



Report of the Standing Senate Committee  
on National Security and Defence

The Honourable Gwen Boniface, Chair  
The Honourable Jean-Guy Dagenais, Deputy Chair  
The Honourable Mobina S.B. Jaffer, Deputy Chair

# SEXUAL HARASSMENT AND VIOLENCE IN THE CANADIAN ARMED FORCES

MAY 2019

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## THE COMMITTEE MEMBERSHIP



\* The Honourable  
Gwen Boniface  
*Chair*



\* The Honourable  
Jean-Guy Dagenais  
*Deputy Chair*



\* The Honourable  
Mobina S.B. Jaffer  
*Deputy Chair*

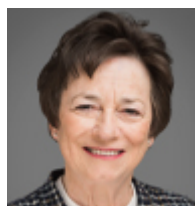
### The Honourables Senators



Pierre-Hugues  
Boisvenu



Marc Gold



Diane F. Griffin



Paul E. McIntyre



Marilou  
McPhedran



Victor Oh



Donald N. Plett



André Pratte



David Richards

\* Members of the Subcommittee on Agenda and Procedure

*Ex-officio members of the committee: Peter Harder, P.C. (or Diane Bellemare, or Grant Mitchell), Larry W. Smith (or Yonah Martin), Joseph A. Day (or Terry M. Mercer), Yuen Pau Woo (or Raymonde Saint-Germain)*

*Other Senators who have participated in the study: Wanda Elaine Thomas Bernard and Norman E. Doyle*

*Parliamