meaningful set of data, consistently collected and valid, is important because it shows where problems exist in a workplace and provides the employer with an opportunity to address the issues.¹⁵⁷ As one witness stated, “you can’t address a problem if you don’t know the extent of the problem.”¹⁵⁸ Understanding the gap between policy and reality depends on asking more questions, collecting more data in greater detail and sharing experiences with regards to sexual harassment in the workplace.¹⁵⁹ The Committee was told that an organization that demonstrates that it

155 See for example: FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission); FEWO, *Evidence*, 28 May 2013, 1135 (Dr. Kim Stanton, Legal Director, Women’s Legal Education and Action Fund); FEWO, *Evidence*, 16 April 2013, 1200 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 16 April 2013, 1225 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual).

156 FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission); FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women’s and Human Rights Department, Canadian Labour Congress).

157 FEWO, *Evidence*, 26 February 2013, 1140 (Ms. Lisa-Marie Inman, Director, Reviews and Investigations, Royal Canadian Mounted Police Public Complaints Commission).

158 FEWO, *Evidence*, 26 February 2013, 1155 (Mr. Ian McPhail, Interim Chair, Chair’s Office, Royal Canadian Mounted Police Public Complaints Commission).

159 FEWO, *Evidence*, 16 April 2013, 1150 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).

collects important data in a consistent manner will have greater credibility among employees in terms of how it responds to complaints of sexual harassment.¹⁶⁰

Without any conclusive data, the Committee heard that there are important gaps in the understanding of sexual harassment in Canada. In particular, it is impossible to know changes over time or gain a reliable current-day picture of the situation.¹⁶¹ One witness indicated that both quantitative and qualitative data should be collected; as she explained “we need to hear the stories and we need to understand the numbers.”¹⁶²

Witnesses highlighted that a central challenge to the collection of data is that cases of sexual harassment remain under-reported, as discussed in greater detail below, in subsection “Under-reporting”.¹⁶³ The Committee heard that a major misconception is that a workplace with few complaints has no problem with sexual harassment.¹⁶⁴ Rather, witnesses told the Committee, the number of complaints may not reflect the actual situation,¹⁶⁵ and it is important to solicit employees’ views, through mechanisms such as surveys, to see whether the workplace is truly “healthy”.¹⁶⁶ For example, the Office of the Conflict of Interest and Ethics Commissioner is planning on conducting an anonymous employee satisfaction survey for its staff, administered by an outside firm, which will include questions about harassment.¹⁶⁷

160 FEWO, *Evidence*, 26 February 2013, 1140 (Ms. Lisa-Marie Inman, Director, Reviews and Investigations, Royal Canadian Mounted Police Public Complaints Commission).

161 FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission).

162 FEWO, *Evidence*, 16 April 2013, 1225 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).

163 See for example: FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission); FEWO, *Evidence*, 26 February 2013, 1205 (Commissioner Bob Paulson, Commissioner, Royal Canadian Mounted Police); FEWO, *Evidence*, 16 April 2013, 1205 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 6 December 2012, 0930 (Ms. Vicky Smallman, National Director, Women’s and Human Rights Department, Canadian Labour Congress).

164 FEWO, *Evidence*, 4 December 2012, 0850 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 23 May 2013, 1145 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1140 (Dr. Kim Stanton, Legal Director, Women’s Legal Education and Action Fund).

165 FEWO, *Evidence*, 29 November 2012, 0915 (Mr. Serge Jetté, Manager, Conflict, Management Services, Human Resources Division, Treasury Board Secretariat); FEWO, *Evidence*, 4 December 2012, 0935 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 16 April 2013, 1255 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual).

166 FEWO, *Evidence*, 7 February 2013, 1110 (Ms. Mary Dawson, Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner).

167 Ibid.

The Committee heard that more recent and comprehensive data should be obtained before any long-term projects addressing sexual harassment are launched.¹⁶⁸ In addition, the effectiveness of training programs on sexual harassment in the workplace should be assessed using quantitative data collected both before and after the programs are delivered.¹⁶⁹

The Committee also heard that detailed data can be used to assist future victims of harassment, as it can give possible complainants important information.¹⁷⁰ Victims of sexual harassment are less likely to report it if they do not have access, in a confidential manner, to a source of well-defined and impartial information on the options for reporting, the processes, the legal remedies, and possible challenges.¹⁷¹

The Committee received data from departments and agencies with varying results. Specific data has been provided on the RCMP and DND in the earlier section on the legal and regulatory framework for those organizations. As discussed earlier in the report, the military personnel of the CF were not included in the PSES.

1. The Public Service Employee Survey

A number of witnesses made reference to the PSES, which has been conducted by Statistics Canada, on behalf of the Office of the Chief Human Resources Officer, every three years since 1999.¹⁷²

Statistics Canada describes the PSES as follows:

The Public Service Employee Survey was designed to solicit the views of Public Service employees on their work environment and overall job satisfaction. Employees expressed their opinions on their work units, their communications with their supervisors, skills and career aspirations, client services and labour management relations.¹⁷³

168 FEWO, *Evidence*, 16 April 2013, 1225 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).

169 FEWO, *Evidence*, 22 April 2013, 1810 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1135 (Dr. Kim Stanton, Legal Director, Women's Legal Education and Action Fund); FEWO, *Evidence*, 23 October 2012, 1040 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O'Brien Payne).

170 FEWO, *Evidence*, 22 April 2013, 1820 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

171 See for example: FEWO, *Evidence*, 16 April 2013, 1225 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual); FEWO, *Evidence*, 4 December 2012, 0915 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 18 April 2013, 1210 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police); FEWO, *Evidence*, 28 May 2013, 1115 (Ms. Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP, Women's Legal Education and Action Fund).

172 Treasury Board of Canada Secretariat, [Public Service Employee Survey](#).

173 Statistics Canada, [Public Service Employee Survey](#).

The most recent PSES was conducted from 29 August to 7 October 2011. It was distributed to approximately 300,000 employees and had a response rate of 72.2%, reported to be the highest response rate since the first survey in 1999.¹⁷⁴

According to the Director of Special Surveys at Statistics Canada, the survey is for all employees working in 90 federal departments and agencies; including “the organizations ... for which the Treasury Board is the employer, or organizations where the Treasury Board is not the employer but the organization wished to participate anyway.”¹⁷⁵

The PSES provided respondents with the following definition of harassment, supplied by the Treasury Board Secretariat:

Harassment is any improper conduct by an individual, that is directed at and offensive to another person or persons in the workplace, and that the individual knew or ought reasonably to have known would cause offence or harm. It comprises any objectionable act, comment or display that demeans, belittles, or causes personal humiliation or embarrassment, and any act of intimidation or threat. It includes harassment within the meaning of the *Canadian Human Rights Act*.¹⁷⁶

The 97-question survey included 5 questions specific to harassment:

- After having read the definition of harassment, in the past two years, have you been the victim of harassment on the job?
- From whom did you experience harassment on the job?
 - Co-workers.
 - Individuals with authority over me.
 - Individuals working for me.
 - Individuals for whom I have a custodial responsibility (e.g., inmates, offenders, patients, detainees).
 - Individual from other departments or agencies.
 - Members of the public (individuals or organizations).
- My department or agency works hard to create a workplace that prevents harassment.
- I am satisfied in the way in which my department or agency responds to matters related to harassment and discrimination.

174 FEWO, *Evidence*, 1 November 2012, 0855 (Mr. Geoff Bowlby, Director, Special Surveys, Statistics Canada).

175 *Ibid.*, 0850.

176 *Ibid.*, 0855.

- I am satisfied in the way in which my work unit responds to matters related to harassment and discrimination.

Two other questions could be relevant to harassment issues:

- I am satisfied with the way in which informal complaints on workplace issues are resolved in my work unit.
- I feel I can initiate a formal recourse process (grievance, complaint, appeal, etc.) without fear of reprisal.

Witnesses indicated that the 2011 PSES did not provide information on specific types of harassment, including sexual harassment.¹⁷⁷ The PSAC recommended that a specific question on sexual harassment be included in the next PSES:¹⁷⁸

[A] specific question on sexual harassment should be added to the Survey. In addition, to understand the extent of the problem in the workplace, more specific questions need to be asked to identify the extent of sexual harassment in the federal public service; if and why there is an under-reporting of sexual harassment; the effectiveness of the processes in place, and the outcomes of harassment cases and settlements.¹⁷⁹

The Director of Special Surveys at Statistics Canada explained that focus group testing in 2008 demonstrated that it would be possible to “actually measure type of harassment” in the survey.¹⁸⁰ The concerns with adding such questions were the effect on the time series and comparability of the data from one survey to the next¹⁸¹ and the link between the number of questions and the response rate.¹⁸²

As the Committee heard from Treasury Board officials, the public service-wide survey results indicated that 29% of respondents reported having experienced harassment at least once in the previous two years.¹⁸³ Of those, 63% reported having experienced

177 FEWO, *Evidence*, 1 November 2012, 0905 (Mr. Geoff Bowlby, Director, Special Surveys, Statistics Canada); Public Service Alliance of Canada, “Supplementary Note on Treasury Board’s Harassment Policy,” submitted to FEWO, 15 February 2013; FEWO, *Evidence*, 28 May 2013, 1110 (Ms. Ainslie Benedict, Partner, Nelligan O’Brien Payne LLP, Women’s Legal Education and Action Fund); FEWO, *Evidence*, 29 January 2013, 1155 (Ms. Andrée Côté, Women’s and Human Rights Officer, National Programs Section, Public Service Alliance of Canada).

178 Public Service Alliance of Canada, “Brief to the Standing Committee on the Status of Women (FEWO) on Sexual Harassment in the Federal Public Service,” submitted to FEWO, 29 January 2013, p. 13; FEWO, *Evidence*, 29 January 2013, 1145 (Mr. Robin Kers, National Representative, Union of Solicitor General Employees, Public Service Alliance of Canada).

179 Public Service Alliance of Canada, “Supplementary Note on Treasury Board’s Harassment Policy,” submitted to FEWO, 15 February 2013, pp. 2–3.

180 FEWO, *Evidence*, 1 November 2012, 0905 (Mr. Geoff Bowlby, Director, Special Surveys, Statistics Canada).

181 *Ibid.*

182 FEWO, *Evidence*, 25 October 2012, 0855 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat).

183 FEWO, *Evidence*, 16 October 2012, 0910 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat); FEWO, *Evidence*, 1 November 2012, 0855 (Mr. Geoff Bowlby, Director, Special Surveys, Statistics Canada).

harassment from co-workers, and 67% reported having experienced harassment from individuals with authority over them. These percentages were largely unchanged from the 2008 results. Only 11% of respondents disagreed that their department or agency works hard to create a workplace that prevents harassment.¹⁸⁴

Respondents were asked to indicate their level of agreement or disagreement with the following statement: “I feel I can initiate a formal recourse process (grievance, complaint, appeal, etc.) without fear of reprisal.” Just over half responded positively. Sixty percent responded positively to the statement related to satisfaction with the way in which informal complaints on workplace issues are resolved.¹⁸⁵

Although the PSES captures employees’ perceptions, a witness noted that even if harassment is merely perceived, and not founded, it has an impact on the complainant.¹⁸⁶

The Assistant Deputy Minister of the Governance Planning and Policy Sector, Treasury Board Secretariat, commenting on the result that 29% of respondents perceived having been harassed in the past two years, the same as in the 2008 PSES, told the Committee:

We were quite disappointed with the results of the survey this year with respect to that aspect. This has been a persistent result in previous public service surveys as well. We are designing the 2014 survey now, and [a question on sexual harassment] is certainly a question we’ll be looking at.¹⁸⁷

On the same subject, he added:

[W]e do want to have a look at that in a little more depth, because it’s in contrast to what we know about reported cases. When more than a quarter of the public service is identifying that they feel they have been harassed, there’s a disconnect there, and we need to get to the root of it.¹⁸⁸

He noted that the PSES “had another question in the survey about employees feeling free to initiate complaint processes and formal processes, and 40% of our employees said they were reluctant to do so. We think there’s a connection between the

184 Information about the PSES is taken from the Office of the Chief Human Resources Officer, “[2011 Public Service Employee Survey](#)” and links contained on that page.

185 Ibid.

186 FEWO, *Evidence*, 5 March 2013, 1140 (Mrs. Monique Marcotte, Interim Executive Director, English Services Human Resources; Executive Director, Strategic Planning and Human Resources Corporate Groups, People and Culture, Canadian Broadcasting Corporation).

187 FEWO, *Evidence*, 16 October 2012, 0920 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat).

188 Ibid.

two.”¹⁸⁹ He said “this is an area that we will be looking into for possible additional questions.”¹⁹⁰

Recommendation 2

The Committee recommends that specific questions on sexual harassment be included in the next Public Service Employee Survey to determine the following: identify and understand the extent of the problem of sexual harassment in the workplace; determine if and why there is an under-reporting of sexual harassment; assess the effectiveness of the processes in place; and find out the outcomes of harassment cases and settlements.

2. Statistics Canada’s 1993 Violence Against Women Survey

The Committee heard that the most recent reliable and comprehensive data on violence against women in Canada, which included sexual harassment, is from the 1993 VAWS.¹⁹¹

According to the Statistics Canada website, the VAWS was a:

[O]ne-time-only survey [which] examines the safety of women both inside and outside the home – perceptions of fear, sexual harassment, sexual violence, physical violence and threats by strangers, dates/boyfriends, other known men, husbands and common-law partners.¹⁹²

The target population for the survey was all women 18 years of age or older, excluding residents of the territories and full-time residents of institutions. The survey contacted approximately 19,000 eligible households, and obtained 12,300 interviews, which is a response rate of 54%.¹⁹³

The Committee was told that only one major study was conducted on the incidence and nature of work-related sexual harassment in Canada, using the data obtained from

189 Ibid.

190 Ibid., 0940.

191 FEWO, *Evidence*, 16 April 2013, 1200 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission); FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women’s and Human Rights Department, Canadian Labour Congress).

192 Statistics Canada, [Violence Against Women Survey \(VAWS\)](#), #3896, 1993.

193 Ibid.

the 1993 survey.¹⁹⁴ This 1994 study, entitled “Work-related sexual harassment”, concluded with:

According to the Violence Against Women Survey, over a 12-month period work-related sexual harassment affected 6% of working women. Young women and unmarried women were the most vulnerable to harassment. Rates varied between full- and part-time workers, but personal or household income had little relation to the likelihood of being harassed.

The lifetime rate of workplace sexual harassment was much higher than the past year’s rate. Well over two million women reported having experienced at least one incident during their working lives.¹⁹⁵

One witness spoke of her analysis of the 1993 survey and other Canadian data at the time, and noted that depending on the data, the lifetime sexual harassment prevalence rate at that time, or the chances that a woman would experience harassment over her lifetime, was between 23% and 51%.¹⁹⁶

Witnesses recommended launching a national survey to follow up on the 1993 VAWS,¹⁹⁷ and to include men in this survey.¹⁹⁸ One academic encouraged the federal government to allow researchers to participate in collecting national data, in order to improve baseline understanding and identify new trends.¹⁹⁹

Vicky Smallman, National Director of the Women’s and Human Rights Department of the Canadian Labour Congress, explained:

The last source of decent data that we have on sexual harassment in the workplace is the 1993 “Violence Against Women Survey”. We’re coming up to the 20th anniversary of this survey, so perhaps it would be a good time to recommend that we launch a new survey.²⁰⁰

194 FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission).

195 Sara Johnson, “[Work-related sexual harassment](#),” *Perspectives on Labour and Income*, Statistics Canada, Vol. 6, No. 4, Winter 1994.

196 FEWO, *Evidence*, 16 April 2013, 1200 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

197 FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women’s and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission).

198 FEWO, *Evidence*, 16 April 2013, 1200 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

199 *Ibid.*, 1230.

200 FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women’s and Human Rights Department, Canadian Labour Congress).

3. Other Sources of Information

Officials from the Labour Program of the then Human Resources and Skills Development Canada, HRSDC, (the department is now commonly known as Employment and Social Development Canada)²⁰¹ told the Committee that the department does not collect data specifically on sexual harassment, although as mandated by the *Canada Labour Code*, it keeps data specific to its intervention activities for inspection or investigation.²⁰² The Committee was informed that there is nothing in the Code that requires employers to report complaints of sexual harassment or violence in the workplace.²⁰³ As explained by a Director for HRSDC, “the employers maintain the responsibility of recording, reporting, and investigating these complaints and do not have to report those to us.”²⁰⁴

The Committee was given statistics from the Federal Jurisdiction Workplace Survey, a Statistics Canada survey, inactive since 2008, with the object of collecting “statistical information on working conditions in companies under federal labour code jurisdiction.”²⁰⁵ According to the most recent data:

- 87% of employees who work under federal jurisdiction work for an organization with a harassment prevention program in place;
- 77% work for an organization with an appeal process against a decision related to harassment; and
- 76% work for an organization with a dispute or grievance review process.²⁰⁶

The Committee heard that DND has two kinds of survey procedures; the first is an internal research capability that conducts specialized focused surveys administered on an as-required basis, and the second is continuous surveys, in which a sample population is surveyed regularly on a range of topics.²⁰⁷

201 Although the name of the department has been recently changed, references in this report use the former name, to reflect titles at the time of the hearings.

202 FEWO, *Evidence*, 23 October 2012, 0915 (Mrs. Caroline Cyr, Director General, Workplace Directorate, Labour Program, Department of Human Resources and Skills Development).

203 Ibid., 0915.

204 Ibid.

205 Statistics Canada, [Federal Jurisdiction Workplace Survey](#).

206 FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission).

207 FEWO, *Evidence*, 22 November 2012, 0955 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence).

4. Role of Status of Women Canada with Respect to Sexual Harassment in the Federal Workplace

Status of Women Canada describes itself as “a federal government organization that promotes equality for women and their full participation in the economic, social and democratic life of Canada.”²⁰⁸ It is responsible for “providing strategic policy advice and gender-based analysis support”, in addition to administering the women’s program and promoting special days related to women.²⁰⁹

The Committee heard that Status of Women Canada used to be more involved in analysis of data, research and reports.²¹⁰ Some witnesses suggested that Status of Women Canada could promote better understanding of sexual harassment through the development of definitions and research²¹¹ or by playing a role in the collection of data on the prevalence and nature of sexual harassment in Canada.²¹²

Jennifer Berdahl, a professor at the University of Toronto who appeared as an individual, elaborated on the possible role of the agency:

Status of Women Canada can offer guidelines and definitions of the problem and the nature of it, by defining sexual harassment broadly..., pointing out that the very overt sexual forms that we can all recognize are only the tip of the iceberg and that this is a systemic problem that affects both women and men in the workplace.²¹³

The Committee also heard from Sandy Welsh, Professor of Sociology and Vice-Dean at the Graduate Education and Program Reviews in the Faculty of Arts and Science, at the University of Toronto:

In terms of data, there was a time when Status of Women Canada was more involved in data, research, and reports. At one point I participated in writing a chapter for a report for Status of Women Canada on the Canadian Human Rights Commission. I would

208 Status of Women Canada, [Who We Are](#).

209 Ibid.

210 FEWO, *Evidence*, 16 April 2013, 1230 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

211 FEWO, *Evidence*, 16 April 2013, 1225 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual) FEWO, *Evidence*, 16 April 2013, 1230 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

212 FEWO, *Evidence*, 16 April 2013, 1230 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

213 FEWO, *Evidence*, 16 April 2013, 1225 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual).

encourage [Status of Women Canada's] involvement in some of those issues where they are relevant, particularly in terms of surveys or qualitative data collection.²¹⁴

5. Data Collection and Alternative Dispute Resolution Mechanisms

Witnesses told the Committee that data are not usually kept on cases of sexual harassment that are resolved informally, often through alternative dispute resolution processes.²¹⁵ For example, the House of Commons offers an informal route called Finding Solutions Together, but as a result, Human Resources does not keep track of statistics related to these cases.²¹⁶ A representative from the Canadian Broadcasting Corporation (CBC) said that CBC keeps informal records for informal complaints, but the records are generally destroyed if the complaint is withdrawn or if the employees settle the matter between themselves.²¹⁷ The Canadian Auto Workers union stated:

Most harassment concerns/complaints in our workplaces are resolved at [the] informal level [and are] hence not recorded.²¹⁸

As well, the RCMP Public Complaints Commission stated that there is no record kept of cases that are resolved informally; the Commission recommended that the RCMP start to maintain such records.²¹⁹ As Mr. McPhail of the RCMP Public Complaints Commission explained:

The collection of data is necessary to give the Commissioner and the senior leadership of the RCMP the information they need, because you can't address a problem if you don't know the extent of the problem.²²⁰

214 FEWO, *Evidence*, 16 April 2013, 1230 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

215 FEWO, *Evidence*, 27 November 2012, 0925 (Mrs. Kathryn Butler Malette, Chief, Human Resources Officer, Human Resources, Corporate Planning and Communications, House of Commons); Canadian Auto Workers, "Responses to Questions," 18 March 2013; FEWO, *Evidence*, 26 February 2013, 1115 (Mr. Ian McPhail, Interim Chair, Chair's Office, Royal Canadian Mounted Police Public Complaints Commission); FEWO, *Evidence*, 7 February 2013, 1225 (Mr. Vinay Sharma, Director of Human Rights, Canadian Auto Workers).

216 FEWO, *Evidence*, 27 November 2012, 0925 (Mrs. Kathryn Butler Malette, Chief, Human Resources Officer, Human Resources, Corporate Planning and Communications, House of Commons).

217 FEWO, *Evidence*, 5 March 2013, 1110 (Mrs. Monique Marcotte, Interim Executive Director, English Services Human Resources; Executive Director, Strategic Planning and Human Resources Corporate Groups, People and Culture, Canadian Broadcasting Corporation).

218 Canadian Auto Workers, "Responses to Questions," 18 March 2013.

219 FEWO, *Evidence*, 26 February 2013, 1115 (Mr. Ian McPhail, Interim Chair, Chair's Office, Royal Canadian Mounted Police Public Complaints Commission).

220 *Ibid.*, 1155.

6. Confidentiality

Another challenge of data collection is confidentiality, described by one witness as the “black box” of complaint procedures.²²¹ The Committee heard that if a complaint is confidential, it should still be recorded in detail; particularly as the information could highlight a pattern over several years or provide information to other employees on how the employer deals with harassment.²²²

In addition, some successfully resolved cases of sexual harassment require the complainant to sign a confidentiality agreement, and this practice occurs in some government departments and the RCMP. One of the consequences of this practice is that there is limited statistical information at the end of the year on the number of sexual harassment cases within an organization.²²³

7. Databases and Multiplicity of Sources

Witnesses described a multiplicity of sources on sexual harassment cases when gathering data and a variety of databases for keeping records on harassment.

DND told the Committee that in preparation for its appearance, it had to go to multiple sources to retrieve data²²⁴ and, without comparing every file, it was unsure whether there is duplication of information in these sources.²²⁵ The Director General Military Personnel of DND explained that data sources include the Department’s tracking system for harassment complaints filed internally, its alternative dispute resolution database, statistics on human rights complaints filed with the CHRC, and periodic surveys

221 FEWO, *Evidence*, 16 April 2013, 1250 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

222 FEWO, *Evidence*, 16 April 2013, 1250 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 29 January 2013, 1120 (Mr. Robin Kers, National Representative, Union of Solicitor General Employees, Public Service Alliance of Canada).

223 FEWO, *Evidence*, 29 January 2013, 1145 (Mr. Robin Kers, National Representative, Union of Solicitor General Employees, Public Service Alliance of Canada).

224 FEWO, *Evidence*, 22 November 2012, 0910 (Ms. Jacqueline Rigg, Director General, Civilian Human Resources Management Operations, Assistant Deputy Minister (Human Resources – Civilian), Department of National Defence); FEWO, *Evidence*, 4 December 2012, 0920 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman).

225 FEWO, *Evidence*, 22 November 2012, 0910 (Commander Tony Crewe, Director Human Rights and Diversity, Assistant Chief Military Personnel, Department of National Defence).

of military members.²²⁶ The Committee was informed that DND is currently trying to harmonize these databases.²²⁷

The RCMP Public Complaints Commissioner recommended that the RCMP establish a “centralized system that collects all the data” on complaints, including information on what type of issue it is, what the allegations are, what resolution was sought, what happened to the complaints, what steps were followed in the resolution process, what the final resolution was, and any other details of the investigation.²²⁸

Canada Post told the Committee that it has a new database to examine harassment statistics; it allows the organization to look at recorded incidents and see what regions, workplaces or positions have greater risks as related to harassment.²²⁹

As explained by Jacqueline Rigg, Director General of the Civilian Human Resources Management Operations and Assistant Deputy Minister (Human Resources – Civilian) of DND, the current Government of Canada human resources management system has limitations, but as part of the human resources modernization program, an upgraded version was expected to be established in 2013, which will enable improved capture and analysis of data.²³⁰ However, as the system currently stands, “statistics have been generated by different tracking systems and do not permit any further in-depth analysis.”²³¹

8. Exit Interviews

The Committee heard that employers can access another source of valuable data through exit interviews or surveys.²³² Such information allows an employer to note areas

226 FEWO, *Evidence*, 22 November 2012, 0845 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence).

227 FEWO, *Evidence*, 22 November 2012, 0910 (Ms. Jacqueline Rigg, Director General, Civilian Human Resources Management Operations, Assistant Deputy Minister (Human Resources – Civilian), Department of National Defence); FEWO, *Evidence*, 4 December 2012, 0920 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman).

228 FEWO, *Evidence*, 26 February 2013, 1140 (Ms. Lisa-Marie Inman, Director, Reviews and Investigations, Royal Canadian Mounted Police Public Complaints Commission).

229 FEWO, *Evidence*, 31 January 2013, 1130 (Ms. Amanda Maltby, General Manager, Compliance, Canada Post).

230 FEWO, *Evidence*, 22 November 2012, 0900 (Ms. Jacqueline Rigg, Director General, Civilian Human Resources Management Operations, Assistant Deputy Minister (Human Resources – Civilian), Department of National Defence).

231 *Ibid.*

232 FEWO, *Evidence*, 22 November 2012, 0920 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence); FEWO, *Evidence*, 12 February 2013, 1135 (PO 1 Shanna Wilson, National Military Co-Chair, Defence Women’s Advisory Organization); FEWO, *Evidence*, 20 November 2012, 0945 (Ms. Catherine Ebbs, Chair, Royal Canadian Mounted Police External Review Committee).

for improvement or any systemic problems, including issues with sexual harassment.²³³ However, a central challenge is that exit interviews are typically voluntary, which compromises the consistency of the data.²³⁴

At DND, a voluntary open-ended exit survey has been offered for around 20 years.²³⁵ The Committee heard that in 2011, the Library of Parliament introduced a practice to systematically capture exit interview data from departing employees.²³⁶

Petty officer 1st class Shanna Wilson, National Military Co-Chair of the Defence Women's Advisory Organization, spoke of the value of exit interviews:

I think any exit interview should be reviewed. Keeping our people is a tough go. We're an employer for whom, certainly, our people are our main resource. If there are patterns specific to women, I think they should certainly be looked at.²³⁷

9. Specificity of Data

The Committee heard that many workplaces do not keep track of sexual harassment specifically. For example, the Canadian Human Rights Tribunal does not keep data specific to sexual harassment.²³⁸

The Employee Assistance Programs in some workplaces may provide data, but it is often high-level. For example, the Ontario Provincial Police can obtain statistical reports from the Employee Assistance Program, but no names are included, only the rank of the employees and type of counselling offered to them.²³⁹

As well, the General Manager of Compliance at Canada Post explained that the organization can break down its data on harassment in a variety of ways, including by region and whether the harassment is employee-employee or employee-supervisor.²⁴⁰ While it does not break down data based on sexual harassment cases, it does further

233 FEWO, *Evidence*, 12 February 2013, 1135 (PO 1 Shanna Wilson, National Military Co-Chair, Defence Women's Advisory Organization); FEWO, *Evidence*, 20 November 2012, 1000 (Ms. Catherine Ebbs, Chair, Royal Canadian Mounted Police External Review Committee).

234 FEWO, *Evidence*, 22 November 2012, 0920 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence).

235 Ibid.

236 FEWO, *Evidence*, 27 November 2012, 0905 (Ms. Sonia L'Heureux, Parliamentary Librarian, Library of Parliament).

237 FEWO, *Evidence*, 12 February 2013, 1135 (PO 1 Shanna Wilson, National Military Co-Chair, Defence Women's Advisory Organization).

238 FEWO, *Evidence*, 16 October 2012, 1030 (Mr. Susheel Gupta, Acting Chairperson and Chief Executive Officer, Canadian Human Rights Tribunal).

239 FEWO, *Evidence*, 18 April 2013, 1235 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police).

240 FEWO, *Evidence*, 31 January 2013, 1130 (Ms. Amanda Maltby, General Manager, Compliance, Canada Post).

classify data based on whether there was a discriminatory practice as defined under the *Canadian Human Rights Act*.²⁴¹

B. Under-Reporting

There was widespread agreement from witnesses that cases of sexual harassment remain under-reported.²⁴² As a result, the Committee heard that it was not possible to get a complete picture of the problem of sexual harassment from the number of complaints that are brought forward.²⁴³

Specific to the public service, the Committee was told by the Assistant Deputy Minister of the Governance Planning and Policy Sector of the Treasury Board Secretariat that the PSES found a relatively high proportion of respondents indicated that they were unwilling to launch a complaint process in cases of perceived harassment.²⁴⁴ According to a gender-based analysis of PSES results, approximately 30% of male employees and 32% of female employees disagreed with the statement: “I feel I can initiate a formal recourse process (grievance, complaint, appeal, etc.) without fear of reprisal.”²⁴⁵

The Committee was told that while laws, policies and redress mechanisms can be effective in providing recourse to complainants of sexual harassment, they do little to protect those who, for whatever reason, are unwilling to speak out.²⁴⁶ While important advances have been made, particularly in the provision of individualized legal remedies to address sexual harassment, ultimately it takes courage to file a complaint.²⁴⁷ Reporting cases of sexual harassment is often a means of last resort, as many complainants do not feel safe making complaints or confident that the situation will be

241 Ibid., 1120.

242 See for example: FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission); FEWO, *Evidence*, 26 February 2013, 1120 (Mr. Ian McPhail, Interim Chair, Chair’s Office, Royal Canadian Mounted Police Public Complaints Commission); FEWO, *Evidence*, 16 April 2013, 1145 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 28 May 2013, 1205 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

243 FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission); FEWO, *Evidence*, 7 February 2013, 1225 (Ms. Paula Turtle, Canadian Counsel, United Steelworkers); FEWO, *Evidence*, 14 February 2013, 1105 (Ms. Francine Boudreau, Correctional Officer, Union of Canadian Correctional Officers).

244 FEWO, *Evidence*, 25 October 2012, 0900 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat).

245 Treasury Board of Canada Secretariat, [2011 Public Service Employee Survey Demographic Results for the Public Service of Canada by Gender](#).

246 FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission); FEWO, *Evidence*, 16 April 2013, 1145 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 23 October 2012, 1005 (Mr. Steven Gaon, appearing as an individual).

247 FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission).

properly addressed.²⁴⁸ Members of the Committee expressed concern about under-reporting of sexual harassment despite the existence of laws, policies and redress mechanisms to deal with the problem. Witnesses suggested that a policy often looks very good on paper, but there are challenges implementing those policies in reality.²⁴⁹

The Committee was told that a low number of sexual harassment complaints in a workplace does not necessarily mean that sexual harassment is not a problem in that workplace.²⁵⁰ While this could be the case, the number of complaints can give a distorted picture of the situation,²⁵¹ and it is important to solicit employees' views, through mechanisms such as surveys, to see whether the workplace is truly healthy.²⁵²

It was also noted by one witness that a victim can signal harassment in ways other than by reporting it; he or she might take an excessive number of days off, request to move offices, or take important steps to avoid the harasser.²⁵³

As Barbara MacQuarrie, Community Director of the Faculty of Education at the Western University's Centre for Research & Education on Violence Against Women & Children, explained:

Clearly, we have made some important advances in our ability to speak out publicly about sexual harassment and in our provision of individualized legal remedies to address it. Equally clearly, we still have a long way to go before we reach equality in the workplace and before those who experience sexual harassment feel safe to report and

248 FEWO, *Evidence*, 16 April 2013, 1145 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 4 December 2012, 0915 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1155 (Ms. Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP, Women's Legal Education and Action Fund).

249 FEWO, *Evidence*, 16 April 2013, 1145 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 28 May 2013, 1110 (Ms. Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP, Women's Legal Education and Action Fund).

250 FEWO, *Evidence*, 4 December 2012, 0850 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 23 May 2013, 1145 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1140 (Dr. Kim Stanton, Legal Director, Women's Legal Education and Action Fund).

251 FEWO, *Evidence*, 29 November 2012, 0915 (Mr. Serge Jetté, Manager, Conflict, Management Services, Human Resources Division, Treasury Board Secretariat); FEWO, *Evidence*, 4 December 2012, 0935 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 16 April 2013, 1255 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual).

252 FEWO, *Evidence*, 7 February 2013, 1110 (Ms. Mary Dawson, Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner).

253 FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

confident that the situation will be appropriately addressed. The question becomes, how do we close the gap between policy and reality?²⁵⁴

As elaborated in the following sections, witnesses provided the Committee with a number of elements that lead to the under-reporting of sexual harassment, those being:

- the reporting process;
- the complaint-driven approach;
- reporting is “not worth it”;
- workplace culture;
- retaliation;
- a lack of support for the complainant;
- leadership; and
- job insecurity.

1. The Reporting Process

The Committee was told that victims are more likely to come forward if they have access to multiple reporting channels, particularly more informal processes (such as ombudspople), as it is daunting to proceed directly to filing a formal complaint.²⁵⁵

However, the difficulty with multiple reporting channels, as highlighted by some witnesses, was the “legal runaround” or “passing the buck” experienced by some complainants of sexual harassment.²⁵⁶ As one witness explained, depending on the workplace, a complainant could “find themselves bouncing around” from a union, to an

254 FEWO, *Evidence*, 16 April 2013, 1145 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).

255 FEWO, *Evidence*, 16 April 2013, 1225 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual); FEWO, *Evidence*, 23 May 2013, 1255 (Professor Linda Collinworth, Associate Professor of Psychology, Millikin University, appearing as an individual).

256 FEWO, *Evidence*, 16 April 2013, 1140 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 23 October 2012, 0950 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O'Brien Payne); FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

internal complaint procedure, to a formal grievance process or to a workplace Commission, with no jurisdiction willing to take control of the situation.²⁵⁷

DND spoke of its ongoing initiative to design an integrated process that would merge processes dealing with harassment, grievances and alternative dispute resolutions, with the goal of offering members a single point of entry with one contact person. The individual responsible for the process would direct the complainant to the most appropriate mechanisms, starting, when possible, with alternative dispute resolution as the preferred option.²⁵⁸

Witnesses also suggested that multiple reporting channels can lead to confusion, overlap of functions, and inefficiencies because of duplication.²⁵⁹ As a result of this confusion, complainants of sexual harassment are less likely to report it if they do not have access, in a confidential manner, to a source of well-defined and impartial information on the options for reporting, the processes, the legal remedies, and the possible challenges.²⁶⁰ One witness from the RCMP External Review Committee stated that its employees need consistency in how complaints are managed across all regions of the country.²⁶¹

The Committee heard that in workplaces, a dedicated person should be established as a point of contact and have the role of champion in informing people about anti-harassment policies and reporting procedures.²⁶² Ann Therese MacEachern, Vice-President of Human Resources at Canada Post, said that they had human rights coordinators who were responsible for “looking into the complaint, investigating the complaint, and dealing with it,” and that employees could use an established

257 FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

258 FEWO, *Evidence*, 22 November 2012, 0910 (Commander Tony Crewe, Director Human Rights and Diversity, Assistant Chief Military Personnel, Department of National Defence).

259 FEWO, *Evidence*, 23 October 2012, 0950 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O'Brien Payne); FEWO, *Evidence*, 28 May 2013, 1110 (Ms. Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP, Women's Legal Education and Action Fund).

260 See for example: FEWO, *Evidence*, 16 April 2013, 1225 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual); FEWO, *Evidence*, 4 December 2012, 0915 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 18 April 2013, 1210 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police); FEWO, *Evidence*, 28 May 2013, 1115 (Ms. Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP, Women's Legal Education and Action Fund).

261 FEWO, *Evidence*, 20 November 2012, 0945 (Ms. Catherine Ebbs, Chair, Royal Canadian Mounted Police External Review Committee).

262 FEWO, *Evidence*, 16 October 2012, 0915 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat); FEWO, *Evidence*, 29 November 2012, 0900 (Mr. Serge Jetté, Manager, Conflict, Management Services, Human Resources Division, Treasury Board Secretariat).

whistleblowers line if they did not feel comfortable contacting the human rights coordinator directly.²⁶³

Recommendation 3

The Committee recommends that departments and deputy ministers highlight the presence of a designated harassment advisor or investigator through internal education campaigns and consider flexible options for contacting the designated harassment advisor or investigator, such as a confidential 1-800 number.

In addition, the Committee heard that employees are less likely to report if they do not have confidence in the reporting process,²⁶⁴ and this confidence is diminished by:

- doubts of confidentiality during the initial reporting process;²⁶⁵
- evidence of a lack of impartiality and fairness of the process,²⁶⁶ and
- lengthy processes and delays in resolutions.²⁶⁷

263 FEWO, *Evidence*, 31 January 2013, 1115 (Ms. Ann Therese MacEachern, Vice-President, Human Resources, Canada Post).

264 FEWO, *Evidence*, 14 February 2013, 1205 (Mr. Robin Kers, Labour Relations Officer, National Office, Union of Solicitor General Employees).

265 FEWO, *Evidence*, 28 February 2013, 1120 (Deputy Commissioner Craig J. Callens, Commanding Officer, “E” Division, Royal Canadian Mounted Police); FEWO, *Evidence*, 28 May 2013, 1220 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

266 FEWO, *Evidence*, 26 February 2013, 1120 (Mr. Ian McPhail, Interim Chair, Chair’s Office, Royal Canadian Mounted Police Public Complaints Commission); FEWO, *Evidence*, 23 October 2012, 0955 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O’Brien Payne); FEWO, *Evidence*, 7 February 2013, 1105 (Ms. Mary Dawson, Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner).

267 See for example: FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 23 October 2012, 1035 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O’Brien Payne); FEWO, *Evidence*, 26 February 2013, 1115 (Mr. Ian McPhail, Interim Chair, Chair’s Office, Royal Canadian Mounted Police Public Complaints Commission); FEWO, *Evidence*, 22 April 2013, 1800 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

2. The Complaint-Driven Approach

The Committee heard that the complaint-driven process is flawed because it puts the onus to report on the victims of harassment, who may be embarrassed, fearful, intimidated or isolated.²⁶⁸

A representative from the PSAC said that processes in workplaces should be awareness-driven, not complaint-driven, whereby those who are aware of harassment — employees or managers — are obligated to act.²⁶⁹

As discussed in an earlier section of this report, the Canada Occupational Health and Safety Regulations²⁷⁰ under the *Canada Labour Code*²⁷¹ address workplace violence and make explicit the obligations of employers and employees in preventing and addressing such violence.²⁷² The Committee heard that the benefit of this approach is that it is not complaint-driven and does not give the authority to a manager to determine how to proceed.²⁷³ While the regulations do not include a specific reference to sexual harassment, the definition provided in the Code does include psychological violence. Officials responsible for the administration of the Code confirmed that “it can also be applied to sexual harassment.”²⁷⁴ According to a witness from the Treasury Board Secretariat, the TBS policy for public servants does not allow employees who witness harassment to lodge a complaint; the subject of the harassment must be the individual to submit a report.²⁷⁵ This difference between the *Canada Labour Code* and the TBS policy was highlighted by witnesses, and a union representative suggested that the preferred course of action is to use the *Canada Labour Code* approach.²⁷⁶

The Committee also heard that the Office of the Conflict of Interest and Ethics Commissioner does not depend on a complaint-driven process in its investigations.

268 FEWO, *Evidence*, 29 January 2013, 1130 (Mr. Bob Kingston, National President, Agriculture Union, Co-Chair, Public Service Wide Policy Committee on Health and Safety, Public Service Alliance of Canada); FEWO, *Evidence*, 28 May 2013, 1110 (Ms. Ainslie Benedict, Partner, Nelligan O’Brien Payne LLP, Women’s Legal Education and Action Fund); FEWO, *Evidence*, 28 May 2013, 1205 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

269 FEWO, *Evidence*, 29 January 2013, 1125 (Mr. Bob Kingston, National President, Agriculture Union, Co-Chair, Public Service Wide Policy Committee on Health and Safety, Public Service Alliance of Canada).

270 [“Violence Prevention in the Workplace.”](#) *Canada Occupational Health and Safety Regulations*, Part XX.

271 *Canada Labour Code*, [s. 125\(1\)\(z.16\)](#).

272 FEWO, *Evidence*, 29 January 2013, 1130 (Mr. Bob Kingston, National President, Agriculture Union, Co-Chair, Public Service Wide Policy Committee on Health and Safety, Public Service Alliance of Canada).

273 Ibid.

274 FEWO, *Evidence*, 23 October 2012, 0850 (Mrs. Caroline Cyr, Director General, Workplace Directorate, Labour Program, Department of Human Resources and Skills Development).

275 FEWO, *Evidence*, 29 November 2012, 0920 (Mr. Serge Jetté, Manager, Conflict, Management Services, Human Resources Division, Treasury Board Secretariat).

276 FEWO, *Evidence*, 29 January 2013, 1130 (Mr. Bob Kingston, National President, Agriculture Union, Co-Chair, Public Service Wide Policy Committee on Health and Safety, Public Service Alliance of Canada).

The Commissioner can choose to self-initiate an investigation based on information the Office receives from a variety of areas, including the media or the general public.²⁷⁷

Another approach that does not rely on a complaint-driven process is a confidential reporting option, which allows individuals who are not being harassed to file a report. For example, the “E” Division of the RCMP has developed an electronic confidential reporting option outside the chain of command.²⁷⁸

3. Reporting “Not Worth It”

The Committee was told that many individuals do not report sexual harassment because, from their point of view, it is “not worth it” or would “not make a difference.”²⁷⁹ For many individuals, reporting comes down to a cost-benefit analysis.²⁸⁰

Witnesses explained that an individual’s perception that sexual harassment is not worth reporting can be affected by known cases within the workplace where:

- the offending employee is not sufficiently reprimanded or disciplined,²⁸¹
- there were no subsequent attempts to change workplace culture,²⁸² or

277 FEWO, *Evidence*, 7 February 2013, 1135 (Ms. Mary Dawson, Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner).

278 FEWO, *Evidence*, 28 February 2013, 1120 (Deputy Commissioner Craig J. Callens, Commanding Officer, “E” Division, Royal Canadian Mounted Police).

279 FEWO, *Evidence*, 4 December 2012, 0930 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 16 April 2013, 1140 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 16 April 2013, 1140 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 23 May 2013, 1145 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

280 FEWO, *Evidence*, 6 December 2012, 0910 (Ms. Vicky Smallman, National Director, Women’s and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 23 October 2012, 0955 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O’Brien Payne).

281 See for example: FEWO, *Evidence*, 4 December 2012, 0905 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 23 May 2013, 1145 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual); FEWO, *Evidence*, 23 May 2013, 1210 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1205 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

282 See for example: FEWO, *Evidence*, 23 October 2012, 1035 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O’Brien Payne); FEWO, *Evidence*, 29 January 2013, 1145 (Mr. Robin Kers, National Representative, Union of Solicitor General Employees, Public Service Alliance of Canada); FEWO, *Evidence*, 4 December 2012, 0905 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 28 May 2013, 1135 (Dr. Kim Stanton, Legal Director, Women’s Legal Education and Action Fund).

- the case was not handled legitimately or fairly by the employer or management, particularly where the complainant suffered because of this mishandling.²⁸³

4. Workplace Culture

The Committee was told that in some workplaces, sexual harassment remains under-reported because it is normalized or trivialized within the workplace's culture.²⁸⁴ Employers, managers and co-workers must be prepared to challenge social norms that govern workplace behaviours, and which can discount the seriousness of or reinforce sexually harassing conduct.²⁸⁵ Another witness indicated that employers who enforce desired behavioural norms can change normative standards of behaviour, which leads to an overall workplace culture shift.²⁸⁶

The Committee was told that in some workplaces, victims of sexual harassment will not report the situation for fear that they will not be believed by management or co-workers.²⁸⁷ Many victims will be concerned about the effect that reporting will have on their reputation, including being labelled as a "troublemaker", losing the trust of co-workers, or being subjected to value judgements.²⁸⁸

283 FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress).

284 See for example: FEWO, *Evidence*, 14 February 2013, 1105 (Ms. Francine Boudreau, Correctional Officer, Union of Canadian Correctional Officers); FEWO, *Evidence*, 6 December 2012, 0930 (Mr. Timothy Edwards, President, Professional Association of Foreign Service Officers); FEWO, *Evidence*, 23 May 2013, 1105 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1220 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

285 FEWO, *Evidence*, 16 April 2013, 1150 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).

286 FEWO, *Evidence*, 22 November 2012, 0845 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence).

287 FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 29 January 2013, 1200 (Ms. Robyn Benson, National President, Public Service Alliance of Canada); FEWO, *Evidence*, 29 January 2013, 1135 (Ms. Janet Hauck, National Vice-President, Union of Solicitor General Employees, Public Service Alliance of Canada); FEWO, *Evidence*, 23 May 2013, 1110 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

288 FEWO, *Evidence*, 29 January 2013, 1115 (Ms. Francine Boudreau, Correctional Officer, Union of Canadian Correctional Officers); FEWO, *Evidence*, 26 March 2013, 1120 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace); FEWO, *Evidence*, 6 December 2012, 0910 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); "Partial transcription of testimony given at a public meeting on 22 April 2013," Transcript distributed to FEWO (Ms. Krista Carle), p. 17.

The Committee heard that workplaces should promote a culture change so that complaining about wrongdoings, particularly sexual harassment, is viewed positively.²⁸⁹ While employers should strive to eliminate sexual harassment, they must be “practical and realistic”,²⁹⁰ and understand that in workplaces with diverse individuals, harassment will occur occasionally.²⁹¹ As stated by one witness, “quite frankly, a small number of people ... are just never going to get it.”²⁹²

Dr. Welsh, of the University of Toronto, said that employers and management should understand that the reporting and filing of complaints is not necessarily a sign of a workplace with problems:

I often hear managers say one complaint is too many, at the same time one complaint means someone believes she can complain and that her complaint will be taken seriously. So complaints are not the best measure of whether or not a workplace has a harassment problem. Rather complaints may mean an organization has a culture and policies and procedures that are doing what we want them to do, enabling workers to come forward when something problematic happens.²⁹³

In addition, the Committee heard that it is particularly challenging for women to report sexual harassment in male-dominated workplaces,²⁹⁴ where the “vulnerability of these small numbers of women” can also be “heightened by the socially gendered and geographic isolation of their employment.”²⁹⁵ In addition, reporting is more difficult for

289 FEWO, *Evidence*, 23 October 2012, 1035 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O’Brien Payne); FEWO, *Evidence*, 23 May 2013, 1145 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual); FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

290 FEWO, *Evidence*, 18 April 2013, 1210 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police).

291 FEWO, *Evidence*, 18 April 2013, 1210 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police); FEWO, *Evidence*, 29 November 2012, 0855 (Ms. Linda Savoie, Director General, Women’s Program and Regional Operations Directorate, Status of Women Canada); FEWO, *Evidence*, 31 January 2013, 1100 (Ms. Ann Therese MacEachern, Vice-President, Human Resources, Canada Post); FEWO, *Evidence*, 23 October 2012, 1040 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O’Brien Payne).

292 FEWO, *Evidence*, 23 October 2012, 1040 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O’Brien Payne).

293 FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

294 FEWO, *Evidence*, 29 January 2013, 1135 (Mr. Robin Kers, National Representative, Union of Solicitor General Employees, Public Service Alliance of Canada); FEWO, *Evidence*, 26 March 2013, 1145 (Ms. Cindy Viau, Director’s Advisor, The Quebec Help and Information Centre on Harassment in the Workplace).

295 FEWO, *Evidence*, 12 February 2013, 1120 (LCol Karen Davis, Defence Scientist, Director General Military Personnel Research and Analysis, Canadian Forces Leadership Institute, appearing as an individual).

women when the majority of managers and investigators are male, meaning that a male perspective dominates.²⁹⁶

5. Retaliation

The Committee heard that employees should expect to work without fear of reprisal, whether their allegations are founded or not.²⁹⁷ However, the Committee was told that many victims experience retaliation from an individual as an accepted practice of workplace culture.²⁹⁸ A number of witnesses remarked that the reprisal for reporting sexual harassment was sometimes worse than tolerating the behaviour.²⁹⁹ Witnesses provided some examples of retribution faced by those who report sexual harassment, including:

- being ostracized and alienated in the workplace;³⁰⁰
- being transferred or posted administratively out of the organization;³⁰¹

296 FEWO, *Evidence*, 12 February 2013, 1120 (LCol Karen Davis, Defence Scientist, Director General Military Personnel Research and Analysis, Canadian Forces Leadership Institute, appearing as an individual); FEWO, *Evidence*, 14 February 2013, 1205 (Mr. Robin Kers, Labour Relations Officer, National Office, Union of Solicitor General Employees).

297 FEWO, *Evidence*, 27 November 2012, 0905 (Ms. Sonia L'Heureux, Parliamentary Librarian, Library of Parliament).

298 FEWO, *Evidence*, 4 December 2012, 0855 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); "Partial transcription of testimony given at a public meeting on 22 April 2013," Transcript distributed to FEWO (Ms. Sherry Lee Benson-Podolchuk), p. 2 and (Ms. Krista Carle), p. 16.

299 FEWO, *Evidence*, 4 December 2012, 0905 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 14 February 2013, 1220 (Mr. Robin Kers, Labour Relations Officer, National Office, Union of Solicitor General Employees); FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 23 May 2013, 1140 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

300 FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 27 November 2012, 1025 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence); FEWO, *Evidence*, 26 March 2013, 1235 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service); FEWO, *Evidence*, 23 May 2013, 1115 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

301 FEWO, *Evidence*, 4 December 2012, 0910 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 16 April 2013, 1140 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 26 March 2013, 1235 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service).

- receiving poor work assignments;³⁰²
- being demoted or denied promotion;³⁰³
- experiencing career damage, including unsatisfactory job evaluations or sabotage of work;³⁰⁴ and
- being dismissed, along with the possibility of having poor or no references.³⁰⁵

Witnesses spoke of the critical role that the law,³⁰⁶ internal policies,³⁰⁷ and leadership³⁰⁸ should have in stopping reprisals against victims of harassment. Witnesses also discussed the significance of confidentiality in the initial reporting process to reduce the fear of reprisal.³⁰⁹ The Deputy Chief of the Toronto Police Service stated that it created

302 FEWO, *Evidence*, 16 April 2013, 1140 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 7 March 2013, 1110 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual); FEWO, *Evidence*, 6 December 2012, 0855 (Mr. Timothy Edwards, President, Professional Association of Foreign Service Officers).

303 FEWO, *Evidence*, 16 April 2013, 1140 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 6 December 2012, 0855 (Mr. Timothy Edwards, President, Professional Association of Foreign Service Officers).

304 See for example: FEWO, *Evidence*, 16 April 2013, 1140 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 4 December 2012, 0935 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 7 February 2013, 1110 (Ms. Mary Dawson, Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner); FEWO, *Evidence*, 23 May 2013, 1145 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

305 FEWO, *Evidence*, 16 April 2013, 1140 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 29 January 2013, 1135 (Mr. Robin Kers, National Representative, Union of Solicitor General Employees, Public Service Alliance of Canada); FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

306 FEWO, *Evidence*, 26 March 2013, 1235 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service).

307 FEWO, *Evidence*, 26 March 2013, 1210 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service); FEWO, *Evidence*, 29 November 2012, 0935 (Mr. Serge Jetté, Manager, Conflict, Management Services, Human Resources Division, Treasury Board Secretariat); FEWO, *Evidence*, 28 May 2013, 1125 (Ms. Josée Bouchard, Equity Advisor, Equity Initiatives Department, Law Society of Upper Canada).

308 FEWO, *Evidence*, 18 April 2013, 1220 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police); FEWO, *Evidence*, 28 February 2013, 1150 (Deputy Commissioner Craig J. Callens, Commanding Officer, "E" Division, Royal Canadian Mounted Police).

309 FEWO, *Evidence*, 28 February 2013, 1135 (Deputy Commissioner Craig J. Callens, Commanding Officer, "E" Division, Royal Canadian Mounted Police); FEWO, *Evidence*, 28 February 2013, 1150 (Inspector Carol Bradley, Team Leader, "E" Division, Respectful Workplace Program, Royal Canadian Mounted Police).

an anonymous whistle-blower telephone line, which allows a member to anonymously report the misconduct of another employee.³¹⁰

The Committee heard that reprisal against women who report sexual harassment has been ongoing for decades. As an example, one witness spoke of a case in the 1980s, where an employee, after reporting harassment, faced a \$30,000 lawsuit for slander, hostility from co-workers, suspension without pay, and had to undergo a lie detector test and a psychiatric assessment.³¹¹

The Committee heard testimony from a former officer of the RCMP who asserted that she experienced serious reprisal after asking her supervisor and fellow officers to stop harassing her. She explained that the reprisals began with name-calling which escalated to other incidents such as finding her personal locker stuffed with a dead and bloody prairie chicken or having the women's bathroom stall door unscrewed so that it fell on her head.³¹² The former RCMP employee said that she became a target, as though she were marked with a "black X".³¹³

6. A Lack of Support for Complainants

The Committee was told that most individuals need a personal support network, including family, friends and community, to bring forward a complaint of sexual harassment.³¹⁴ One witness stated that she would advise against initiating a complaint procedure if the victim of sexual harassment does not have such a support network in place.³¹⁵ Witnesses indicated that employees in isolated and remote areas face a greater challenge in reporting sexual harassment as they do not have access to the usual support network of family, friends, co-workers and management.³¹⁶

310 FEWO, *Evidence*, 26 March 2013, 1210 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service).

311 FEWO, *Evidence*, 16 April 2013, 1145 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).

312 FEWO, *Evidence*, 7 March 2013, 1110 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

313 "Partial transcription of testimony given at a public meeting on 22 April 2013," Transcript distributed to FEWO (Ms. Sherry Lee Benson-Podolchuk), p. 2.

314 FEWO, *Evidence*, 16 April 2013, 1215 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 23 May 2013, 1120 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

315 FEWO, *Evidence*, 16 April 2013, 1215 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).

316 FEWO, *Evidence*, 31 January 2013, 1155 (Ms. Amanda Maltby, General Manager, Compliance, Canada Post); FEWO, *Evidence*, 6 December 2012, 0855 (Mr. Timothy Edwards, President, Professional Association of Foreign Service Officers).

The Committee heard that while an employer can have little influence over the personal support available,³¹⁷ a workplace should establish other forms of support.³¹⁸ Witnesses provided examples of various arrangements aimed at providing additional support to victims within the workplace:

- The Quebec Help and Information Centre on Harassment in the Workplace's café-rencontres "are informal meetings for people who have experienced sexual or psychological harassment in the workplace", aimed at breaking the isolation and empowering the women.³¹⁹
- The Canadian Auto Workers Union's Women's Advocate program provides support for women who are facing harassment or violence in accessing community and workplace resources.³²⁰
- Employee Assistance Programs are established in a number of workplaces and provide counselling support and advice on a variety of subjects.³²¹

The Committee was told that financial support is also important, as a key deterrent to reporting is that formal sexual harassment processes often require extensive legal resources and can be financially draining.³²²

317 FEWO, *Evidence*, 16 April 2013, 1215 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).

318 FEWO, *Evidence*, 23 May 2013, 1120 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

319 FEWO, *Evidence*, 26 March 2013, 1100 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace).

320 FEWO, *Evidence*, 7 February 2013, 1210 (Mr. Vinay Sharma, Director of Human Rights, Canadian Auto Workers).

321 See for example: FEWO, *Evidence*, 23 May 2013, 1235 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual); FEWO, *Evidence*, 16 October 2012, 0910 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat); FEWO, *Evidence*, 31 January 2013, 1105 (Ms. Amanda Maltby, General Manager, Compliance, Canada Post); FEWO, *Evidence*, 14 February 2013, 1110 (Ms. Anne-Marie Beauchemin, Correctional Officer, Union of Canadian Correctional Officers).

322 See for example: FEWO, *Evidence*, 16 April 2013, 1145 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 14 February 2013, 1205 (Mr. Robin Kers, Labour Relations Officer, National Office, Union of Solicitor General Employees); FEWO, *Evidence*, 23 October 2012, 0955 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O'Brien Payne).

In addition, the Committee was informed that some women's reluctance to report sexual harassment was affected by their citizenship status, particularly if there is a language barrier and they do not have the necessary translation support.³²³

The Committee heard from Ms. MacQuarrie of Western University about the need for organizations that support victims:

You can go to a generic counselling agency, and they may or may not have any particular understanding of the dynamics of workplace harassment, workplace sexual harassment, or gendered harassment... We have a real need for a network of community supports that have people in place who really understand harassment and are able to offer appropriate support, appropriate advice sometimes, for moving forward with a complaint.³²⁴

7. Leadership

Witnesses said that leaders who fail to address, ignore, or condone harassing behaviour, or engage in harassment themselves, contribute to a workplace environment prone to sexual harassment and under-reporting.³²⁵

The Committee heard that having women in leadership roles increased reporting of sexual harassment by women for a number of reasons:

- Female employees are more inclined to trust leaders if they recognize themselves in the management cadre.³²⁶
- Female leaders can bring a different perspective from their male counterparts.³²⁷

323 FEWO, *Evidence*, 16 April 2013, 1140 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

324 FEWO, *Evidence*, 16 April 2013, 1215 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).

325 FEWO, *Evidence*, 29 January 2013, 1130 (Mr. Bob Kingston, National President, Agriculture Union, Co-Chair, Public Service Wide Policy Committee on Health and Safety, Public Service Alliance of Canada); FEWO, *Evidence*, 16 April 2013, 1200 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual); FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 28 May 2013, 1110 (Ms. Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP, Women's Legal Education and Action Fund).

326 FEWO, *Evidence*, 27 November 2012, 0915 (Ms. Audrey O'Brien, Clerk of the House of Commons, House of Commons).

327 FEWO, *Evidence*, 14 February 2013, 1205 (Mr. Robin Kers, Labour Relations Officer, National Office, Union of Solicitor General Employees).

- A mix of men and women in leadership positions fosters conversations on sensitive topics such as sexual harassment.³²⁸

One witness recommended that there should always be the option of reporting harassment to a woman.³²⁹ Another witness stated that the federal government should place a “renewed emphasis ... on hiring and promoting minorities, of which women are one,” with the goal of promoting a workplace reflective of a society that does not accept harassment.³³⁰ The subject of women in leadership positions is expanded on in the section “Key Factors in Reducing Sexual Harassment”.

8. Job Insecurity

Some witnesses spoke of job insecurity as a contributing factor to the incidences of sexual harassment and its under-reporting,³³¹ while others disagreed with that connection.³³²

The Committee heard that job insecurity can foster a work environment of anxiety, competition and inequalities leading to inappropriate behaviour,³³³ or that extra pressure from job insecurity can make reporting of ongoing situations of sexual harassment more difficult.³³⁴

One witness stated that certain workers whose jobs may be at risk are at greater risk of sexual harassment and of not reporting harassment, and these individuals include

328 FEWO, *Evidence*, 5 March 2013, 1130 (Mr. Hubert T. Lacroix, President and Chief Executive Officer, Canadian Broadcasting Corporation).

329 FEWO, *Evidence*, 28 May 2013, 1240 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

330 FEWO, *Evidence*, 28 May 2013, 1120 (Ms. Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP, Women's Legal Education and Action Fund).

331 FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 16 April 2013, 1205 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

332 FEWO, *Evidence*, 31 January 2013, 1135 (Ms. Ann Therese MacEachern, Vice-President, Human Resources, Canada Post).

333 FEWO, *Evidence*, 6 December 2012, 0910 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 16 April 2013, 1205 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

334 FEWO, *Evidence*, 6 December 2012, 0910 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 7 February 2013, 1230 (Ms. Paula Turtle, Canadian Counsel, United Steelworkers); FEWO, *Evidence*, 7 February 2013, 1230 (Mr. Vinay Sharma, Director of Human Rights, Canadian Auto Workers).

“workers in temporary positions, workers on probation or in some kind of trial period for a position, and also young workers who are new to the workplace.”³³⁵

Dr. Welsh stated that there could be fewer cases of harassment in workplaces when “interpersonal competition and job insecurity are reduced or at least recognized by management.”³³⁶

335 FEWO, *Evidence*, 16 April 2013, 1205 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

336 *Ibid.*, 1210.

PROCESSES FOR RESPONDING TO SEXUAL HARASSMENT COMPLAINTS

The range of laws, regulations and policies that address sexual harassment in federal workplaces was a focus of the briefing sessions for the Committee and of many questions directed to witnesses by Committee members. As noted in an earlier sections of the report (on legal and regulatory frameworks), not all these laws, policies and regulations make explicit reference to sexual harassment, but all have been interpreted to include sexual harassment; therefore the terms have been used interchangeably. As these mechanisms have been addressed in earlier parts of this report, this section focuses on actual complaint processes and witness observations and recommendations related to them.

A. Official Complaints Processes

As noted above, employees in the federal workplace may have a variety of complaints processes available to them, while others may have only one. This section outlines the processes under the Treasury Board policy and the CHRC and outlines the dual nature of processes in place for the CF and the RCMP.

1. Treasury Board

An employee covered by the Treasury Board policy has access to two departmental processes for sexual harassment complaints. The first is an informal process, where the complainant reports the sexual harassment to his or her manager and the manager attempts to facilitate a resolution. The second is the formal complaint process. It is not necessary to go through the informal process before initiating the formal process.

If the employee decides to make a formal complaint, he or she must file it in writing with the “delegated manager”, the senior executive responsible for dealing with harassment complaints. The complaint must include “the nature of the allegations; the name of the respondent; the relationship of the respondent to the complainant (e.g., supervisor, colleague); the date and a description of the incident(s); and, if applicable, the names of witnesses.” The employee must file the complaint within a year of the alleged harassment, absent “extenuating circumstances”, which the policy does not define.

Upon receiving the complaint, the delegated manager must contact the respondent in writing and outline the details of the complaint. The delegated manager may suggest alternative means of resolving the issue. The delegated manager must then determine if the substance of the complaint in fact relates to harassment. If not, the delegated manager contacts both parties in writing and informs them, suggesting possible means of resolution. If the complaint is based on harassment, the delegated manager “determines what efforts have been made to resolve the problem, identifies immediate avenues of resolution if any,

and takes appropriate action.” The delegated manager may then refer the parties to mediation, and if this is not successful, will launch an investigation. The investigator must provide the delegated manager with a written report at the conclusion of their investigation. The delegated manager must then review all available information, contact the parties with a decision, and take appropriate action if warranted. The parties must be given a copy of the report. Where a complaint is founded, meaning that the delegated manager has found sufficient evidence to suggest there has been harassment, the complainant is informed verbally whether corrective or disciplinary actions will be taken.

The Treasury Board complaints process is not intended to supersede other possible avenues of recourse. In fact, if a specific complaint is or has been dealt with elsewhere, the process under the Treasury Board policy will be closed. The policy refers employees to bargaining agents, to the CHRA where the harassment is based on a prohibited ground of discrimination (as sexual harassment is, by definition, under the CHRA), and to the *Criminal Code* where there is an assault. Another option if a unionized employee is unsatisfied with the outcome of a departmental investigation is to file a grievance,³³⁷ a process that will be discussed below.

There are several features that distinguish the Treasury Board policy from the requirements under the *Canada Labour Code*, beyond their application. First, the Treasury Board policy is often worded in a much more permissive manner than the Code. It sets out “expectations” of employees, managers, and delegated managers, whereas the Code makes mandatory directions to employers. Compare the following:

Under the Treasury Board policy:

[Managers] *are expected* to intervene promptly when they become aware of improper or offensive conduct and to involve the parties in resolving the problem ... They *are expected* to address any alleged harassment of which they are aware, whether or not a complaint has been made. {Emphasis added}

Under the Code:

The employer will take any disciplinary measures they deem appropriate against any person under the employer’s direction who subjects any employee to sexual harassment.

Second, if a department determines through their investigation that a complaint is unfounded, the department is required — here the language is mandatory — to provide legal assistance to the respondent if the complainant takes the matter to a court or tribunal. There are no such assistance obligations under the Code. Also of note is the fact that no mention of the harassment complaint goes into either party’s personnel file except for a disciplinary letter if disciplinary action is taken.

The Committee also learned that if an employee of the Treasury Board is found guilty of harassment, that information will be recorded in the employee’s personnel file;

337 Rootham, p. 301.

however if no other incident occurs within two years, the record is expunged.³³⁸ Serge Jetté, Manager of Conflict at Management Services at the Human Resources Division of the Treasury Board Secretariat, said “[a]fter two years, the file is destroyed and there’s no mention.”³³⁹

Recommendation 4

The Committee recommends that options be examined by all federally regulated employers to extend the length of time from the current two years for which disciplinary notes related to sexual harassment in the federal workplace may be retained on an employee's file.

Under the more recent Treasury Board policy (2012), complaints processes have not been released yet, but there may be some differences between the 2001 and 2012 policies.

Treasury Board officials described for Committee members a five-step process for responding to sexual harassment complaints:³⁴⁰ acknowledging receipt of the complaint; reviewing the complaint to ensure “the allegation meets the definition of harassment”; an exploration of options by responsible officials and the complainant jointly; making a decision that is provided in writing to the complainant and the respondent; and restoring the workplace.

Officials also told the Committee about graduated discipline, “which means that the disciplinary action has to be suitable to the actual nature of the issue itself.... [I]t can go from a reprimand to a demotion to dismissal in the end, if the incident is serious enough.”³⁴¹

One witness told the Committee that under the *Public Service Employment Act*, a manager who is found to have harassed a subordinate can be moved to a new position, but only after the official investigation has reached this conclusion.³⁴² Steve Gaon, lawyer, mediator and arbitrator, and head of Alternative Dispute Resolution Ottawa, appearing as an individual, told the Committee, “we need to make sure that managers can and should

338 FEWO, *Evidence*, 29 November 2012, 0900 (Mr. Serge Jetté, Manager, Conflict, Management Services, Human Resources Division, Treasury Board Secretariat); FEWO, *Evidence*, 5 March 2013, 1140 (Mrs. Monique Marcotte, Interim Executive Director, English Services Human Resources; Executive Director, Strategic Planning and Human Resources Corporate Groups, People and Culture, Canadian Broadcasting Corporation).

339 FEWO, *Evidence*, 29 November 2012, 0900 (Mr. Serge Jetté, Manager, Conflict, Management Services, Human Resources Division, Treasury Board Secretariat).

340 FEWO, *Evidence*, 20 October 2012, 0855 (Ms. Martine Glandon, Manager, Values and Ethics, Treasury Board Secretariat).

341 FEWO, *Evidence*, 16 October 2012, 0930 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat).

342 FEWO, *Evidence*, 23 October 2012, 1020 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O'Brien Payne).

independently authorize investigations where the situations warrant in the absence of formal complaint.”³⁴³

Other witnesses pointed to the PSES results as an indication of the inadequacies of Treasury Board commitments.

Citing data from the PSES, Robyn Benson, National President of the Public Service Alliance of Canada, told the Committee that “Treasury Board is not living up to the expected standards of providing a workplace free of harassment and discrimination.”³⁴⁴ She also indicated that PSAC’s submission to the Committee recommended a review by Treasury Board on the process and outcomes of complaints, settlements and investigations involving sexual harassment, reporting back to the Committee within a year.³⁴⁵

2. Canadian Human Rights Commission

The Canadian Human Rights Commission hears complaints of discriminatory practices. Before it will hear a complaint, the CHRC must determine whether it believes the complainant “ought to exhaust grievance or review procedures otherwise reasonably available.”³⁴⁶ If the CHRC decides to hear a complaint, it may designate an investigator to conduct an investigation, who must then prepare a report for the CHRC. The CHRC may, upon receiving the report:

- direct the complainant to a more appropriate forum if it finds that there were other grievance or review procedures available or that the matter could be more appropriately dealt with under other federal legislation;
- refer the complaint to the Canadian Human Rights Tribunal for an inquiry; or
- dismiss the complaint.

The CHRC may also appoint a conciliator to facilitate settlement. If the parties do settle, they must refer their settlement to the CHRC for approval or rejection. If the settlement is approved, it may be made into an order of the Federal Court, either on the initiative of the CHRC or that of a party to the settlement.

If the CHRC sends a complaint to the Tribunal, the Tribunal must initiate an inquiry. The Tribunal Chairperson will assign a Tribunal member to inquire into a complaint, or if the complaint is sufficiently complex, will assign a panel of three members. The

343 FEWO, *Evidence*, 23 October 2012, 1010 (Mr. Steven Gaon, appearing as an individual).

344 FEWO, *Evidence*, 29 January 2013, 1105 (Ms. Robyn Benson, National President, Public Service Alliance of Canada).

345 Ibid.

346 CHRA, s. 41(1)(a).

complainant, the alleged perpetrator of harassment, and anyone else the Tribunal member(s) deem appropriate will have the opportunity to appear with or without a lawyer and to present evidence. If the Tribunal cannot find sufficient evidence to support a complaint, the Tribunal deems the complaint unsubstantiated, and the complaint is dismissed. If the complaint is substantiated, the Tribunal may order that the harasser take steps to redress the situation and prevent future occurrences, provide financial compensation to the victim for any lost wages or expenses the victim had to incur because of the harassment, compensate the victim for up to \$20,000 for any pain and suffering, and up to another \$20,000 if there is a finding that the harassment was willful or reckless. As the case law discussion below indicates, employers, including the Crown, may be held liable for the discriminatory practices of their employees.

One witness recommended that any grievance alleging a breach of the *Canadian Human Rights Act* should be addressed by adjudication, bypassing the steps where a manager would make the first ruling with respect to the complaint.³⁴⁷ More specifically, two legal specialists included in a written submission following their testimony that the *Public Service Staff Relations Act* be amended “to clarify that grievances alleging sexual harassment may be referred to adjudication.”³⁴⁸

3. Canadian Forces

a. Administrative Processes

The Harassment Prevention and Resolution Guidelines, which apply to both DND and the CF, describe five stages to an administrative investigation of a harassment complaint: “research and planning, interviews, analysis, the [Harassment Investigator]’s report and finally, the [Responsible Officer]’s decision.”³⁴⁹ The procedure incorporates a variety of protections for both the complainant and the respondent that are designed to ensure that the process is fair. The Responsible Officer’s decision on the complaint must provide reasons as to whether or not harassment occurred and must be rendered within six months of the original complaint.³⁵⁰

While the procedures related to harassment prevention and resolution would normally be identical for civilian and military personnel, there remain some differences in the ways in which incidents of harassment are addressed. In particular, other procedures set out in the *National Defence Act* that apply only to members of the CF may be relevant.

347 FEWO, *Evidence*, 23 October 2012, 1025 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O’Brien Payne).

348 Christopher Rootham and Steven Gaon, “Recommendations to the House of Commons Standing Committee on the Status of Women,” January 2013, p. 2.

349 *Military Administrative Law Manual*, Chapter 22, para. 42; Staff of the Non-Public Funds Canadian Forces, [Harassment Prevention And Resolution Guidelines](#), Director General Personnel Family Support Services, p. 29.

350 *Ibid.*, p. 30 and paras. 52–53.

As a military organization, the CF is fundamentally different from other federal employers. The Supreme Court of Canada has recognized that the CF has a unique and heightened need to maintain discipline amongst soldiers and to ensure that the chain of command operates effectively and responsibly. Therefore, the CF operates a separate military justice system that deals with both disciplinary and criminal infractions. In addition, civilian courts have found that the CF, as an institution, has a higher degree of responsibility than civilian employers to prevent the sexual harassment of a subordinate committed by a superior.³⁵¹

b. Disciplinary Processes

A service offence is any offence under the Code of Service Discipline in the *National Defence Act*.³⁵² Service offences include a variety of military disciplinary offences, criminal offences specific to the military, as well as all criminal offences under Canadian law. The Supreme Court of Canada explained in *R. v. Généreux* the underlying purposes behind the military discipline and justice system:

The purpose of a separate system of military tribunals is to allow the Armed Forces to deal with matters that pertain directly to the discipline, efficiency and morale of the military. The safety and well-being of Canadians depends considerably on the willingness and readiness of a force of men and women to defend against threats to the nation's security. ... [T]he military must be in a position to enforce internal discipline effectively and efficiently. Breaches of military discipline must be dealt with speedily and, frequently, punished more severely than would be the case if a civilian engaged in such conduct. As a result, the military has its own Code of Service Discipline to allow it to meet its particular disciplinary needs. In addition, special service tribunals, rather than the ordinary courts, have been given jurisdiction to punish breaches of the Code of Service Discipline.³⁵³

If the primary purpose of an investigation is to obtain evidence for disciplinary or criminal proceedings against a CF member regarding alleged harassment, the administrative investigation process under the Harassment Prevention and Resolution Guidelines may not be used. Disciplinary and criminal investigations in the CF must be conducted according to the Code of Service Discipline in the *National Defence Act* and the relevant Chapter of the *Queen's Regulations and Orders for the Canadian Forces* (QR&Os).³⁵⁴

If, at the outset of a harassment complaint, the Responsible Officer “instinctively feels” that the matter would more properly be dealt with as a service offence, he or she “should commence a disciplinary investigation and not initiate a harassment investigation.”³⁵⁵ According to the *Military Administrative Law Manual*, a Commanding

351 *L. (J.) v. Canada (Attorney General)* (1999), 175 D.L.R. (4th) 559 (B.C.S.C.), para. 49.

352 *National Defence Act*, Part III, ss. 55–249.26.

353 *R. v. Généreux*, [1992] 1 S.C.R. 259.

354 [Chapter 106, Investigation of Service Offences.](#)

355 *Military Administrative Law Manual*, Chapter 22, para. 27.

Officer “who suspects that a service offence has occurred should immediately suspend any administrative investigation, consult with the local representative of the Judge Advocate General (JAG) and consider informing the appropriate [Military Police] authorities.”³⁵⁶ Nevertheless, a previous harassment investigation does not preclude the possibility of a disciplinary or criminal investigation at a later date.

The Committee was also advised that if a commanding officer has any doubt about whether the process should be administrative or disciplinary, “it is the commanding officer’s responsibility to obtain legal and/or military police advice before taking any action.”³⁵⁷

By way of example, the *Military Administrative Law Manual* points out that harassment of a subordinate constitutes the offence of abuse of that subordinate,³⁵⁸ and is, therefore, subject to the processes outlined under the Code of Service Discipline. Other examples of service offences include offences of disgraceful conduct and any conduct to the prejudice of good order or discipline.³⁵⁹ The offences of criminal harassment and sexual assault under the *Criminal Code* are also service offences.

c. Grievance Processes

If a member of the CF believes that he or she has been subject to sexual harassment, the matter also may be dealt with through the grievance procedure under the *National Defence Act*.³⁶⁰ The Canadian Forces Grievance Authority website indicates that while the grievance process is available to deal with sexual harassment allegations, a grievance on harassment is difficult to adjudicate without a proper situational assessment and/or administrative investigation by a Responsible Officer. It is therefore important that members consider filing a formal harassment complaint first before they submit a grievance. If the member is not satisfied with the response to his/her harassment complaint, then he/she should officially submit his grievance.³⁶¹

The Harassment Prevention and Resolution Guidelines provide “that a harassment complaint will be closed if a member files a grievance on the same issue.”³⁶² Therefore, while the preferred procedure would be for any harassment complaint to be dealt with

356 Ibid., Chapter 3, para. 3.

357 FEWO, *Evidence*, 18 April 2013, 1120 (LCol J.A. Legere, Chief of Staff, Canadian Forces Military Police Group, Canadian Forces Provost Marshal).

358 Abuse of subordinates is an offence under [s. 95 of the National Defence Act](#), R.S.C., 1985, c. N-5.

359 *National Defence Act*, ss. 92, 93, 129.

360 Ibid., s. 29(1).

361 Director General Canadian Forces Grievance Authority, “[Frequently Asked Questions](#).”

362 Canadian Forces Grievance Board, “[Recommendations on Systemic Issues: Confusion created by giving priority to harassment complaints over grievances for military members](#),” 31 December 2009; *Military Administrative Law Manual*, Chapter 22, para. 42; Staff of the Non-Public Funds Canadian Forces, [Harassment Prevention And Resolution Guidelines](#), Director General Personnel Family Support Services, para. 4.10.

before the filing of any grievance, a member of the CF retains the option of proceeding with a formal grievance instead of a harassment complaint.

The CF grievance process was introduced in the *National Defence Act* in 1998 and the procedures to be followed are set out in more detail in the QR&Os.³⁶³ Efforts to improve the grievance procedures for military personnel have been included in military justice reform bills before previous parliaments, and are included in Bill C-15, An Act to amend the *National Defence Act* and to make consequential amendments to other Acts, which passed third reading in the House in May 2013.³⁶⁴ According to the legislative summary:

The grievance procedure under the NDA [*National Defence Act*] consists of two levels. A grievance is initially brought before the commanding officer or the next superior officer of the commanding officer of the person bringing the grievance. If the person bringing the grievance is not satisfied with the resolution of the grievance, he or she may submit the grievance to the CDS [Chief of the Defence Staff], who represents the final authority. Before the CDS may begin the review, certain grievances must be referred to an independent, external board for military grievances (the Grievance Board) for its findings and recommendations.

d. Office of the Ombudsman for the Department of National Defence and the Canadian Forces

The Committee heard that a further appeal³⁶⁵ can be made to the Office of the Ombudsman for the Department of National Defence and the Canadian Forces, created in 1998 “to increase openness and transparency in the Canadian Forces and the Department of National Defence, and to ensure the fair treatment of concerns raised by Canadian Forces members, departmental employees, and their families.”³⁶⁶ The Office “is also responsible for reviewing and investigating concerns and complaints from current and former members” of the groups identified above, “who believe that they have been treated improperly or unfairly by the Department of National Defence or the Canadian Forces.”³⁶⁷ However, the Committee also learned that the results of such a review of investigation of a decision relating to a complaint with respect to sexual harassment would be limited to a recommendation to the CF or DND.³⁶⁸

363 *National Defence Act*, ss. 29–29, 28; [Queen’s Orders and Regulations for the Canadian Forces](#), Chapter 7.

364 For more information on Bill C-15, see Erin Shaw and Dominique Valiquet, [Legislative Summary of Bill C-15: An Act to amend the National Defence Act and to make consequential amendments to other Acts](#), April 2012.

365 FEWO, *Evidence*, 4 December 2012, 0850 (Mr. Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman).

366 National Defence and Canadian Forces Ombudsman, [About Us](#).

367 *Ibid.*

368 FEWO, *Evidence*, 4 December 2012, 0850 (Mr. Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman).

e. Allegations of Sexual Harassment by Members of the Military Police

Complaints about the conduct of members of the Military Police in the course of the performance of policing duties or functions are handled through a separate process set out in Part IV of the *National Defence Act*.³⁶⁹ Such complaints are dealt with initially by the Provost Marshall, who is Canada's chief military police officer.³⁷⁰ If the complainant is dissatisfied with the Provost Marshall's decision on the complaint, he or she may ask the Military Police Complaints Commission to review the matter.³⁷¹

Alleged breaches of the sexual misconduct policy are investigated and addressed by the Canadian Forces Military Police. Officials from the Military Police told Committee members that a commanding officer may respond to a complaint with a dual investigation — an administrative one under the sexual harassment policy, and a disciplinary one conducted by the Military Police.³⁷² However, the administrative investigation would not proceed until the police investigation was complete.³⁷³

f. Witness Information and Observations

The Committee heard that women working in male-dominated environments, including the CF, often gain acceptance by fitting in,³⁷⁴ which one witness suggested made reporting harassment even more difficult.

A CF researcher told the Committee that in her interviews, some women in the CF who had experienced harassment indicated that a formal complaint is a last resort,³⁷⁵ and that individuals who had made such complaints did not always find resolutions to their complaints.³⁷⁶ The Committee also heard from a representative of the Defence Women's Advisory Organization, a joint civilian and military organization for women working for DND and the CF that provides a broad monitoring and advisory role, identifying systemic issues

369 *National Defence Act*, s. 250.18.

370 *Ibid.*, s. 250.26(1).

371 *Ibid.*, s. 250.31.

372 FEWO, *Evidence*, 18 April 2013, 1145 (Maj Tim Langlois, Legal Officer, Office of the Judge Advocate General, Directorate of Law, Military Justice Operations, Canadian Forces Provost Marshal).

373 *Ibid.*

374 FEWO, *Evidence*, 12 February 2013, 1140 (LCol Karen Davis, Defence Scientist, Director General Military Personnel Research and Analysis, Canadian Forces Leadership Institute, appearing as an individual); FEWO, *Evidence*, 26 March 2013, 1145 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace).

375 FEWO, *Evidence*, 12 February 2013, 1140 (LCol Karen Davis, Defence Scientist, Director General Military Personnel Research and Analysis, Canadian Forces Leadership Institute, appearing as an individual).

376 *Ibid.*, 1120.

and suggesting solutions.³⁷⁷ She told the Committee that she had not, in her experience, seen reluctance to complain about harassment.³⁷⁸

4. Royal Canadian Mounted Police

As noted in the earlier section of the report focussed on legal and regulatory frameworks for addressing sexual harassment, recent changes to the *Royal Canadian Mounted Police Act* have resulted in changes to the complaints process. Details of how the complaints process would change were not yet available at the time of the Committee's hearings.

However, witnesses described the sharp contrast between complaints processes under the *Royal Canadian Mounted Police Act* and under the Treasury Board policy. In particular, a representative of the RCMP told the Committee that in contrast to the workplace restoration goal of the Treasury Board policy, the RCMP disciplinary process is focussed on determining guilt or innocence of the person under investigation.³⁷⁹ According to the witness, this focus results in more rights for the person being investigated, the loss of informal resolution as an option, and, as previously noted, no access to the final report for the victim, as was provided in the 2001 Treasury Board policy.³⁸⁰

The union representing civilian employees of the RCMP recommended that any code of conduct hearing related to sexual harassment be accompanied by "a parallel and cooperative investigation ...initiated and conducted as though a complaint of sexual harassment had been filed."³⁸¹

At a public roundtable of former female RCMP officers, one participant, Krista Carle, suggested that in the current complaint system, "...the senior officers are the judge, the jury, the prosecutors and, in some cases, also the offender, or a close personal friend of the offender."³⁸²

Another former RCMP Officer, Catherine Galliford, said "[a]n independent investigative body would ensure impartiality with respect to internal investigation and their findings would not be influenced by rank, promotional opportunities, fear, etc."³⁸³

377 FEWO, *Evidence*, 12 February 2013, 1105 (PO 1 Shanna Wilson, National Military Co-Chair, Defence Women's Advisory Organization).

378 *Ibid.*, 1155.

379 FEWO, *Evidence*, 20 November 2012, 0925 (Supt Michael O'Rielly, Director, Legislative Reform Initiative, Royal Canadian Mounted Police).

380 *Ibid.*

381 Union of Solicitor General Employees, "RCMP: List of recommendations, what needs to be done, over and above Bill C-42," Submission to FEWO, p. 2.

382 "Partial transcription of testimony given at a public meeting on 22 April 2013," transcript distributed to FEWO (Ms. Krista Carle), p. 18.

383 *Ibid.*, (Ms. Catherine Galliford), p.23,

Ms. Carle said, “[w]hat the RCMP needs is an oversight body, to handle complaints and internal investigations to ensure that they are handled fairly, swiftly and effectively. It is the only solution that will work...and an external investigation body to handle these complaints.”³⁸⁴

B. Timeliness of Responses

The Committee heard of guidelines that provide timelines for processing complaints of sexual harassment. For example, Treasury Board officials noted that its new directive indicated that all steps within an investigation under its policy are “normally” to be completed within 12 months.³⁸⁵ The CHRC official told the Committee that, on average, its investigations take one year,³⁸⁶ and that the Canadian Human Rights Tribunal takes from 9 to 10 months to complete a hearing that has been referred to it.³⁸⁷ The DND official told the Committee that a founded complaint took about 90 days to process, and that a responsible officer has 180 days to resolve such complaints.³⁸⁸ The Ombudsman for DND and the CF told the Committee that on average, a harassment complaint takes 90 days to process, and a grievance can take between 18 and 24 months.³⁸⁹ Public Works and Government Services Canada (PWGSC) identified a six-month timeline as its goal for processing complaints.³⁹⁰ The Canadian Auto Workers, describing a joint management/union anti-harassment committee, indicated that written complaints are generally resolved within 10 working days.³⁹¹ A witness from the CBC said that its reported cases had taken between two and four months to resolve.³⁹² The Ontario Provincial Police witnesses told the Committee that its goal is to resolve complaints within two months, but that more complex cases often take longer.³⁹³

384 Ibid., (Ms. Krista Carle), p.20,

385 FEWO, *Evidence*, 20 October 2012, 0915 (Ms. Martine Glandon, Manager, Values and Ethics, Treasury Board Secretariat).

386 FEWO, *Evidence*, 16 October 2012, 1035 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission).

387 FEWO, *Evidence*, 23 October 2012, 0955 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O’Brien Payne).

388 FEWO, *Evidence*, 22 November 2012, 0955 (Commander Tony Crewe, Director Human Rights and Diversity, Assistant Chief Military Personnel, Department of National Defence).

389 FEWO, *Evidence*, 4 December 2012, 0835 (Mr. Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman).

390 FEWO, *Evidence*, 29 November 2012, 0950 (Ms. Marielle Doyon, Acting Assistant Deputy Minister, Human Resources Branch, Department of Public Works and Government Services).

391 FEWO, *Evidence*, 7 February 2013, 1245 (Mr. Vinay Sharma, Director of Human Rights, Canadian Auto Workers).

392 FEWO, *Evidence*, 5 March 2013, 1130 (Mrs. Monique Marcotte, Interim Executive Director, English Services Human Resources; Executive Director, Strategic Planning and Human Resources Corporate Groups, People and Culture, Canadian Broadcasting Corporation).

393 FEWO, *Evidence*, 18 April 2013, 1225 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police).

The RCMP Public Complaints Commission, from whom the Committee heard that its recommendations to the RCMP included a focus on a more timely response,³⁹⁴ pointed out that investigations in the past have taken between two weeks and four years.³⁹⁵

The RCMP Commissioner told the Committee that the gender action plan developed late in 2012 identified improved timeliness as one of its action items.³⁹⁶ The Committee also heard that timeliness is a priority in “E” Division of the RCMP,³⁹⁷ where it was also seen as a mechanism to hold commanding officers accountable in the development and maintenance of respectful workplaces.³⁹⁸ The Union representing civilian employees within the RCMP recommended that the time for the completion of investigations of any complaint of sexual harassment be reduced to three months.³⁹⁹ The Parliamentary Librarian told the Committee that timeliness is a principle underpinning a recently revised Library of Parliament policy on prevention and resolution of harassment.⁴⁰⁰

Other witnesses identified the importance of prompt resolution of sexual harassment complaints.⁴⁰¹ One witness recommended the development of a policy at the federal level that not only defined sexual harassment, but also established timelines for responses to complaints.⁴⁰²

Recommendation 5

The Committee recommends that Status of Women Canada work with Treasury Board to establish a common set timeline for processing complaints of sexual harassment, based on best practices, so complainants can have timely and efficient resolution of claims.

394 FEWO, *Evidence*, 26 February 2013, 1100 (Mr. Ian McPhail, Interim Chair, Chair’s Office, Royal Canadian Mounted Police Public Complaints Commission).

395 *Ibid.*, 1120.

396 FEWO, *Evidence*, 26 February 2013, 1210 (Commissioner Bob Paulson, Commissioner, Royal Canadian Mounted Police).

397 FEWO, *Evidence*, 28 February 2013, 1115 (Deputy Commissioner Craig J. Callens, Commanding Officer, “E” Division, Royal Canadian Mounted Police).

398 *Ibid.*

399 Union of Solicitor General Employees, “RCMP: List of recommendations, what needs to be done, over and above Bill C-42,” Submission to FEWO, p. 2.

400 FEWO, *Evidence*, 27 November 2012, 0900 (Ms. Sonia L’Heureux, Parliamentary Librarian, Library of Parliament).

401 See for example: FEWO, *Evidence*, 20 November 2012, 0940 (Ms. Catherine Ebbs, Chair, Royal Canadian Mounted Police External Review Committee); FEWO, *Evidence*, 7 February 2013, 1120 (Ms. Denise Benoit, Director, Corporate Management, Office of the Conflict of Interest and Ethics Commissioner); FEWO, *Evidence*, 23 May 2013, 1125 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual); FEWO, *Evidence*, 23 October 2012, 0950 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O’Brien Payne).

402 FEWO, *Evidence*, 26 March 2013, 1150 (Ms. Cindy Viau, Director’s Advisor, The Quebec Help and Information Centre on Harassment in the Workplace).

C. Multiple Processes/Single Points of Entry

As described above, definitions, regulations and remedies with respect to sexual harassment are in several different laws and policies. The Committee heard from witnesses about the relative merits of multiple points of entry for a complainant and of a person or position that is the single point of entry for someone who is considering making a complaint.

The two were not necessarily mutually exclusive, as some examples described the first contact in an organization as having the responsibility to explore with the employee a variety of options for moving forward toward resolution and/or the launching of a complaint. Another example had complaints being made under different mechanisms, but all being reviewed by a single person.⁴⁰³

Single versus multiple entry points for complaints are each addressed in greater detail below.

1. Multiple Options for Initiating a Complaint

Several witnesses identified the availability of options for individuals who wish to make a complaint about sexual harassment as a benefit to both the employer and the employee. These benefits include:

- the different roles played by different mechanisms;⁴⁰⁴
- the increased assurance that every complaint is “properly investigated, and that appropriate sanctions are imposed on perpetrators;”⁴⁰⁵
- an increased sense of safety and confidence in bringing forward a complaint;⁴⁰⁶ and
- a possible increase in reporting levels to more accurately reflect the actual extent of sexual harassment in any particular agency.⁴⁰⁷

403 FEWO, *Evidence*, 29 November 2012, 0945 (Ms. Marielle Doyon, Acting Assistant Deputy Minister Human Resources Branch, Department of Public Works and Government Services); FEWO, *Evidence*, 16 April 2013, 1250 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

404 FEWO, *Evidence*, 29 January 2013, 1100 (Ms. Robyn Benson, National President, Public Service Alliance of Canada).

405 Ibid.

406 FEWO, *Evidence*, 28 February 2013, 1150 (Inspector Carol Bradley, Team Leader, “E” Division, Respectful Workplace Program, Royal Canadian Mounted Police).

407 FEWO, *Evidence*, 28 February 2013, 1220 (Deputy Commissioner Craig J. Callens, Commanding Officer, “E” Division, Royal Canadian Mounted Police).

Others told the Committee of more negative results associated with multiple points of entry for making a complaint. These potential problems include:

- confusion;⁴⁰⁸
- inefficiencies;⁴⁰⁹ and
- increased time for the complainant to pursue the multiple processes.⁴¹⁰

Witnesses also described how the selection of one approach might preclude or at least postpone pursuit of other options.⁴¹¹ In recommending simplification, Christopher Rootham, Partner and Director of Research with the Labour Law and Employment Law Groups of Nelligan O'Brien Payne, said to the Committee: "[a] guarantee that a grievance alleging a breach of the *Canadian Human Rights Act*, including sexual harassment, would be dealt with by adjudication instead of solely by the deputy head would certainly help resolve a lot of that confusion."⁴¹²

Recommendation 6

The Committee recommends that any grievances by federal employees alleging a breach of the *Canadian Human Rights Act* should be addressed by adjudication, bypassing the steps where a manager would make the first ruling with respect to the complaint.

2. Single Point of Entry for Initiating a Complaint

Some witnesses described the value of having a single person (or position) to whom a complaint could be made or concern raised,⁴¹³ while others said such a simplified approach was their goal.⁴¹⁴ In all cases, this person would assist the complainant in considering the options available for resolution, generally starting with informal, alternative dispute resolution as described below.

408 FEWO, *Evidence*, 23 October 2012, 0950 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O'Brien Payne).

409 Ibid.

410 FEWO, *Evidence*, 16 April 2013, 1220 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women and Children).

411 FEWO, *Evidence*, 23 October 2012, 0950 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O'Brien Payne).

412 Ibid., 1025.

413 FEWO, *Evidence*, 29 November 2012, 0850 (Mr. Serge Jetté, Manager, Conflict Management Services, Human Resources Division, Treasury Board Secretariat).

414 FEWO, *Evidence*, 22 November 2012, 0900 (Commander Tony Crewe, Director Human Rights and Diversity, Assistant Chief Military Personnel, Department of National Defence).

D. Alternative Dispute Resolution Processes

Virtually all the employers and unions appearing before the Committee made the case that less formal processes to resolve harassment issues are preferable to more formal approaches. In particular, witnesses told the Committee that early intervention through an informal alternative dispute resolution process has a number of benefits, including:

- a less adversarial process, with the possibility of resolution before there are fixed “positions” taken by either the complainant or the respondent;⁴¹⁵
- a greater probability of “workplace restoration”,⁴¹⁶
- continuity of teamwork;⁴¹⁷
- faster resolution⁴¹⁸ (including a stop to inappropriate behaviour),⁴¹⁹
- reduced risk of reprisal;⁴²⁰ and
- a clear message that harassing behaviour is not acceptable.⁴²¹

415 FEWO, *Evidence*, 27 November 2012, 0915 (Audrey O'Brien, Clerk of the House of Commons, House of Commons); FEWO, *Evidence*, 22 November 2012, 0855 (Ms. Jacqueline Rigg Director General, Civilian Human Resources Management Operations, Assistant Deputy Minister (Human Resources – Civilian), Department of National Defence); FEWO, *Evidence*, 29 January 2013, 1100 (Ms. Robyn Benson, National President, Public Service Alliance of Canada); FEWO, *Evidence*, 16 April 2013, 1235 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

416 FEWO, *Evidence*, 22 November 2012, 0855 (Ms. Jacqueline Rigg, Director General, Civilian Human Resources Management Operations, Assistant Deputy Minister (Human Resources – Civilian), Department of National Defence); FEWO, *Evidence*, 16 October 2012, 0905 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat).

417 FEWO, *Evidence*, 22 November 2012, 1000 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence).

418 FEWO, *Evidence*, 16 October 2012, 0940 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat).

419 FEWO, *Evidence*, 29 November 2012, 0850 (Mr. Serge Jetté, Manager, Conflict Management Services, Human Resources Division, Treasury Board Secretariat).

420 FEWO, *Evidence*, 27 November 2012, 1025 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence).

421 FEWO, *Evidence*, 16 April 2013, 1230 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women and Children).

Recommendation 7

The Committee recommends that wherever possible, federally regulated employers pursue alternate dispute resolution methods such as dialogue, facilitation and mediation and that these be considered as a first choice for the resolution of disputes relating to sexual harassment in the federal workplace.

Recommendation 8

The Committee recommends that Status of Women Canada along with Treasury Board take the lead in promoting the use of alternative dispute resolution mechanisms to deal with sexual harassment complaints.

Other witnesses told the Committee that alternative dispute resolution processes have limitations, including:

- their orientation toward the individual and their consequent failure to address systemic issues;⁴²²
- their failure to create precedents;⁴²³ and
- their possible exclusion of reported cases from data about sexual harassment complaints.⁴²⁴

Another witness noted that unofficial complaints do not have the same impact deterrence effect and do not contribute to the increased comfort for others coming forward with complaints.⁴²⁵

An official from the Office of the Ombudsman for the Department of National Defence and the Canadian Forces advised the Committee that the alternative dispute resolution processes had been highly effective in those organizations, but that resources were about to be reduced.⁴²⁶ He explained that while access to such informal approaches is a requirement for civilians under the Treasury Board policy, there is no obligation to

422 FEWO, *Evidence*, 22 April 2013, 1805 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

423 FEWO, *Evidence*, 29 January 2013, 1120 (Mr. Robin Kers, National Representative, Union of Solicitor General Employees, Public Service Alliance of Canada).

424 FEWO, *Evidence*, 29 January 2013, 1145 (Mr. Robin Kers, National Representative, Union of Solicitor General Employees, Public Service Alliance of Canada); FEWO, *Evidence*, 7 February 2013, 1225 (Mr. Vinay Sharma, Director of Human Rights, Canadian Auto Workers).

425 FEWO, *Evidence*, 23 October 2012, 1015 (Mr. Steven Gaon, appearing as an individual).

426 FEWO, *Evidence*, 4 December 2012, 0915 (Mr. Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman).

provide the same for military personnel, and that reductions in resources would mean less access for the military personnel.⁴²⁷

The Committee also heard that several organizations had introduced confidential reporting of sexual harassment incidents, and that this approach has advantages and limits. Among the advantages cited were increased safety in reporting incidents of sexual harassment,⁴²⁸ reduced risk of reprisal,⁴²⁹ and an exploration of options prior to the determination by a complainant to begin any process at all.⁴³⁰ Limitations identified for the Committee are the inability of the person or persons offering the support to proceed to action without the permission of the complainant⁴³¹ and the possibility that the complaint will not be taken as seriously as with a more formal approach.⁴³²

While such a mechanism could lead to more formal processes, it can also function as the first step in an informal dispute resolution process.⁴³³ The Committee also heard that a confidential process does not preclude maintaining statistics, although names would not be associated with those data.⁴³⁴

E. Sanctions for Sexual Harassment

As noted in an earlier section of this report, individuals who face sexual harassment in the workplace are less likely to come forward with complaints if the management response to founded complaints is insufficient in their view.

The Committee heard that sanctions are important because they deliver a message to employees that sexual harassment cases are taken seriously and dealt with

427 Ibid., 0930.

428 FEWO, *Evidence*, 28 February 2013, 1150 (Inspector Carol Bradley, Team Leader, “E” Division, Respectful Workplace Program, Royal Canadian Mounted Police); FEWO, *Evidence*, 31 January 2013, 1120 (Ms. Amanda Maltby, General Manager, Compliance, Canada Post).

429 FEWO, *Evidence*, 28 February 2013, 1135 (Deputy Commissioner Craig J. Callens, Commanding Officer, “E” Division, Royal Canadian Mounted Police).

430 FEWO, *Evidence*, 18 April 2013, 1205 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police).

431 FEWO, *Evidence*, 4 December 2012, 0910 (Mr. Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman).

432 FEWO, *Evidence*, 16 April 2013, 1250 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

433 Ibid., 1235.

434 Ibid., 1250.

appropriately, and they communicate to potential offenders that such behaviour will not be tolerated.⁴³⁵

Witnesses agreed that cases of sexual harassment that are determined to be founded should result in some element of discipline for the offending employee.⁴³⁶ One witness said the most effective discipline involves graduated sanctions that consider the severity of the first incident, and these sanctions should range from suspensions without pay up to, and including, dismissal.⁴³⁷ Another witness said that having “meaningful sanctions against the offender is one of the most powerful actions that can be taken to prevent sexual harassment.”⁴³⁸

However, the Committee heard that some workplaces do not deal adequately with sexual harassers, and this inaction means that they can become serial offenders.⁴³⁹ One witness spoke of a common approach used by employers, nicknamed “pass the perpetrator”, whereby a sexual harasser is simply moved to another job rather than face sanctions.⁴⁴⁰ The Committee was also told that individuals with a pattern of harassing behaviour need more than sanctions; there should be an intervention to educate the person and change his or her behaviour.⁴⁴¹

Sherry Lee Benson-Podolchuk, former employee of the RCMP, informed the Committee that according to the current policy, the punishment for transgressions such as sexual harassment is often a maximum of 10 days’ suspension. She hoped that with amendments to the *Royal Canadian Mounted Police Act*, a finding of sexual harassment will lead to disciplinary action that could include dismissal.⁴⁴²

435 FEWO, *Evidence*, 23 May 2013, 1225 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1115 (Ms. Ainslie Benedict, Partner, Nelligan O’Brien Payne LLP, Women’s Legal Education and Action Fund); FEWO, *Evidence*, 28 May 2013, 1205 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

436 See for example: FEWO, *Evidence*, 23 October 2012, 1035 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O’Brien Payne); FEWO, *Evidence*, 23 May 2013, 1145 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1135 (Dr. Kim Stanton, Legal Director, Women’s Legal Education and Action Fund); FEWO, *Evidence*, 28 May 2013, 1235 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

437 FEWO, *Evidence*, 23 May 2013, 1230 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual).

438 *Ibid.*, 1210.

439 FEWO, *Evidence*, 22 April 2013, 1815 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

440 FEWO, *Evidence*, 23 May 2013, 1235 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual).

441 *Ibid.*

442 FEWO, *Evidence*, 23 May 2013, 1125 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

Ms. Carle, another former RCMP officer, told a roundtable: “[o]ften the RCMP has dragged out their complaints and lawsuits instead of taking decisive measures and actions to resolve the issues and to hold the harassers and abusers accountable.”⁴⁴³

The Committee also heard from Mr. Kers of the Union of Solicitor General Employees with PSAC, who said

If [sexual harassers] were to be fired, and if that was a clear message that was pronounced in the media and within the department, I think it would embolden and provide courage and support to females who are being harassed to come forward with these issues. Until such time as the government and its various arms are prepared to take that step and deal with this issue in a concrete fashion, change will be very, very slow.⁴⁴⁴

Recommendation 9

The Committee recommends that meaningful sanctions be applied in order to demonstrate to offenders that sexual harassment will not be tolerated in the federal workplace.

F. Groups in Exceptional Circumstances

The Committee heard of three groups for whom normal policies and complaints procedures are either not accessible or not effective.

The first such group is staff of members of Parliament (MPs). The Committee heard that these individuals are employees of the individual MP hiring them,⁴⁴⁵ and are not covered by sexual harassment policies and processes available to staff of the House of Commons itself. While the House of Commons administration is not subject to Treasury Board policies, it follows “best practices in public administration”.⁴⁴⁶ The House Administration also offers orientation to new MPs, which includes their responsibilities as employers.⁴⁴⁷

443 “Partial transcription of testimony given at a public meeting on 22 April 2013,” Transcript distributed to FEWO (Ms. Krista Carle), p. 17.

444 FEWO, *Evidence*, 29 January 2013, 1145 (Mr. Robin Kers, National Representative, Union of Solicitor General Employees, Public Service Alliance of Canada)

445 FEWO, *Evidence*, 27 November 2012, 0850 (Ms. Audrey O’Brien, Clerk of the House of Commons, House of Commons).

446 Ibid.

447 Ibid., 0930.

Recommendation 10

The Committee recommends that Status of Women Canada consider working with the Parliament of Canada to heighten awareness of the issue of sexual harassment in the workplace.

The second group in this category is employees of Foreign Affairs and International Trade Canada who are working in embassies and consulates in countries where the employment standards and conventional practices may not match those in Canada. Officials from the Department told Committee members that the “global operational reality” calls for the values that underpin respect for cultural diversity, which are similar to those that provide the foundation for a harassment-free workplace.⁴⁴⁸ By necessity, training programs for public servants, foreign service officers and employees recruited in other countries is offered online; the training is supported by mission inspections to ensure that workplaces are adhering to federal government standards.⁴⁴⁹

Timothy Edwards, president of the Professional Association of Foreign Service Officers, told the Committee that while Treasury Board policies apply to public servants and foreign national employees of the federal government, almost one third of respondents to an informal survey of the Association’s membership reported that they had been “the target of verbal, physical, or sexual harassment or other abusive behaviour in the workplace, either at headquarters in Ottawa or while posted abroad.”⁴⁵⁰

He also told the Committee that federal policies do not necessarily influence the behaviour of the foreign officials with whom they interact. He explained:

Women often face different challenges from their male counterparts during posting. This is especially true in societies where religious or cultural values are not compatible with Canadian norms of gender equality... Female officers also experience unwanted physical attention and harassment in certain countries where machismo is valued more than sensitivity. This is particularly infuriating where the sources of harassment are local work contacts outside the mission, for example, your counterparts in local government ministries in the countries where we are assigned, or fellow diplomats from partner countries.⁴⁵¹

In addition, he told the Committee that the position of the foreign service officer “demands that you continue working with them week in, week out, without any option for recourse, redress, or resolution”, with recall the only real alternative.⁴⁵²

448 FEWO, *Evidence*, 29 November 2012, 1000 (Ms. Pat Langan-Torell, Director, Values and Ethics, Department of Foreign Affairs and International Trade).

449 FEWO, *Evidence*, 29 November 2012, 1010 (Mr. Yves Vaillancourt, Inspector General and Chief Audit Executive, Department of Foreign Affairs and International Trade).

450 FEWO, *Evidence*, 6 December 2012, 0855 (Mr. Timothy Edwards, President, Professional Association of Foreign Service Officers).

451 *Ibid.*, 0900.

452 *Ibid.*

Recommendation 11

The Committee recommends that Status of Women Canada work with Foreign Affairs and International Trade Canada to address the gaps that exist for Foreign Service officers who face sexual harassment in the workplace.

The third exceptional group is correctional service officers. Although sexual harassment is not tolerated among officers or other federal employees, it is more challenging to have an impact on the behaviour of the inmates of the facilities in which correctional service officers work.⁴⁵³

Anne-Marie Beauchemin, a Correctional Officer representing the Union of Canadian Correctional Officers, told the Committee:

CSC policy states that inmates must be respectful to officers. The ... *Corrections and Conditional Release Act*, also addresses this matter. Unfortunately, intentionally masturbating in front of an officer is not clearly defined and this needs to change. Officers must be given a viable avenue in which corrective measures can be consistently applied.⁴⁵⁴

The Union of Canadian Correctional Officers followed up its appearance before the Committee with a written submission with specific recommendations. The recommendations were for amendments to the *Corrections Conditions and Release Act* to make exposure of genitals to a correctional officer a disciplinary infraction and to specify that informal resolution may be not be feasible for such an infraction and amendments to the *Criminal Code of Canada* to make such acts included in "indecent acts".⁴⁵⁵

453 FEWO, *Evidence*, 29 January 2013, 1105 (Ms. Anne-Marie Beauchemin, Correctional Officer, Union of Canadian Correctional Officers).

454 *Ibid.*, 1110.

455 Union of Canadian Correctional Officers, "Submission to the Standing Committee on the Status of Women," submitted to FEWO, 31 May 2013.

KEY FACTORS IN REDUCING SEXUAL HARASSMENT

The Committee heard that while processes to deal with sexual harassment are important, an employer should also focus on prevention and reduction strategies.⁴⁵⁶ There is significant value in preventing and reducing sexual harassment because its negative effects often begin immediately after the first incident and can last long after the harassment stops.⁴⁵⁷

The following section outlines three key themes, highlighted by witnesses, related to the prevention and reduction of sexual harassment: leadership, training and workplace culture. As highlighted in witness testimony, these three themes are interconnected and often overlap with one another. As well, when approaches to prevent and reduce sexual harassment are not implemented or not successful, they can lead to under-reporting, a subject examined earlier in the report.

A. Leadership

The Committee was told that leadership underpins and influences workplace culture,⁴⁵⁸ and as such, it is critical that the employer and management lead by example and actively foster a respectful workplace.⁴⁵⁹ Leaders need to demonstrate a quick and appropriate response to complaints and a willingness to take action when needed.⁴⁶⁰

456 See for example: FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner's Office, Canadian Human Rights Commission); FEWO, *Evidence*, 20 November 2012, 0945 (Ms. Catherine Ebbs, Chair, Royal Canadian Mounted Police External Review Committee); FEWO, *Evidence*, 29 November 2012, 0955 (Ms. Marielle Doyon, Acting Assistant Deputy Minister, Human Resources Branch, Department of Public Works and Government Services); FEWO, *Evidence*, 22 April 2013, 1820 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

457 FEWO, *Evidence*, 23 May 2013, 1210 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual).

458 FEWO, *Evidence*, 29 November 2012, 1015 (Mr. Yves Vaillancourt, Inspector General and Chief Audit Executive, Department of Foreign Affairs and International Trade); FEWO, *Evidence*, 29 November 2012, 1000 (Ms. Pat Langan-Torell, Director, Values and Ethics, Department of Foreign Affairs and International Trade); FEWO, *Evidence*, 25 October 2012, 0905 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat); FEWO, *Evidence*, 28 May 2013, 1135 (Dr. Kim Stanton, Legal Director, Women's Legal Education and Action Fund).

459 See for example: FEWO, *Evidence*, 20 November 2012, 0855 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police); FEWO, *Evidence*, 29 November 2012, 1015 (Mr. Yves Vaillancourt, Inspector General and Chief Audit Executive, Department of Foreign Affairs and International Trade); FEWO, *Evidence*, 18 April 2013, 1235 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police); FEWO, *Evidence*, 22 April 2013, 1820 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

460 FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 26 March 2013, 1230 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service); FEWO, *Evidence*, 28 May 2013, 1125 (Ms. Josée Bouchard, Equity Advisor, Equity Initiatives Department, Law Society of Upper Canada).

The Committee heard that the leadership of an organization must understand that harassment and discrimination are often organizational issues, not isolated cases of conflict between individuals.⁴⁶¹ In addition, leaders must recognize that there are inequalities among groups within workplaces, including between men and women,⁴⁶² and must make it clear that they support diversity and inclusiveness.⁴⁶³ Some witnesses also suggested that leaders should recognize that harassment affects the organization as a whole since it can lead to poor performance, lack of focus, a decrease in productivity and low morale among individuals.⁴⁶⁴

With respect to the federal public service, the Committee heard that the duty to prevent harassment rests with deputy ministers or deputy heads of departments.⁴⁶⁵ According to staff from the Treasury Board Secretariat, departmental performance in this area is monitored, in part, through the management accountability framework, which uses information from the PSES and other sources to rate departmental performance in areas such as harassment; this rating partly determines deputy ministers' performance pay at the end of the year.⁴⁶⁶

The Committee was told by Marielle Doyon, Acting Assistant Deputy Minister of the Human Resources Branch at PWGSC, that the department encourages "... managers to remain vigilant and to identify risks in their work units that may give rise to harassment. To do so, we provide managers with tools designed to help with diagnostics and dialogue."⁴⁶⁷

461 FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress).

462 FEWO, *Evidence*, 16 April 2013, 1200 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual); FEWO, *Evidence*, 22 April 2013, 1825 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual); FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

463 FEWO, *Evidence*, 26 March 2013, 1230 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service).

464 See for example: FEWO, *Evidence*, 29 November 2012, 1005 (Ms. Pat Langan-Torell, Director, Values and Ethics, Department of Foreign Affairs and International Trade); FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress) FEWO, *Evidence*, 26 March 2013, 1115 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace); FEWO, *Evidence*, 26 March 2013, 1215 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service).

465 FEWO, *Evidence*, 16 October 2012, 0915 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat).

466 *Ibid.*, 0850.

467 FEWO, *Evidence*, 29 November 2012, 0955 (Ms. Marielle Doyon, Acting Assistant Deputy Minister, Human Resources Branch, Department of Public Works and Government Services).

As well, the Committee was informed that employers and management should be aware that victims can signal harassment in ways other than by reporting it, and that leadership still has a responsibility to intervene.⁴⁶⁸

Ms. Smallman of the Canadian Labour Congress, elaborated on the role of leadership in responding to possible situations of harassment or discrimination:

A lot comes down to leadership. There needs to be a swift response to complaints and a willingness to take action when necessary. When leaders make a clear effort to prevent harassment and deal with it when it occurs, women may be more likely to come forward when they feel they have been harassed. This means employers need to be sensitive to discrimination in all forms. Leaders need to see harassment and discrimination as organizational issues, not as isolated cases that have to do with conflicts between individuals. Conversely, if a leader is perceived to want to avoid conflict or is dismissive when problems of any kind arise, women are likely to remain silent.⁴⁶⁹

1. Leading by Example

Witnesses noted that leaders who ignore, fail to address, or condone harassing behaviour, or engage in harassment themselves, contribute to a workplace environment prone to sexual harassment and under-reporting of harassment.⁴⁷⁰ The employer and management must lead by example⁴⁷¹ and the prevention of sexual harassment starts with an organization's leadership.⁴⁷² One witness explained that policies are only as effective as the management that enforces them.⁴⁷³

According to witnesses, the leadership of any organization must:

468 FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

469 FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress).

470 See for example: FEWO, *Evidence*, 29 January 2013, 1130 (Mr. Bob Kingston, National President, Agriculture Union, Co-Chair, Public Service Wide Policy Committee on Health and Safety, Public Service Alliance of Canada); FEWO, *Evidence*, 16 April 2013, 1200 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual); FEWO, *Evidence*, 26 March 2013, 1120 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace); FEWO, *Evidence*, 23 May 2013, 1235 (Professor Linda Collinworth, Associate Professor of Psychology, Millikin University, appearing as an individual).

471 See for example: FEWO, *Evidence*, 29 November 2012, 1000 (Ms. Pat Langan-Torell, Director, Values and Ethics, Department of Foreign Affairs and International Trade); FEWO, *Evidence*, 20 November 2012, 0855 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police); FEWO, *Evidence*, 18 April 2013, 1235 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police); FEWO, *Evidence*, 22 April 2013, 1820 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

472 FEWO, *Evidence*, 16 April 2013, 1200 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual).

473 FEWO, *Evidence*, 23 May 2013, 1115 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

- explicitly state that sexual harassment will not be tolerated;⁴⁷⁴
- promote a workplace culture of respect;⁴⁷⁵
- actively combat the problem by creating practices to adequately deal with such cases;⁴⁷⁶ and
- swiftly and appropriately react to reports.⁴⁷⁷

2. Management

Witnesses also highlighted the need to train managers and supervisors about sexual harassment as they are responsible for overseeing the daily interactions of employees.⁴⁷⁸ The Committee heard that management must understand its role in preventing inappropriate behaviours from escalating.⁴⁷⁹ Management must be held responsible by the employer for enforcement of harassment prevention and

474 FEWO, *Evidence*, 23 May 2013, 1225 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual).

475 See for example: FEWO, *Evidence*, 16 October 2012, 0925 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat); FEWO, *Evidence*, 27 November 2012, 0850 (Ms. Audrey O'Brien, Clerk of the House of Commons, House of Commons); FEWO, *Evidence*, 27 November 2012, 0855 (Ms. Sonia L'Heureux, Parliamentary Librarian, Library of Parliament); FEWO, *Evidence*, 26 February 2013, 1125 (Mr. Ian McPhail, Interim Chair, Chair's Office, Royal Canadian Mounted Police Public Complaints Commission).

476 See for example: FEWO, *Evidence*, 22 April 2013, 1820 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual); FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 23 May 2013, 1220 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual).

477 FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 26 March 2013, 1230 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service).

478 FEWO, *Evidence*, 20 November 2012, 0850 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police); FEWO, *Evidence*, 29 November 2012, 0955 (Ms. Marielle Doyon, Acting Assistant Deputy Minister, Human Resources Branch, Department of Public Works and Government Services); FEWO, *Evidence*, 28 February 2013, 1120 (Deputy Commissioner Craig J. Callens, Commanding Officer, "E" Division, Royal Canadian Mounted Police); FEWO, *Evidence*, 6 December 2012, 0915 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress).

479 FEWO, *Evidence*, 18 April 2013, 1210 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police); FEWO, *Evidence*, 16 April 2013, 1250 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress).

resolution policies, particularly the handling of complaints in an appropriate and responsible manner.⁴⁸⁰

For example, the Chief of Military Personnel from DND stated that “all new commanding officers are required to certify that they have read and understood the Chief of the Defence Staff’s guidance to commanding officers,” which highlights their duties for harassment prevention and resolution. As well, the Vice-President of Human Resources at Canada Post said that there are consequences for any team leader who fails to take the right action in response to a complaint of sexual harassment.⁴⁸¹

Management must be provided with the knowledge and tools to prevent and handle conflict in the workplace by identifying risks, diagnosing problems and fostering dialogue.⁴⁸² Of particular importance, as identified by witnesses, is mandatory ethics and accountability training for management.⁴⁸³

3. Women in Leadership

Several witnesses suggested that a contributing factor to workplace sexual harassment is an environment where men have more power than women.⁴⁸⁴ One witness explained that “equitable distribution of power within the workplace, with an equitable representation of women in positions of responsibility, fosters respect for human rights, inclusion, and diversity.”⁴⁸⁵

480 See for example: FEWO, *Evidence*, 22 November 2012, 0850 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence); FEWO, *Evidence*, 31 January 2013, 1100 (Ms. Ann Therese MacEachern, Vice-President, Human Resources, Canada Post); FEWO, *Evidence*, 18 April 2013, 1210 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police); FEWO, *Evidence*, 28 May 2013, 1125 (Ms. Josée Bouchard, Equity Advisor, Equity Initiatives Department, Law Society of Upper Canada).

481 FEWO, *Evidence*, 31 January 2013, 1100 (Ms. Ann Therese MacEachern, Vice-President, Human Resources, Canada Post).

482 FEWO, *Evidence*, 20 November 2012, 0850 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police); FEWO, *Evidence*, 29 November 2012, 0955 (Ms. Marielle Doyon, Acting Assistant Deputy Minister, Human Resources Branch, Department of Public Works and Government Services); FEWO, *Evidence*, 28 February 2013, 1120 (Deputy Commissioner Craig J. Callens, Commanding Officer, “E” Division, Royal Canadian Mounted Police).

483 FEWO, *Evidence*, 29 November 2012, 0955 (Ms. Marielle Doyon, Acting Assistant Deputy Minister, Human Resources Branch, Department of Public Works and Government Services); FEWO, *Evidence*, 26 February 2013, 1210 (Commissioner Bob Paulson, Commissioner, Royal Canadian Mounted Police); FEWO, *Evidence*, 28 February 2013, 1115 (Deputy Commissioner Craig J. Callens, Commanding Officer, “E” Division, Royal Canadian Mounted Police).

484 See for example: FEWO, *Evidence*, 16 April 2013, 1155 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual); FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission); FEWO, *Evidence*, 14 February 2013, 1205 (Mr. Robin Kers, Labour Relations Officer, National Office, Union of Solicitor General Employees); FEWO, *Evidence*, 23 May 2013, 1245 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual).

485 FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission).

Another witness highlighted the Conference Board of Canada's 2011 report⁴⁸⁶ which indicated that the proportion of women employed in senior management in Canada has remained relatively unchanged over the past two decades.⁴⁸⁷ He also noted that men are more likely than women to hold senior management positions, as demonstrated by the latest employment equity figures:⁴⁸⁸

- federally regulated private sector: women hold 42% of the jobs and 22% of senior management positions; and
- federal public service: women hold 55% of the jobs and 45% of senior management positions.

With respect to promotions, the RCMP's Director General of Workforce Programs and Services explained that each promotion often requires a certain level of experience, and that is why it is critical to build a "feeder pool" of potential female candidates to be promoted to leadership positions.⁴⁸⁹ The Committee heard that organizations with cultures that tolerate or condone sexual harassment have difficulty increasing the pool of qualified female candidates, as a women's career "life expectancy" is short in these organizations.⁴⁹⁰

B. Training

The Committee heard that training, education and awareness-raising are essential for a workplace free from sexual harassment and other forms of discrimination.⁴⁹¹ In particular, training is an important part of primary prevention⁴⁹² and should accompany an employer's anti-harassment policy.⁴⁹³

486 Elise Wohbold and Louise Chenier, *Women in Senior Management: Where Are They?* Conference Board of Canada, August 2011.

487 FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner's Office, Canadian Human Rights Commission).

488 Ibid.

489 FEWO, *Evidence*, 20 November 2012, 0910 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police).

490 FEWO, *Evidence*, 23 May 2013, 1155 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

491 See for example: FEWO, *Evidence*, 23 October 2012, 0905 (Mrs. Caroline Cyr, Director General, Workplace Directorate, Labour Program, Department of Human Resources and Skills Development); FEWO, *Evidence*, 23 October 2012, 1030 (Mr. Steven Gaon, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1125 (Ms. Josée Bouchard, Equity Advisor, Equity Initiatives Department, Law Society of Upper Canada); FEWO, *Evidence*, 28 May 2013, 1210 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

492 FEWO, *Evidence*, 22 April 2013, 1810 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

493 FEWO, *Evidence*, 26 March 2013, 1125 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace); FEWO, *Evidence*, 22 April 2013, 1810 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

As one witness explained, training should not focus merely on teaching people not to sexually harass colleagues, because a small number of people will nevertheless engage in such behaviour.⁴⁹⁴ Witnesses provided a range of topics that should be included in training:

- developing a respectful workplace⁴⁹⁵ and a collegial environment;⁴⁹⁶
- using different harassment prevention strategies;⁴⁹⁷
- understanding the workplace policy on harassment and the code of conduct;⁴⁹⁸
- recognizing sexual harassment and knowing what behaviours are not acceptable;⁴⁹⁹
- knowing how to raise complaints of sexual harassment and the subsequent reporting process, including what resources are available, the

494 FEWO, *Evidence*, 23 October 2012, 1040 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O'Brien Payne).

495 FEWO, *Evidence*, 20 November 2012, 0910 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police); FEWO, *Evidence*, 4 December 2012, 0950 (Mr. Jean-François Fleury, Acting Vice-President, Learning Programs, Canada School of Public Service); FEWO, *Evidence*, 7 February 2013, 1210 (Mr. Vinay Sharma, Director of Human Rights, Canadian Auto Workers); FEWO, *Evidence*, 5 March 2013, 1120 (Mrs. Monique Marcotte, Interim Executive Director, English Services Human Resources; Executive Director, Strategic Planning and Human Resources Corporate Groups, People and Culture, Canadian Broadcasting Corporation).

496 FEWO, *Evidence*, 22 April 2013, 1800 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

497 FEWO, *Evidence*, 29 November 2012, 0955 (Ms. Marielle Doyon, Acting Assistant Deputy Minister, Human Resources Branch, Department of Public Works and Government Services); FEWO, *Evidence*, 7 February 2013, 1155 (Ms. Paula Turtle, Canadian Counsel, United Steelworkers).

498 FEWO, *Evidence*, 7 February 2013, 1100 (Ms. Mary Dawson, Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner); FEWO, *Evidence*, 26 March 2013, 1125 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace).

499 See for example: FEWO, *Evidence*, 23 October 2012, 1010 (Mr. Steven Gaon, appearing as an individual); FEWO, *Evidence*, 27 November 2012, 0925 (Ms. Audrey O'Brien, Clerk of the House of Commons, House of Commons); FEWO, *Evidence*, 29 November 2012, 0845–0850 (Mr. Serge Jetté, Manager, Conflict, Management Services, Human Resources Division, Treasury Board Secretariat); FEWO, *Evidence*, 29 November 2012, 0955 (Ms. Marielle Doyon, Acting Assistant Deputy Minister, Human Resources Branch, Department of Public Works and Government Services); FEWO, *Evidence*, 26 March 2013, 1230 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service).

steps of the process, and the responsibilities of management and the employer;⁵⁰⁰ and

- recognizing inequalities in the workplace, particularly related to gender.⁵⁰¹

In addition, the Committee heard that training should promote a bystander intervention approach, whereby employees are taught to recognize harassment and violence in the workplace and to safely intervene.⁵⁰² Training in the workplace should promote collective and collegial responsibility for the wellbeing of co-workers.⁵⁰³

The Committee was told by Caroline Cyr, Director General of the Workplace Directorate in the Labour Program at Human Resources and Skills Development Canada, that “[t]raining and education are essential when we strive to have a workplace that is free from violence and sexual harassment.”⁵⁰⁴

Mr. Gaon of Alternative Dispute Resolution Ottawa said:

[T]here needs to be better education and training in federal workplaces on the issue of harassment in general and sexual harassment in particular. In general, people need to better understand that unsolicited and unwanted sexual advances are not acceptable. People also need to know that they can safely bring forward their complaints without fear of retaliation or adverse impact on their careers.⁵⁰⁵

500 See for example: FEWO, *Evidence*, 29 November 2012, 0845 (Mr. Serge Jetté, Manager, Conflict, Management Services, Human Resources Division, Treasury Board Secretariat); FEWO, *Evidence*, 5 March 2013, 1120 (Mrs. Monique Marcotte, Interim Executive Director, English Services Human Resources; Executive Director, Strategic Planning and Human Resources Corporate Groups, People and Culture, Canadian Broadcasting Corporation); FEWO, *Evidence*, 26 March 2013, 1125 (Ms. Cindy Viau, Director’s Advisor, The Quebec Help and Information Centre on Harassment in the Workplace); FEWO, *Evidence*, 29 November 2012, 0955 (Ms. Marielle Doyon, Acting Assistant Deputy Minister, Human Resources Branch, Department of Public Works and Government Services).

501 FEWO, *Evidence*, 22 April 2013, 1800 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual); FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

502 FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual) FEWO, *Evidence*, 28 May 2013, 1220 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

503 FEWO, *Evidence*, 22 April 2013, 1800 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

504 FEWO, *Evidence*, 23 October 2012, 0905 (Mrs. Caroline Cyr, Director General, Workplace Directorate, Labour Program, Department of Human Resources and Skills Development).

505 FEWO, *Evidence*, 23 October 2012, 1010 (Mr. Steven Gaon, appearing as an individual).

Recommendation 12

The Committee recommends that training of employees in federally regulated workplaces be expanded to include various components, including: developing a respectful workplace and a collegial environment; using different harassment prevention strategies, including bystander intervention; understanding the workplace policy on harassment and knowing what behaviours are not acceptable; knowing how to raise complaints of sexual harassment and the subsequent reporting process, including what resources are available, what are the steps of the process, and the responsibilities of management and the employer; and recognizing inequalities in the workplace, particularly related to gender.

The Committee was told that the training should be conducted in a respectful way; minimizing the experience of harassment through behaviours such as joking.⁵⁰⁶ As well, evaluative research should be conducted after training to objectively analyse the effectiveness of particular training programs.⁵⁰⁷

The Committee heard that training and education regarding unacceptable behaviour contributes to the early identification of harassment behaviour.⁵⁰⁸ As an example, the CF indicated that training is essential in their operating environment so that leaders know the differences between “disciplining, motivating, and training a team versus harassment.”⁵⁰⁹

In the federal realm, one witness recommended ongoing improvement of harassment training in federal workplaces, with a focus on sexual harassment in particular.⁵¹⁰ A representative from the CSPS highlighted for the Committee two courses related to sexual harassment that it offers to Public Service employees:⁵¹¹

506 FEWO, *Evidence*, 23 May 2013, 1250 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual).

507 FEWO, *Evidence*, 22 April 2013, 1810 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

508 FEWO, *Evidence*, 20 November 2012, 0850 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police); FEWO, *Evidence*, 18 April 2013, 1210 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police).

509 FEWO, *Evidence*, 12 February 2013, 1145 (LCol Karen Davis, Defence Scientist, Director General Military Personnel Research and Analysis, Canadian Forces Leadership Institute, appearing as an individual).

510 FEWO, *Evidence*, 23 October 2012, 1010 (Mr. Steven Gaon, appearing as an individual).

511 FEWO, *Evidence*, 4 December 2012, 0950 (Mr. Jean-François Fleury, Acting Vice-President, Learning Programs, Canada School of Public Service).

- *Creating a Respectful Workplace* explores potential harassment situations, how to create a respectful workplace and how to promote attitudes and behaviours that will discourage conflict in the workplace.⁵¹²
- *Introduction to Employment Equity and Diversity* explores the issues, organizational requirements and legal obligations related to the implementation of the *Employment Equity Act*.⁵¹³

1. Types of Training

The Committee heard that workplaces deliver harassment training in a variety of forms, for example, online or in person, private study or group discussions, harassment-specific or incorporated within other training courses. The use of scenarios, case studies and concrete examples in training was highlighted as a valuable approach by witnesses. This approach includes innovative techniques such as videos or small theatre productions.⁵¹⁴

Other examples of different approaches include:

- Canada Post's training programs, which are delivered in classrooms with break-out discussion groups, through e-learning and via self-study guides,⁵¹⁵
- RCMP "E" Division's three-day voluntary training workshop, which included a Ph.D. specialist in gender communications;⁵¹⁶ and
- CBC's online training on the prevention of violence in the workplace offered to employees, the *Respect in the Workplace* training, and training on the CBC's official investigation process for harassment complaints.⁵¹⁷

512 Canada School of Public Service, [Courses and Programs– Creating a Respectful Workplace \(T916\)](#).

513 Canada School of Public Service, [Courses and Programs– Introduction to Employment Equity and Diversity \(P720\)](#).

514 See for example: FEWO, *Evidence*, 27 November 2012, 0900 (Ms. Sonia L'Heureux, Parliamentary Librarian, Library of Parliament); FEWO, *Evidence*, 29 November 2012, 1010 (Ms. Pat Langan-Torell, Director, Values and Ethics, Department of Foreign Affairs and International Trade); FEWO, *Evidence*, 20 November 2012, 0910 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police); FEWO, *Evidence*, 7 February 2013, 1100 (Ms. Mary Dawson, Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner).

515 FEWO, *Evidence*, 31 January 2013, 1105 (Ms. Amanda Maltby, General Manager, Compliance, Canada Post).

516 FEWO, *Evidence*, 28 February 2013, 1125 (Inspector Carol Bradley, Team Leader, "E" Division, Respectful Workplace Program, Royal Canadian Mounted Police).

517 FEWO, *Evidence*, 5 March 2013, 1120 (Mrs. Monique Marcotte, Interim Executive Director, English Services Human Resources; Executive Director, Strategic Planning and Human Resources Corporate Groups, People and Culture, Canadian Broadcasting Corporation).

Several witnesses spoke of the important value of in-person training, compared to online training, particularly as it fosters discussion, allows for an examination of scenarios and enables interactions between employees and management.⁵¹⁸ One witness recommended having in-person training with people who have experienced harassment with the goal of showing the real impact on individuals.⁵¹⁹ Other witnesses, however, described the benefits of online training; it is immediately available for delivery to staff,⁵²⁰ it can be used in remote workplaces,⁵²¹ it can be used by employers if their staff are spread across a wide region;⁵²² and it allows for a variety of approaches, including webinars, online surveys and questions.⁵²³ The Committee was also provided with examples of approaches that combine online and in-person training,⁵²⁴ witnesses mentioned that online training could serve as a supplement or follow-up to direct training⁵²⁵ and that a combination of both approaches benefits people who learn differently.⁵²⁶

The Committee heard from Ms. MacQuarrie of Western University, who spoke about in-person training:

You have to start with the face-to-face training. That's definitely the most effective. You can have follow-up modules that are online, but if you don't get that face-to-face interaction, I don't think you can explore these relational issues.... You can't deal with relational issues in an electronic, online context effectively.⁵²⁷

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- 518 FEWO, *Evidence*, 26 February 2013, 1250 (Commissioner Bob Paulson, Commissioner, Royal Canadian Mounted Police); FEWO, *Evidence*, 16 April 2013, 1235 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 26 February 2013, 1125 (Mr. Ian McPhail, Interim Chair, Chair's Office, Royal Canadian Mounted Police Public Complaints Commission).
- 519 FEWO, *Evidence*, 23 May 2013, 1150 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).
- 520 FEWO, *Evidence*, 5 March 2013, 1145 (Mr. Hubert T. Lacroix, President and Chief Executive Officer, Canadian Broadcasting Corporation).
- 521 FEWO, *Evidence*, 28 February 2013, 1240 (Inspector Carol Bradley, Team Leader, "E" Division, Respectful Workplace Program, Royal Canadian Mounted Police).
- 522 FEWO, *Evidence*, 5 March 2013, 1145 (Mr. Hubert T. Lacroix, President and Chief Executive Officer, Canadian Broadcasting Corporation).
- 523 Ibid.
- 524 FEWO, *Evidence*, 27 November 2012, 0900 (Ms. Sonia L'Heureux, Parliamentary Librarian, Library of Parliament); FEWO, *Evidence*, 29 November 2012, 0955 (Ms. Marielle Doyon, Acting Assistant Deputy Minister, Human Resources Branch, Department of Public Works and Government Services).
- 525 FEWO, *Evidence*, 26 March 2013, 1255 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service); FEWO, *Evidence*, 16 April 2013, 1235 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).
- 526 FEWO, *Evidence*, 28 February 2013, 1240 (Inspector Carol Bradley, Team Leader, "E" Division, Respectful Workplace Program, Royal Canadian Mounted Police).
- 527 FEWO, *Evidence*, 16 April 2013, 1235 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).

As well, a number of witnesses said that training should be mandatory, particularly in organizations experiencing challenges with sexual harassment.⁵²⁸ One witness stated that if training is not mandatory, it should be strongly encouraged.⁵²⁹

The Committee heard that the frequency of training varies among employers; training could be offered on a cyclical basis⁵³⁰ and/or on a career development basis.⁵³¹ For example, at the Toronto Police Service, every time an employee is promoted, he or she is given training on compliance with human rights, the *Ontario Occupational Health and Safety Act* and the *Police Services Act*,⁵³² and every 12 months, every police officer must retake mandatory training on topics such as workplace safety, which includes issues on harassment and workplace violence.⁵³³ According to a witness from the RCMP, the organization is currently expanding training on respectful workplaces and harassment so that a continuum of training is offered throughout each employee's career, from entry level to management positions.⁵³⁴

Witnesses also described the different processes of developing new training programs and rolling them out to staff. A manager at the Human Resources Division of the Treasury Board Secretariat spoke of a new action plan which requires all TBS managers and supervisors to take a half-day workshop on preventing harassment in the workplace before the end of February 2013, and all TBS employees to take it by the end of June 2015.⁵³⁵

2. Customized Training

The Committee heard that federal government workplaces often require customized training, as they have different operational environments. For example, a small

528 FEWO, *Evidence*, 26 March 2013, 1135 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace); FEWO, *Evidence*, 28 May 2013, 1235 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

529 FEWO, *Evidence*, 23 October 2012, 1030 (Mr. Steven Gaon, appearing as an individual).

530 FEWO, *Evidence*, 26 March 2013, 1255 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service).

531 FEWO, *Evidence*, 20 November 2012, 0910 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police); FEWO, *Evidence*, 26 February 2013, 1240 (Commissioner Bob Paulson, Commissioner, Royal Canadian Mounted Police); FEWO, *Evidence*, 22 November 2012, 0850 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence); FEWO, *Evidence*, 26 March 2013, 1255 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service).

532 FEWO, *Evidence*, 26 March 2013, 1250 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service).

533 Ibid., 1255.

534 FEWO, *Evidence*, 20 November 2012, 0910 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police); FEWO, *Evidence*, 26 February 2013, 1240 (Commissioner Bob Paulson, Commissioner, Royal Canadian Mounted Police).

535 FEWO, *Evidence*, 29 November 2012, 0845 (Mr. Serge Jetté, Manager, Conflict, Management Services, Human Resources Division, Treasury Board Secretariat).

policy department has important differences from a large one.⁵³⁶ The Committee was told that the CSPS offers tailored learning options to departments; an organization can identify various themes or priorities and the CSPS alters its courses to cater to the department's needs.⁵³⁷ Another example provided to the Committee was the training offered by the Quebec Help and Information Centre on Harassment in the Workplace to workplaces throughout Quebec. It adapts its training based on the realities of each workplace, such as whether the training is being offered to respond to a specific situation; whether it is to provide a general review of the topic; or whether the training is meant to remind management of its obligations.⁵³⁸

3. Training for Management

Witnesses spoke of the importance of providing education and training to management, as well as other leaders, particularly Human Resources directors and those in charge of the harassment reporting process.⁵³⁹ The Committee heard that since management is responsible for implementing policies and guidelines, it should receive customized training⁵⁴⁰ on the following subjects:

- managing workplace relations/conflict and building respectful workplaces;⁵⁴¹

536 FEWO, *Evidence*, 16 October 2012, 0925 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat).

537 FEWO, *Evidence*, 6 December 2012, 1010 (Mr. Jean-François Fleury, Acting Vice-President, Learning Programs, Canada School of Public Service).

538 FEWO, *Evidence*, 26 March 2013, 1105 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace).

539 FEWO, *Evidence*, 23 October 2012, 1030 (Mr. Steven Gaon, appearing as an individual); FEWO, *Evidence*, 23 October 2012, 1040 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O'Brien Payne); FEWO, *Evidence*, 6 December 2012, 0915 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 23 May 2013, 1250 (Professor Linda Collinworth, Associate Professor of Psychology, Millikin University, appearing as an individual).

540 FEWO, *Evidence*, 27 November 2012, 0900 (Ms. Sonia L'Heureux, Parliamentary Librarian, Library of Parliament); FEWO, *Evidence*, 26 March 2013, 1105 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace).

541 See for example: FEWO, *Evidence*, 20 November 2012, 0850 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police); FEWO, *Evidence*, 27 November 2012, 0930 (Mrs. Kathryn Butler Malette, Chief, Human Resources Officer, Human Resources, Corporate Planning and Communications, House of Commons); FEWO, *Evidence*, 29 November 2012, 0855 (Ms. Linda Savoie, Director General, Women's Program and Regional Operations Directorate, Status of Women Canada); FEWO, *Evidence*, 18 April 2013, 1120 (LCol J.A. Legere, Chief of Staff, Canadian Forces Military Police Group, Canadian Forces Provost Marshal).

- building a workplace free of discrimination and harassment;⁵⁴²
- establishing strategies for harassment prevention;⁵⁴³
- recognizing sexual harassment and other uncivil behaviour;⁵⁴⁴
- managing early intervention and informal resolution options;⁵⁴⁵ and
- providing effective and appropriate responses to complaints.⁵⁴⁶

Recommendation 13

The Committee recommends that mandatory management and supervisor training include a segment on maintaining a respectful workplace, including how to address sexual harassment in the workplace.

The Committee was told that training for management could also take a variety of forms and approaches. For example, at DND, supervisors and managers have regular training, regular group meetings, open-door discussions, and an annual discussion on ethics, harassment and discrimination.⁵⁴⁷

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- 542 FEWO, *Evidence*, 4 December 2012, 0855 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman); FEWO, *Evidence*, 31 January 2013, 1105 (Ms. Amanda Maltby, General Manager, Compliance, Canada Post); FEWO, *Evidence*, 7 February 2013, 1210 (Mr. Vinay Sharma, Director of Human Rights, Canadian Auto Workers); Union of Steelworkers, "Response to Questions," submitted to FEWO, 28 March 2013.
- 543 FEWO, *Evidence*, 22 November 2012, 0855 (Ms. Jacqueline Rigg, Director General, Civilian Human Resources Management Operations, Assistant Deputy Minister (Human Resources – Civilian), Department of National Defence); FEWO, *Evidence*, 29 November 2012, 0955 (Ms. Marielle Doyon, Acting Assistant Deputy Minister, Human Resources Branch, Department of Public Works and Government Services); FEWO, *Evidence*, 7 February 2013, 1155 (Ms. Paula Turtle, Canadian Counsel, United Steelworkers).
- 544 See for example: FEWO, *Evidence*, 20 November 2012, 0850 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police); FEWO, *Evidence*, 27 November 2012, 0900 (Ms. Sonia L'Heureux, Parliamentary Librarian, Library of Parliament); FEWO, *Evidence*, 7 February 2013, 1155 (Ms. Paula Turtle, Canadian Counsel, United Steelworkers); FEWO, *Evidence*, 26 February 2013, 1130 (Mr. Ian McPhail, Interim Chair, Chair's Office, Royal Canadian Mounted Police Public Complaints Commission).
- 545 FEWO, *Evidence*, 23 October 2012, 1030 (Mr. Steven Gaon, appearing as an individual); FEWO, *Evidence*, 27 November 2012, 0925 (Ms. Audrey O'Brien, Clerk of the House of Commons, House of Commons); FEWO, *Evidence*, 26 February 2013, 1130 (Mr. Ian McPhail, Interim Chair, Chair's Office, Royal Canadian Mounted Police Public Complaints Commission).
- 546 FEWO, *Evidence*, 23 October 2012, 1040 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O'Brien Payne); FEWO, *Evidence*, 20 November 2012, 0945 (Ms. Catherine Ebbs, Chair, Royal Canadian Mounted Police External Review Committee); FEWO, *Evidence*, 26 March 2013, 1105 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace); FEWO, *Evidence*, 26 March 2013, 1210 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service).
- 547 FEWO, *Evidence*, 4 December 2012, 0855 (Colonel Alain Gauthier, Acting Director General, Operations, National Defence and Canadian Forces Ombudsman).

A representative from the CSPS highlighted for the Committee three courses related to sexual harassment that it offers to federal public service supervisors and managers:⁵⁴⁸

- *Leading a Diverse Workforce* provides supervisors and managers with an opportunity to explore the emotional intelligence and leadership competencies required to lead diverse teams and focuses on strategies that promote inclusive environments, respect for differences, interpersonal relations and organizational excellence through group discussions and exercises.⁵⁴⁹
- *Principles and Practices of Labour Relations for Supervisors and Managers* examines the dynamics of modern labour relations from dispute resolution to joint problem-solving.⁵⁵⁰ It covers the federal policy on harassment prevention and the code of values and ethics, as well as the *Canadian Human Rights Act*, the *Canada Labour Code*, and the *Employment Equity Act*.⁵⁵¹
- *Mediating Conflict* examines how to deal with conflicts rationally and fairly by using feedback and observational techniques.⁵⁵²

In addition, witnesses mentioned that advisors and investigators in anti-harassment processes should receive specialized training courses.⁵⁵³ For example, the CSPS offers two courses aimed specifically at people dealing with harassment complaints inside departments, including managers, values and ethics specialists, and Human Resources specialists.⁵⁵⁴

- *Investigating Harassment Complaints*, which examines relevant Treasury Board policies and demonstrates how to recognize potential harassment situations, prepare an investigation,

548 FEWO, *Evidence*, 4 December 2012, 0950 (Mr. Jean-François Fleury, Acting Vice-President, Learning Programs, Canada School of Public Service).

549 Canada School of Public Service, [Courses and Programs– Leading a Diverse Workforce \(D103\)](#).

550 Canada School of Public Service, [Courses and Programs – Principles and Practices of Labour Relations for Supervisors and Managers \(G244\)](#).

551 FEWO, *Evidence*, 4 December 2012, 0950 (Mr. Jean-François Fleury, Acting Vice-President, Learning Programs, Canada School of Public Service).

552 Canada School of Public Service, [Courses and Programs– Mediating Conflict \(T905\)](#).

553 FEWO, *Evidence*, 22 November 2012, 0925 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence); FEWO, *Evidence*, 4 December 2012, 0950 (Mr. Jean-François Fleury, Acting Vice-President, Learning Programs, Canada School of Public Service).

554 FEWO, *Evidence*, 4 December 2012, 0950 (Mr. Jean-François Fleury, Acting Vice-President, Learning Programs, Canada School of Public Service).

conduct interviews, analyze data and present the findings of a harassment investigation.⁵⁵⁵

- *Managing Harassment Complaints*, which provides the knowledge and skills required to manage harassment complaints in accordance with the appropriate policies.⁵⁵⁶

4. Role of Unions

The Committee heard of the role that unions can play in developing and delivering training on harassment and respectful workplaces.⁵⁵⁷ A representative from the Canadian Labour Congress told the Committee how unions have developed training on sexual harassment, and a variety of related topics: human rights, women's equality, health and safety and collective bargaining.⁵⁵⁸

A witness from Canada Post spoke of the collaboration between the employer and unions on their anti-harassment policy, human rights training, and education programs on workplace violence prevention and protection.⁵⁵⁹ The Committee was also told that at the Library of Parliament, a union presence in employee training sessions on its anti-harassment policy is encouraged.⁵⁶⁰

Hubert T. Lacroix, President and Chief Executive Officer of the Canadian Broadcasting Corporation, spoke of collaboration with CBC's workplace unions:

In 2007, all employees, as well as their managers across the organization, were required to complete "Respect in the Workplace" training. That included the President and Chief Executive Officer. This training was a joint program developed and offered by the unions and management.⁵⁶¹

555 Canada School of Public Service, [Courses – Investigating Harassment Complaints \(T703\)](#).

556 Canada School of Public Service, [Courses – Managing Harassment Complaints \(T704\)](#).

557 FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 31 January 2013, 1105 (Ms. Amanda Maltby, General Manager, Compliance, Canada Post); FEWO, *Evidence*, 27 November 2012, 0900 (Ms. Sonia L'Heureux, Parliamentary Librarian, Library of Parliament).

558 FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress).

559 FEWO, *Evidence*, 31 January 2013, 1105 (Ms. Amanda Maltby, General Manager, Compliance, Canada Post).

560 FEWO, *Evidence*, 27 November 2012, 0900 (Ms. Sonia L'Heureux, Parliamentary Librarian, Library of Parliament).

561 FEWO, *Evidence*, 5 March 2013, 1100 (Mr. Hubert T. Lacroix, President and Chief Executive Officer, Canadian Broadcasting Corporation).

The Committee also heard that union representatives should be given training that includes components on creating a harassment-free workplace.⁵⁶²

A particular example of employer-union collaboration was presented by Amanda Maltby, General Manager of Compliance at Canada Post:

We've worked closely with our unions on our no harassment policy, our human rights training, and to educate employees about workplace violence prevention and protection. Our ongoing training programs are delivered in classrooms, in self-study guides, and through e-learning.... For several years, new hires represented by the Canadian Union of Postal Workers and the Public Service Alliance of Canada have received training on human rights and conflict in the workplace. This is taught in a classroom. It's co-facilitated with trainers from our unions, and it takes three and a half hours. These training sessions are well received.⁵⁶³

Recommendation 14

The Committee recommends that management in federally regulated workplaces be urged to work with unionized and non-unionized employees in dealing with incidents of sexual harassment and preventing sexual harassment from taking place.

C. Workplace Culture

The Committee heard from many witnesses that addressing a workplace's culture is key in preventing and reducing sexual harassment,⁵⁶⁴ as an unhealthy workplace culture can create tolerance of such behaviour.⁵⁶⁵ Witnesses emphasized that at the most

562 FEWO, *Evidence*, 6 December 2012, 0910 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 26 March 2013, 1105 (Ms. Cindy Viau, Director's Advisor, The Quebec Help and Information Centre on Harassment in the Workplace).

563 FEWO, *Evidence*, 31 January 2013, 1105 (Ms. Amanda Maltby, General Manager, Compliance, Canada Post).

564 See for example: FEWO, *Evidence*, 16 October 2012, 0925 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat); FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 7 February 2013, 1130 (Ms. Denise Benoit, Director, Corporate Management, Office of the Conflict of Interest and Ethics Commissioner); FEWO, *Evidence*, 28 May 2013, 1210 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

565 FEWO, *Evidence*, 23 May 2013, 1215 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1205 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

basic level, workplace culture has to uphold the value of mutual respect because a lack of respect underlies harassment.⁵⁶⁶

Some central elements of a healthy and respectful workplace culture include:

- a supportive and cooperative atmosphere,⁵⁶⁷
- ethical and widespread respect of justice,⁵⁶⁸
- recognition of, and attempts to reduce, inequalities;⁵⁶⁹ and
- support for diversity and inclusiveness.⁵⁷⁰

The Committee heard that to change a workplace's culture, management and employees must be able to identify harassing behaviour as quickly as possible;⁵⁷¹ as noted above, this requires awareness training and education regarding inappropriate behaviour.⁵⁷² As previously mentioned, a number of witnesses emphasized that workplace

566 See for example: FEWO, *Evidence*, 27 November 2012, 0855 (Ms. Sonia L'Heureux, Parliamentary Librarian, Library of Parliament); FEWO, *Evidence*, 26 February 2013, 1125 (Mr. Ian McPhail, Interim Chair, Chair's Office, Royal Canadian Mounted Police Public Complaints Commission); FEWO, *Evidence*, 23 May 2013, 1150 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual) FEWO, *Evidence*, 28 May 2013, 1210 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

567 FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

568 FEWO, *Evidence*, 6 December 2012, 0910 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 7 February 2013, 1240 (Mr. Vinay Sharma, Director of Human Rights, Canadian Auto Workers); FEWO, *Evidence*, 28 May 2013, 1230 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

569 FEWO, *Evidence*, 6 December 2012, 0910 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 7 February 2013, 1240 (Mr. Vinay Sharma, Director of Human Rights, Canadian Auto Workers); FEWO, *Evidence*, 23 October 2012, 1020 (Mr. Steven Gaon, appearing as an individual); FEWO, *Evidence*, 31 January 2013, 1105 (Ms. Amanda Maltby, General Manager, Compliance, Canada Post).

570 FEWO, *Evidence*, 26 March 2013, 1230 (Deputy Chief Michael Federico, Deputy Chief, Toronto Police Service); FEWO, *Evidence*, 29 November 2012, 1000 (Ms. Pat Langan-Torell, Director, Values and Ethics, Department of Foreign Affairs and International Trade); FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress).

571 FEWO, *Evidence*, 20 November 2012, 0850 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police).

572 FEWO, *Evidence*, 20 November 2012, 0850 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police); FEWO, *Evidence*, 18 April 2013, 1210 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police).

culture is reinforced and influenced by leadership.⁵⁷³ In particular, leaders must “clearly define what is considered to be unacceptable conduct and to know when to intervene.”⁵⁷⁴

Witnesses also identified the role that employees play in altering the culture of a workplace, which includes correcting or reporting any observed harassment, as appropriate, and supporting complainants of harassment, including encouraging them to report incidents.⁵⁷⁵ One witness spoke of the development of workforce charters, whereby employees decide together the kind of work environment they want to create and how to go about developing it.⁵⁷⁶

The Committee heard that the federal public service generally has a healthy culture of respect, and zero tolerance for harassment of any kind, but that change is needed with regard to the culture of how complaints are managed within the public service.⁵⁷⁷ Other witnesses suggested further changes to the culture of the federal public service by reinforcing each department’s commitment to human rights and recognition of inequalities in the workplace.⁵⁷⁸

As mentioned in the earlier section on under-reporting, the Committee heard that workplaces should promote a culture change so that complaining about wrongdoings, particularly sexual harassment, is viewed positively.⁵⁷⁹ While employers should strive to

573 FEWO, *Evidence*, 29 November 2012, 1015 (Mr. Yves Vaillancourt, Inspector General and Chief Audit Executive, Department of Foreign Affairs and International Trade); FEWO, *Evidence*, 29 November 2012, 1000 (Ms. Pat Langan-Torell, Director, Values and Ethics, Department of Foreign Affairs and International Trade); FEWO, *Evidence*, 25 October 2012, 0905 (Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat); FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

574 FEWO, *Evidence*, 20 November 2012, 0850 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police).

575 FEWO, *Evidence*, 27 November 2012, 0955 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence); FEWO, *Evidence*, 31 January 2013, 1140 (Ms. Ann Therese MacEachern, Vice-President, Human Resources, Canada Post); FEWO, *Evidence*, 23 May 2013, 1110 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

576 FEWO, *Evidence*, 31 January 2013, 1140 (Ms. Ann Therese MacEachern, Vice-President, Human Resources, Canada Post).

577 FEWO, *Evidence*, 23 October 2012, 1030–1035 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O’Brien Payne).

578 FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission); FEWO, *Evidence*, 23 October 2012, 1020 (Mr. Steven Gaon, appearing as an individual).

579 FEWO, *Evidence*, 23 October 2012, 1035 (Mr. Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O’Brien Payne).

eliminate sexual harassment, they must be “practical and realistic,”⁵⁸⁰ and understand that in workplaces with diverse individuals, harassment will occur occasionally.⁵⁸¹

Some witnesses spoke of changing culture through national awareness campaigns or action plans with the goal of identifying workplace harassment as a form of violence and eliminating violence in general.⁵⁸² Ms. Smallman of the Canadian Labour Congress elaborated on this idea:

Canada's federal government should initiate a process to develop a plan involving territorial, provincial, and aboriginal governments, as well as civil society, service providers, and survivors of gender based violence. Canada's national action plan needs to include legislation, as well as specific resources and strategies for those most vulnerable to violence. Those are aboriginal women, immigrant women, lesbian, bisexual, and transgendered women, women with disabilities, and young women. Canada's plan must also provide sufficient resources for these strategies to be implemented, including support for research to measure progress.⁵⁸³

1. Minimizing Workplace Conflict

Some witnesses stated that approaches to reduce sexual harassment in the workplace should not focus on “crime and punishment,” but rather should proactively aim to build healthy workplaces.⁵⁸⁴ The Committee was told that steps towards prevention can include workplace relationship workshops or workplace assessments to determine the health and state of the community of employees.⁵⁸⁵ As one witnesses indicated, on-going steps should be taken to minimize workplace conflict, including the use of mediation, facilitation, group intervention and coaching.⁵⁸⁶

In addition, the Committee heard that approaches to dealing with harassment should have a restorative justice angle, with the aim to “restore some element of harmony

580 FEWO, *Evidence*, 18 April 2013, 1210 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police).

581 FEWO, *Evidence*, 18 April 2013, 1210 (Commissioner Chris D. Lewis, Commissioner, Field Operations, Ontario Provincial Police); FEWO, *Evidence*, 29 November 2012, 0855 (Ms. Linda Savoie, Director General, Women's Program and Regional Operations Directorate, Status of Women Canada); FEWO, *Evidence*, 31 January 2013, 1100 (Ms. Ann Therese MacEachern, Vice-President, Human Resources, Canada Post).

582 FEWO, *Evidence*, 29 January 2013, 1105 (Ms. Robyn Benson, National President, Public Service Alliance of Canada); FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress).

583 FEWO, *Evidence*, 6 December 2012, 0850 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress).

584 FEWO, *Evidence*, 6 December 2012, 0910 (Ms. Vicky Smallman, National Director, Women's and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 7 February 2013, 1240 (Mr. Vinay Sharma, Director of Human Rights, Canadian Auto Workers).

585 FEWO, *Evidence*, 29 November 2012, 0955 (Ms. Marielle Doyon, Acting Assistant Deputy Minister, Human Resources Branch, Department of Public Works and Government Services).

586 Ibid.

to the workplace and preserve the sense of teamwork and cohesion that are essential”, with the exception being the most severe cases of sexual harassment.⁵⁸⁷

2. Culture Shift

The Committee was told that in some workplaces, sexual harassment is normalized or trivialized within the workplace culture.⁵⁸⁸ According to one witness, part of the process in shifting culture away from condoning such behaviour is the recognition of cases of sexual harassment and the subsequent application of appropriate disciplinary measures.⁵⁸⁹ Witnesses explained that employers, managers and co-workers must be prepared to challenge social norms that govern workplace behaviours, and that can discount the seriousness or reinforce sexually harassing conduct.⁵⁹⁰

One witness suggested that addressing sexual harassment in federally regulated workplaces will require a cultural shift, requiring “a far-reaching commitment to respect for human rights, one that extends to all corners of an organization.”⁵⁹¹ For example, the Committee heard of a culture shift within the Canadian military, whereby leadership highlighted the importance of upholding the “principles of conducting yourself in a way that will not bring discredit to the organization or to you as an individual.”⁵⁹² According to a witness from the Canadian Forces Leadership Institute, the military’s organizational culture shifted towards a value-based model, with emphasis on Canadian values.⁵⁹³

According to a former member of the RCMP, there is a culture of silence and harassment in the RCMP that poses particular challenges for dealing with sexual harassment in that organization.⁵⁹⁴ She explained that there was a need for an important

587 FEWO, *Evidence*, 22 November 2012, 0945 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence).

588 FEWO, *Evidence*, 14 February 2013, 1105 (Ms. Francine Boudreau, Correctional Officer, Union of Canadian Correctional Officers); FEWO, *Evidence*, 6 December 2012, 0930 (Mr. Timothy Edwards, President, Professional Association of Foreign Service Officers); FEWO, *Evidence*, 16 April 2013, 1150 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).

589 FEWO, *Evidence*, 27 November 2012, 0955 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence).

590 FEWO, *Evidence*, 16 April 2013, 1150 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).

591 FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission).

592 FEWO, *Evidence*, 22 November 2012, 0930 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence).

593 FEWO, *Evidence*, 12 February 2013, 1140 (LCol Karen Davis, Defence Scientist, Director General Military Personnel Research and Analysis, Canadian Forces Leadership Institute, appearing as an individual).

594 FEWO, *Evidence*, 23 May 2013, 1120 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

cultural shift: “[a]fter 140 years, if they’re still doing the same thing, they’re still going to get the same results.”⁵⁹⁵

3. Power Inequality and Male-Dominated Workplaces

The Committee was told that in some workplaces, sexual harassment is not motivated by sexual attraction, but rather by a desire to uphold power differences, particularly those between men and women.⁵⁹⁶ One witness indicated that harassment is similar to bullying, because they are both about exercising power over someone else.⁵⁹⁷

The Committee heard that women in traditionally male-dominated occupations, such as construction, military and policing, are at greater risk of harassment.⁵⁹⁸ In some workplaces, sexual harassment is fuelled by the perception that women are a competitive threat as they encroach upon male territory, either occupationally or in their behaviour.⁵⁹⁹ This form of social control has the goal of keeping the status quo in place, and is triggered in workplaces that are highly defined by gender, for example in:

- male-dominated environments in which men outnumber women;
- environments where men have more power than women;
- environments that reinforce distinctions between the sexes and the association between being male and having status; and
- environments that encourage group or club behaviour to keep others out.⁶⁰⁰

The Committee heard that in some workplaces, when women engage in stereotypically “masculine” behaviours, other employees can use sexual harassment to

595 Ibid., 1145.

596 FEWO, *Evidence*, 16 April 2013, 1150 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual).

597 FEWO, *Evidence*, 23 May 2013, 1115 (Ms. Sherry Lee Benson-Podolchuk, appearing as an individual).

598 FEWO, *Evidence*, 23 May 2013, 1245 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual).

599 FEWO, *Evidence*, 16 April 2013, 1205 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 16 April 2013, 1150 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual); FEWO, *Evidence*, 23 May 2013, 1235 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual).

600 FEWO, *Evidence*, 16 April 2013, 1155 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual).

reinforce traditional gender roles and behaviour.⁶⁰¹ It was noted that men can also be targeted if they break from gender norms, for example by taking parental leave.⁶⁰²

The Committee heard that power inequality between women and men in the workplace is a contributing factor to sexual harassment.⁶⁰³ Such inequality manifests itself through, for example, lack of female leadership or gender pay inequity.⁶⁰⁴ Witnesses spoke of the need for equitable representation of women in leadership positions⁶⁰⁵ and, as noted above, the need for a “feeder pool” of potential female candidates to be promoted to leadership positions.⁶⁰⁶ As well, the Committee was told that it is particularly challenging for women to report sexual harassment in male-dominated workplaces⁶⁰⁷ and when the majority of managers and investigators are male.⁶⁰⁸

LCol Karen Davis, Defence Scientist of the Director General Military Personnel Research and Analysis at the Canadian Forces Leadership Institute, who appeared as an individual, spoke of challenges facing women in the military, particularly in fields with the lowest numbers of women, such as in the combat arms and on board ships:

601 Ibid., 1150.

602 Ibid.

603 See for example: FEWO, *Evidence*, 6 December 2012, 0915 (Ms. Vicky Smallman, National Director, Women’s and Human Rights Department, Canadian Labour Congress) FEWO, *Evidence*, 16 April 2013, 1155 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual); FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission); FEWO, *Evidence*, 22 April 2013, 1825 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

604 FEWO, *Evidence*, 6 December 2012, 0915 (Ms. Vicky Smallman, National Director, Women’s and Human Rights Department, Canadian Labour Congress); FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission).

605 See for example: FEWO, *Evidence*, 16 April 2013, 1155 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual); FEWO, *Evidence*, 16 October 2012, 0955 (Mr. David Langtry, Acting Chief Commissioner, Chief Commissioner’s Office, Canadian Human Rights Commission); FEWO, *Evidence*, 23 May 2013, 1245 (Professor Linda Collinsworth, Associate Professor of Psychology, Millikin University, appearing as an individual); FEWO, *Evidence*, 28 May 2013, 1145 (Dr. Kim Stanton, Legal Director, Women’s Legal Education and Action Fund).

606 FEWO, *Evidence*, 20 November 2012, 0910 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police).

607 FEWO, *Evidence*, 29 January 2013, 1135 (Mr. Robin Kers, National Representative, Union of Solicitor General Employees, Public Service Alliance of Canada); FEWO, *Evidence*, 26 March 2013, 1145 (Ms. Cindy Viau, Director’s Advisor, The Quebec Help and Information Centre on Harassment in the Workplace).

608 FEWO, *Evidence*, 12 February 2013, 1120(LCol Karen Davis, Defence Scientist, Director General Military Personnel Research and Analysis, Canadian Forces Leadership Institute, appearing as an individual); FEWO, *Evidence*, 14 February 2013, 1205 (Mr. Robin Kers, Labour Relations Officer, National Office, Union of Solicitor General Employees).

[T]hey are very likely to be in situations where they're the only woman or one of very few women in a deployed operational environment. It is possible that the vulnerability of these small numbers of women is heightened by the socially gendered and geographic isolation of their employment, as well as the scarcity, if not complete absence, of female leaders in that environment.⁶⁰⁹

C/Supt Sharon Woodburn, Director General of Workforce Programs and Services at the Royal Canadian Mounted Police, told the Committee that:

The commissioner has announced an increase in the recruiting benchmark for women from 30% to 35% to have a more equitable level of representation of female police officers in all ranks throughout the RCMP. We are committed to achieving a more equitable gender balance to help create a better, more respectful workplace.⁶¹⁰

4. Bystander Intervention

The Committee heard that an important strategy to address sexual harassment in the workplace is bystander intervention.⁶¹¹ As the Committee learned, “efforts to end sexual harassment that rely primarily on target reporting are unlikely to be successful because most targets do not report their experiences.”⁶¹² Bystander intervention provides an alternative approach.⁶¹³ According to one witness, bystander intervention, in practice, can range from on-the-spot interventions, such as pointing out inappropriate practices or behaviours, to confidential complaint hotlines.⁶¹⁴

Witnesses told the Committee that while a passive bystander can reinforce a sense that nothing is wrong with a situation, an active bystander can draw attention to a problem by intervening and can mobilize people to take action.⁶¹⁵ The Committee was told that bystander intervention can take different forms, such as immediate intervention as the incident is unfolding or after the incident has occurred, and anonymous reporting or public

609 FEWO, *Evidence*, 12 February 2013, 1120 (LCol Karen Davis, Defence Scientist, Director General Military Personnel Research and Analysis, Canadian Forces Leadership Institute, appearing as an individual).

610 FEWO, *Evidence*, 20 November 2012, 0850 (C/Supt Sharon Woodburn, Director General, Workforce Programs and Services, Royal Canadian Mounted Police).

611 FEWO, *Evidence*, 16 April 2013, 1225 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual); FEWO, *Evidence*, 22 April 2013, 1800 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual); FEWO, *Evidence*, 27 November 2012, 0955 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence); FEWO, *Evidence*, 28 May 2013, 1205 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

612 Lynn Bowes-Sperry and Anne M. O’Leary-Kelly, [“To Act or Not to Act: The Dilemma Faced by Sexual Harassment Observers,”](#) *The Academy of Management Review*, Vol. 30, No. 2, April 2005, p. 288.

613 Ibid.

614 FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual).

615 FEWO, *Evidence*, 16 April 2013, 1150 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 28 May 2013, 1200 (Ms. Ainslie Benedict, Partner, Nelligan O’Brien Payne LLP, Women’s Legal Education and Action Fund).

involvement.⁶¹⁶ Bystander intervention has been successful in other areas of violence prevention, including bullying in schools, dating violence and intimate partner violence.⁶¹⁷

The Committee heard that a “collective responsibility model” empowers bystanders by providing them with strategies to intervene effectively and safely.⁶¹⁸ To establish this model in the workplace, the Committee heard that employers would need more information on the bystander approach for resolving harassment in the workplace,⁶¹⁹ and would need to implement training programs for employees to encourage bystander interventions in cases of harassment.⁶²⁰ Such training should communicate the collective responsibility for a healthy workplace, strategies to address harassment when it happens, and ways to support complainants of harassment.⁶²¹

The Committee heard that a central challenge to the bystander approach is employees’ fear in some workplaces of stepping in to help co-workers.⁶²² For example, a former employee of the RCMP told the Committee: “it’s like sharks in the feeding frenzy [...] nobody wants to dip their toe to try and rescue you because it will get bitten off, so they just sort of back off.”⁶²³

616 FEWO, *Evidence*, 28 May 2013, 1205 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

617 FEWO, *Evidence*, 16 April 2013, 1225 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual); FEWO, *Evidence*, 22 April 2013, 1800 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

618 FEWO, *Evidence*, 16 April 2013, 1150 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).

619 FEWO, *Evidence*, 16 April 2013, 1250 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 16 April 2013, 1225 (Dr. Jennifer Berdahl, Professor, University of Toronto, appearing as an individual).

620 FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 27 November 2012, 0950 (Ms. Jacqueline Rigg, Director General, Civilian Human Resources Management Operations, Assistant Deputy Minister (Human Resources – Civilian), Department of National Defence); FEWO, *Evidence*, 28 May 2013, 1220 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

621 See for example: FEWO, *Evidence*, 16 April 2013, 1210 (Dr. Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto, appearing as an individual); FEWO, *Evidence*, 27 November 2012, 0950 (Ms. Jacqueline Rigg, Director General, Civilian Human Resources Management Operations, Assistant Deputy Minister (Human Resources – Civilian), Department of National Defence); FEWO, *Evidence*, 16 April 2013, 1150 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children); FEWO, *Evidence*, 27 November 2012, 0955 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence).

622 “Partial transcription of testimony given at a public meeting on 22 April 2013,” transcript distributed to FEWO (Ms. Sherry Lee Benson-Podolchuk), p. 5; (Ms. Jamie Hanlon), p. 12.

623 “Partial transcription of testimony given at a public meeting on 22 April 2013,” transcript distributed to FEWO (Ms. Sherry Lee Benson-Podolchuk), p. 5.

According to one witness, becoming an active bystander requires preparing employers, management and co-workers to challenge certain workplace behaviours and attitudes, such as “it’s just a joke”, “she must have deserved it”, and “it’s none of my business”.⁶²⁴ Another witness indicated that there’s very little empirical evidence on the way bystanders behave in the workplace, but existing research makes clear that bystanders often do not intervene immediately and instead offer support only after an incident.⁶²⁵ As the Committee heard, research also indicates that bystanders will evaluate a situation to determine how and if they should intervene; that evaluation includes recognizing that the situation requires action, determining that it is their responsibility to intervene, deciding whether to take action now or later and determining the level of involvement.⁶²⁶

As noted above, only an employee within the federal public service who is the subject of the harassment can lodge a complaint; the Treasury Board policy does not permit a witness of the harassment to lodge a complaint.⁶²⁷

On the other hand, a witness from DND told the Committee that new members of the CF are taught, as part of basic training, that they “have a responsibility to correct or report, as appropriate, any observed harassment, and that they have a duty to take action if they have the authority to do so, as well as encourage others to take action if they feel that they require that form of support.”⁶²⁸

The Committee heard that the Australian Human Rights Commission has promoted the bystander approach for addressing sexual harassment in the workplace.⁶²⁹ As described, in Australia this approach focuses on “ways in which individuals who are not the targets of the conduct can intervene in violence, harassment or other anti-social behaviour in order to prevent and reduce harm to others.”⁶³⁰ The bystander approach is promoted because:

[T]argets of sexual harassment, despite significant negative consequence, often respond passively to the conduct [and]... therefore, organisational approaches which rely

624 FEWO, *Evidence*, 16 April 2013, 1150 (Ms. Barbara MacQuarrie, Community Director, Faculty of Education, Western University, Centre for Research & Education on Violence Against Women & Children).

625 FEWO, *Evidence*, 22 April 2013, 1810 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

626 FEWO, *Evidence*, 28 May 2013, 1205 (Dr. Lynn Bowes-Sperry, Association Professor of Management, College of Business, Western New England University, appearing as an individual).

627 FEWO, *Evidence*, 29 November 2012, 0920 (Mr. Serge Jetté, Manager, Conflict, Management Services, Human Resources Division, Treasury Board Secretariat).

628 FEWO, *Evidence*, 27 November 2012, 0955 (Mr. Karol Wenek, Director General Military Personnel, Chief Military Personnel, Department of National Defence).

629 FEWO, *Evidence*, 22 April 2013, 1800 (Professor Paula McDonald, Business School, Queensland University of Technology, appearing as an individual).

630 Paula McDonald and Michael G. Flood, [Encourage. Support. Act! Bystander Approaches to Sexual Harassment in the Workplace](#), Australian Human Rights Commission, June 2012, p. 8.

exclusively on individual complaints made by targets of harassment are unlikely to be successful.⁶³¹

In a recent report, the Australian Human Rights Commissioner, Elizabeth Broderick, points out that:

Bystanders can be highly effective in raising awareness of sexual harassment. They can also intervene to prevent harm and contribute to improving workplace practices and cultures that reduce the occurrence of sexual harassment.⁶³²

631 Ibid.

632 Elizabeth Broderick, "Foreword," MacDonald and Flood, (2012), p. 1.

LIST OF RECOMMENDATIONS

Recommendation 1

The Committee recommends the development of a policy at the federal level to clearly define sexual harassment, and that it be included in any policies by Treasury Board on sexual harassment for the federal workplace..... 20

Recommendation 2

The Committee recommends that specific questions on sexual harassment be included in the next Public Service Employee Survey to determine the following: identify and understand the extent of the problem of sexual harassment in the workplace; determine if and why there is an under-reporting of sexual harassment; assess the effectiveness of the processes in place; and find out the outcomes of harassment cases and settlements. 41

Recommendation 3

The Committee recommends that departments and deputy ministers highlight the presence of a designated harassment advisor or investigator through internal education campaigns and consider flexible options for contacting the designated harassment advisor or investigator, such as a confidential 1-800 number..... 53

Recommendation 4

The Committee recommends that options be examined by all federally regulated employers to extend the length of time from the current two years for which disciplinary notes related to sexual harassment in the federal workplace may be retained on an employee's file..... 67

Recommendation 5

The Committee recommends that Status of Women Canada work with Treasury Board to establish a common set timeline for processing complaints of sexual harassment, based on best practices, so complainants can have timely and efficient resolution of claims..... 76

Recommendation 6

The Committee recommends that any grievances by federal employees alleging a breach of the *Canadian Human Rights Act* should be addressed by adjudication, bypassing the steps where a manager would make the first ruling with respect to the complaint..... 78

Recommendation 7

The Committee recommends that wherever possible, federally regulated employers pursue alternate dispute resolution methods such as dialogue, facilitation and mediation and that these be considered as a first choice for the resolution of disputes relating to sexual harassment in the federal workplace..... 80

Recommendation 8

The Committee recommends that Status of Women Canada along with Treasury Board take the lead in promoting the use of alternative dispute resolution mechanisms to deal with sexual harassment complaints. 80

Recommendation 9

The Committee recommends that meaningful sanctions be applied in order to demonstrate to offenders that sexual harassment will not be tolerated in the federal workplace..... 83

Recommendation 10

The Committee recommends that Status of Women Canada consider working with the Parliament of Canada to heighten awareness of the issue of sexual harassment in the workplace..... 84

Recommendation 11

The Committee recommends that Status of Women Canada work with Foreign Affairs and International Trade Canada to address the gaps that exist for Foreign Service officers who face sexual harassment in the workplace. 85

Recommendation 12

The Committee recommends that training of employees in federally regulated workplaces be expanded to include various components, including: developing a respectful workplace and a collegial environment; using different harassment prevention strategies, including bystander intervention; understanding the workplace policy on harassment and knowing what behaviours are not acceptable; knowing how to raise complaints of sexual harassment and the subsequent reporting process, including what resources are available, what are the steps of the process, and the responsibilities of management and the employer; and recognizing inequalities in the workplace, particularly related to gender..... 95

Recommendation 13

The Committee recommends that mandatory management and supervisor training include a segment on maintaining a respectful workplace, including how to address sexual harassment in the workplace..... 100

Recommendation 14

The Committee recommends that management in federally regulated workplaces be urged to work with unionized and non-unionized employees in dealing with incidents of sexual harassment and preventing sexual harassment from taking place..... 103

APPENDIX A LIST OF WITNESSES

41st Parliament – First Session

Organizations and Individuals	Date	Meeting
<p>Canadian Human Rights Commission</p> <p>Philippe Dufresne, Acting Director General and Senior General Counsel, Dispute Resolution</p> <p>David Langtry, Acting Chief Commissioner</p> <p>Monette Maillet, Director General, Knowledge Centre</p>	2012/10/16	44
<p>Canadian Human Rights Tribunal</p> <p>Susheel Gupta, Vice-Chairperson, Acting Chairperson and Chief Executive Officer</p>		
<p>Treasury Board Secretariat</p> <p>Martine Glandon, Manager, Values and Ethics</p> <p>Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector</p>		
<p>As an individual</p> <p>Steven Gaon</p>	2012/10/23	45
<p>Canada Industrial Relations Board</p> <p>Elizabeth MacPherson, Chairperson</p>		
<p>Department of Human Resources and Skills Development</p> <p>Judith Buchanan, Manager, Labour Standards, Labour Program</p> <p>Caroline Cyr, Director General, Workplace Directorate, Labour Program</p>		
<p>Nelligan O'Brien Payne LLP</p> <p>Christopher Rootham, Partner and Director of Research, Labour Law and Employment Law Groups</p>		
<p>Treasury Board Secretariat</p> <p>Martine Glandon, Manager, Values and Ethics</p> <p>Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector</p>	2012/10/25	46
<p>Statistics Canada</p> <p>Geoff Bowlby, Director, Special Surveys</p>	2012/11/01	47

Royal Canadian Mounted Police	2012/11/20	49
Supt Michael O'Rielly, Director, Legislative Reform Initiative		
C/Supt Sharon Woodburn, Director General, Workforce Programs and Services		
Royal Canadian Mounted Police External Review Committee		
Catherine Ebbs, Chair		
David Paradiso, Executive Director and Senior Counsel		
Department of National Defence	2012/11/22	50
Cdr Tony Crewe, Director Human Rights and Diversity, Assistant Chief Military Personnel		
LCol Mark Gendron, Director of Law Military Personnel, Office of the Judge Advocate General		
Susan Harrison, Director Civilian Labour Relations, Assistant Deputy Minister (Human Resources - Civilian)		
Jacqueline Rigg, Director General, Civilian Human Resources Management Operations, Assistant Deputy Minister (Human Resources - Civilian)		
Karol Wenek, Director General Military Personnel, Chief Military Personnel		
National Defence and Canadian Forces Ombudsman		
Alain Gauthier, Acting Director General, Operations		
Department of National Defence	2012/11/27	51
Cdr Tony Crewe, Director Human Rights and Diversity, Assistant Chief Military Personnel		
LCol Mark Gendron, Director of Law Military Personnel, Office of the Judge Advocate General		
Susan Harrison, Director Civilian Labour Relations, Assistant Deputy Minister (Human Resources - Civilian)		
Jacqueline Rigg, Director General, Civilian Human Resources Management Operations, Assistant Deputy Minister (Human Resources - Civilian)		
Karol Wenek, Director General Military Personnel, Chief Military Personnel		
House of Commons		
Kathryn Butler Malette, Chief Human Resources Officer, Human Resources, Corporate Planning and Communications		
Audrey O'Brien, Clerk of the House of Commons		
Library of Parliament		
Sonia L'Heureux, Parliamentary Librarian		
Lynn Potter, Director General, Corporate Services		

Department of Foreign Affairs and International Trade	2012/11/29	52
Pat Langan-Torell, Director, Values and Ethics		
Yves Vaillancourt, Inspector General and Chief Audit Executive		
Department of Public Works and Government Services		
Marielle Doyon, Acting Assistant Deputy Minister, Human Resources Branch		
Charles Vézina, Director, Labour Relations and Ethics		
Caroline Weber, Assistant Deputy Minister, Corporate Services and Strategic Policy Branch		
Status of Women Canada		
Kelly Bradley, Acting Chief, Human Resources		
Linda Savoie, Director General, Women's Program and Regional Operations Directorate		
Treasury Board Secretariat		
Serge Jetté, Manager, Conflict Management Services, Human Resources Division		
Canada School of Public Service	2012/12/04	53
Jean-François Fleury, Acting Vice-President, Learning Programs		
Felicity Mulgan, Acting Director General, Functional Communities, Authority Delegation and Orientation		
National Defence and Canadian Forces Ombudsman		
Alain Gauthier, Acting Director General, Operations		
Canada School of Public Service	2012/12/06	54
Jean-François Fleury, Acting Vice-President, Learning Programs		
Felicity Mulgan, Acting Director General, Functional Communities, Authority Delegation and Orientation		
Canadian Labour Congress		
Vicky Smallman, National Director, Women's and Human Rights Department		
Professional Association of Foreign Service Officers		
Timothy Edwards, President		

Public Service Alliance of Canada	2013/01/29	55
Robyn Benson, National President		
Mary Chamberlain, Executive Vice-President, Union of National Defence Employees		
Andrée Côté, Women's and Human Rights Officer, National Programs Section		
Janet Hauck, National Vice-President, Union of Solicitor General Employees		
Robin Kers, National Representative, Union of Solicitor General Employees		
Bob Kingston, National President, Agriculture Union, Co-Chair, Service-Wide Policy Committee on Health and Safety		
Union of Canadian Correctional Officers		
Anne-Marie Beauchemin, Correctional Officer		
Francine Boudreau, Correctional Officer		
Canada Post	2013/01/31	56
Ann Therese MacEachern, Vice-President, Human Resources		
Amanda Maltby, General Manager, Compliance		
National Automobile, Aerospace, Transportation and General Workers Union of Canada	2013/02/07	57
Vinay Sharma, Director of Human Rights		
Office of the Conflict of Interest and Ethics Commissioner		
Denise Benoit, Director, Corporate Management		
Mary Dawson, Conflict of Interest and Ethics Commissioner		
United Steelworkers		
Paula Turtle, Canadian Counsel		
As an individual	2013/02/12	58
Karen Davis, Defence Scientist, Director General Military Personnel Research and Analysis, Canadian Forces Leadership Institute		
Defence Women's Advisory Organization		
PO 1 Shanna Wilson, National Military Co-Chair		
Union of Canadian Correctional Officers	2013/02/14	59
Anne-Marie Beauchemin, Correctional Officer		
Francine Boudreau, Correctional Officer		
Union of Solicitor General Employees		
Robin Kers, Labour Relations Officer, National Office		

Royal Canadian Mounted Police	2013/02/26	60
Bob Paulson, Commissioner		
Royal Canadian Mounted Police Public Complaints Commission		
Richard Evans, Senior Director, Operations		
Lisa-Marie Inman, Director, Reviews and Investigations		
Ian McPhail, Interim Chair, Chair's Office		
Royal Canadian Mounted Police	2013/02/28	61
Insp Carol Bradley, Team Leader, "E" Division, Respectful Workplace Program		
D/Commr Craig J. Callens, Commanding Officer, "E" Division		
Canadian Broadcasting Corporation	2013/03/05	62
Hubert T. Lacroix, President and Chief Executive Officer		
Monique Marcotte, Interim Executive Director, English Services Human Resources; Executive Director, Strategic Planning and Human Resources Corporate Groups, People and Culture		
As an individual	2013/03/07	63
Sherry Lee Benson-Podolchuk		
The Quebec Help and Information Centre on Harassment in the Workplace	2013/03/26	66
Cindy Viau, Director's Advisor		
Toronto Police Service		
Michael Federico, Deputy Chief, Corporate Command		
As individuals	2013/04/16	67
Jennifer Berdahl, Professor, University of Toronto		
Sandy Welsh, Professor of Sociology, Vice-Dean, Graduate Education and Program Reviews, Faculty of Arts and Science, University of Toronto		
Centre for Research & Education on Violence Against Women and Children		
Barbara MacQuarrie, Community Director, Faculty of Education, Western University		

Canadian Forces Provost Marshal	2013/04/18	68
Tim Langlois, Legal Officer, Office of the Judge Advocate General, Directorate of Law, Military Justice Operations		
J.A. Legere, Chief of Staff, Canadian Forces Military Police Group		
Ontario Provincial Police		
Chris D. Lewis, Commissioner, Field Operations		
As an individual	2013/04/22	69
Paula McDonald, Professor, Business School, Queensland University of Technology		
As individuals	2013/05/23	79
Sherry Lee Benson-Podolchuk		
Linda Collinsworth, Associate Professor of Psychology, Millikin University		
As an individual	2013/05/28	80
Lynn Bowes-Sperry, Associate Professor of Management, College of Business, Western New England University		
Law Society of Upper Canada		
Josée Bouchard, Equity Advisor, Equity Initiatives Department		
Ekua Quansah, Associate Counsel, Equity Initiatives Department		
Women's Legal Education and Action Fund		
Ainslie Benedict, Partner, Nelligan O'Brien Payne LLP		
Kim Stanton, Legal Director		

* No witness appeared before the Committee during the second session of the 41st Parliament.

APPENDIX B LIST OF BRIEFS

41st Parliament – First Session

Organizations and Individuals

International Association of Machinists and Aerospace Workers in Canada

Public Service Alliance of Canada

Union of Canadian Correctional Officers

Women's Legal Education and Action Fund

* No brief was received during the second session of the 41st Parliament.

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* (Meetings Nos. 6 and 7) from the 41st Parliament, Second Session and (Meetings Nos. 44 to 47, 49 to 63, 65 to 69, 79 and 80) from the 41st Parliament, First Session is tabled.

Respectfully submitted,

Hélène LeBlanc

Chair

SUPPLEMENTARY REPORT OF THE NEW DEMOCRATIC PARTY OF CANADA

In the wake of shocking accounts of sexual harassment and abuse against female RCMP officers, a motion was presented to conduct a study on Sexual Harassment in the RCMP through the Status of Women Committee. Instead of focusing on the RCMP the committee undertook a general study of sexual harassment in the federal workplace. While we believe that this study is important in its own right, we are concerned that the gender based violence afflicting women in the RCMP has not been thoroughly examined by the committee.

Although several female officers and ex-officers were willing to come forward to testify before the committee, we heard from only one survivor of sexual harassment in the RCMP. Furthermore, only one meeting was spent hearing from RCMP officials. Through the limited witness testimony we heard regarding the RCMP, we learned that there are systemic issues within the federal police force that require investigation and action. Astonishingly, in spite of hearing this testimony, the report tabled does not include a single recommendation relating directly to the RCMP.

As parliamentarians, we are responsible for the RCMP and we find this report and subsequent recommendations to be insufficient. It is our recommendation, therefore, that the Status of Women Committee move to conduct a comprehensive study on sexual harassment in the RCMP in order to complete the task of ending the widespread harassment suffered by women in the RCMP.

The New Democrat Members of the Standing Committee on the Status of Women are concerned, as well, that the final recommendations attached to the report *Sexual Harassment in the Federal Workplace* do not reflect the scope of the testimony heard from the 40 witnesses who testified before the committee. The committee heard about widespread barriers that prevent Canadian women and girls in the workforce from

participating in the workforce. While New Democrats agree with the recommendations that are listed throughout this report, we find that many of the recommendations heard by expert witnesses are markedly absent from the report tabled.

Listed below are recommendations heard by witnesses that, when implemented, would considerably decrease the incidents of sexual harassment in federally regulated workplaces.

Leadership and Prevention

When attempting to identify the incidence and prevalence of sexual harassment in the federal workplace the committee was repeatedly confronted with a lack of information. As well, we found, in spite of a policy from treasury board, a lack of consistency between agencies, departments and other workplaces such as the Canadian Forces, Foreign Services and the Parliament of Canada. What is clearly lacking is coordinated leadership from the federal level. **Therefore New Democrats recommend that Status of Women Canada work with the Government of Canada to develop a national action plan on violence against women, that would also address sexual harassment and violence in the workplace. As well, we believe that Status of Women Canada should take the lead in working with experts in order to study the extent of under-reporting in the federal and federally regulated workplace.**

The committee heard that workplace culture, particularly in male dominated, hierarchical organizations such the Department of National Defence and the RCMP, presents a significant barrier to reporting and preventing sexual harassment and discrimination. Therefore, **New Democrats also recommend that Status of Women Canada partner with federal and federally regulated workplaces to increase the number of women in managerial positions and positions of power, including establishing benchmarks and goals, to help promote a workplace reflective of a society that does not accept harassment, including sexual harassment.**

Data Collection

A complete lack of data regarding the presence of sexual harassment in most federal workplaces was uncovered by the committee. The Public Service Employee Survey asked about harassment in general and found that far more workers experienced harassment than were reporting it. We can only speculate about what percentage of that harassment is sexual in nature. As well, we are concerned by the knowledge that harassment of all sorts is underreported. Therefore **New Democrats recommend that the Status of Women Canada work with Statistics Canada to take the lead in establishing a framework whereby consistent data on sexual harassment could be collected by all workplaces, and compared accordingly.**

We believe that specific questions on sexual harassment should be included in the next Public Service Employee Survey to determine the following: to identify and understand the extent of the problem of sexual harassment in the workplace, if and why there is an under-reporting of sexual harassment; the effectiveness of the processes in place, and the outcomes of harassment cases and settlements.

As well, we take note of the fact that members of the military are not given the Public Sector Employee Survey. Therefore, **New Democrats recommend that employees of the Canadian Forces participate in the survey or establish an equivalent one of their own that includes information about sexual harassment and assault.**

New Democrats note with concern that the last time Statistics Canada undertook a national survey to collect data on Violence Against Women was in 1993. **We recommend that a follow up survey be conducted and that Status of Women Canada use the information to establish a baseline understanding of sexual harassment in the workplace in Canada.**

Cuts to the Public Service

Public Sector cuts on behalf of the Conservative government have created workplace conditions in which women do not feel that their jobs are secure enough to risk reporting harassment. The committee heard that precarious employment in the public sector is growing since 20,000 were cut from the public sector since 2006. Some women fear losing their jobs for reporting against their superiors, in the context of staff downsizing.

New Democrats therefore recommend that Status of Women Canada study the impact of job insecurity, including recent and pending budget cuts, on sexual harassment and the possible under-reporting of sexual harassment.

Usefulness

New Democrats and other committee members were given the impression that the study would help direct the work of Status of Women. We are concerned that in spite of the study's mandate to directly influence the Status of Women agency, only three of the recommendations in the report directly involve Status of Women Canada.

New Democrats note with concern that reports previously tabled by this committee have had little effect on the actions of the current government. We are led to question the value of this committee's work in the eyes of the government and recommend that the committee undertake the task of following up on the recommendations laid out in this report in one year's time.

LIBERAL PARTY OF CANADA DISSENTING REPORT

SEXUAL HARRASSMENT IN THE FEDERAL WORKPLACE

Kirsty Duncan, Member of Parliament for Etobicoke North

INTRODUCTION

This dissenting report first thanks all the witnesses, many of whom shared difficult information about their personal lives in order to provide a better quality of life for fellow Canadians.

This dissenting report recognises their courage, determination, and sense of fairness, and their wanting justice for all employees in the federal workplace.

While the text accurately reflects witnesses' testimony, it is profoundly sad that some seventy-five percent of what witnesses asked for is absent from the main report. That is, the report protects the status quo, and is lacking in recommendations made by witnesses. Hence, this dissenting report is necessary.

Readers should question that if the status quo is acceptable and is working, why have Canadians read so much about sexual harassment in the federal workplace, and why is this report lacking in substantial recommendations?

The report could have been so much more impactful if real recommendations were included to protect women from sexual harassment in the workplace; and ensure better processes with monetary support so that women who are victimized are not victimized a

second time through expensive litigation, and ensure better tracking so that the government could ensure that real progress was being made on reducing harassment within the federal workplace.

Witnesses came in good faith to testify and expected the report to honestly reflect (1) their recommendations for a better workplace and (2) investments they needed their government to take.

RECOMMENDATIONS

Because of the page limit for dissenting reports and the enormous amount of material that has not been included in the report, I will only briefly highlight what could have been added to make the report more complete.

(1) Develop a Pan-Canadian Action Plan to End Violence against Women

The government should work with the provinces and territories, First Nations, women's groups, victims groups, law enforcement and all necessary stakeholders to develop a Pan-Canadian Action Plan to End Violence against Women and Girls, with a section addressing violence and sexual harassment in the workplace.

(2) Undertake a National Survey on Violence Against Women

Statistics Canada should undertake a national survey to follow-up on the 1993 *Violence Against Women Survey* to identify the prevalence and nature of sexual violence, sexual harassment in the workplace, and new trends regarding sexual harassment.

(3) Increase the Number of Women in Leadership/Managerial Positions

Status of Women Canada should partner with federal and federally regulated workplaces, particularly those with hierarchical, male-dominated power structures, in order to increase the number of women in leadership/managerial positions with the goal of establishing a workplace reflective of society and which does not tolerate sexual harassment.

Sexual Harassment-Preventive Policies

(4) Include “Psychological Harassment” in the Canada Labour Code

“Psychological harassment” should be included in the definition of “sexual harassment” in the Canada Labour Code, as psychological harassment might impact an employee’s dignity and well-being.

(5) Require the Development of Violence and Harassment Policies that Include Victims of Domestic Violence and the Impact of Domestic Violence on Workplace Safety

Because domestic violence can carry over into the workplace, it is important that victims be protected at work, and that a safe work environment is ensured for all employees.

(6) Deliver Sexual Harassment Prevention Training In Person

Sexual-harassment prevention training should be delivered in person; and on-line training should be used to complement in-person training, and not be used as a substitute.

(7) Study the Impact of Job Insecurity on Sexual Harassment

Status of Women Canada should study the impact of job insecurity, resulting from recent and pending budget cuts, on sexual harassment, and the possible under-reporting of sexual harassment.

Process Policies

(8) Take Remedial Action to Correct Incidents of Sexual Harassment even if Unreported

Federal employers and federally-regulated employers should take remedial actions to correct incidents of sexual harassment reported to them, regardless whether a formal complaint is filed or not.

(9) Reinstate the Right of the Complainant to Review the Report on a Complaint before it Becomes Final

The Treasury Board policy on Harassment Prevention and Resolution should reinstate the right of the complainant to review the report on a complaint before it becomes final and to supplement the evidence with additional witnesses or documents.

(10) Amend Policies on Harassment to Provide Complainant with Right to Representation

Treasury Board should amend its policies on harassment, including sexual harassment, to provide the complainant with the right to representation, and to have representation during the complaint process.

Monies Policies

(11) Issue a Remedial Order of Monetary Payment following a Finding of Discrimination by the Canadian Human Rights Tribunal

The Canadian Human Rights Tribunal, upon finding that a department, government, or individual is found to have discriminated against or sexually harassed an individual, should issue a remedial order of monetary payment equal to or greater than the legal fees incurred by complainants.

(12) Reinstate Funding for Alternative Dispute Resolution

The Department of National Defense should reinstate the funding necessary for the alternative dispute resolution mechanisms that have been used by the Canadian Forces.

Data-Tracking Policies

(13) Study the Extent of Under-reporting of Sexual Harassment

Status of Women Canada should take the lead to study the extent of under-reporting of sexual harassment in the federal and federally regulated workplace.

(14) Develop a Framework for Consistent Data Collection

Status of Women Canada should take the lead in establishing a framework to allow for consistent data collection on sexual harassment by all workplaces.

(15) Provide Exit Surveys with Specific Questions on Sexual Harassment

Federal and federally regulated workplaces should provide exit surveys to out-going employees that include specific questions on sexual harassment.

Royal Canadian Mounted Police (RCMP)-specific Policies

(16) Develop an Action Plan to Put an End to Systemic Sexual Harassment

Status of Women Canada and the Department of Public Safety along with experts and survivors of sexual harassment should work with the RCMP to develop an action plan to put an end to systemic sexual harassment.

(17) Establish an Independent Complaints Resolution Process

The RCMP should establish a complaints resolution process that is independent from the chain of command where members can confidentially disclose and seek binding resolution of disputes if they are being harassed in the workplace.

(18) Create an Independent Oversight Body

An independent oversight body should be created, and that all complaints of sexual harassment within the RCMP should be investigated independently.

(19) Take Much Stronger Disciplinary Action

The RCMP should take much stronger disciplinary action, including dismissal, when it comes to proven sexual harassment allegations.

(20) RCMP Establish/Improve a Centralized Data System

The RCMP should establish/improve a centralized system that collects all data on complaints of harassment (including sexual harassment), including information on what type of issue it is, what the allegations are, what resolution was sought, what happened to the complaints, what steps were followed in the resolution process, what the final resolution was, and any other details of the investigation.

Follow-up Policy

As a follow-up to this study, the Treasury Board Canada should review the process and the outcomes of all arbitrations, human rights complaints, internal investigations and settlements involving sexual harassment and report back to the Standing Committee on the Status of Women within one year.

CONCLUSION

I hope that the witnesses see not only their voices and their testimony reflected in the report, but also now see their recommendations reproduced.

I am sorry that their recommendations are not included in the report as they should have been, but are instead found in a dissenting report. I am also sorry that page limits did not allow for all of their recommendations to be included.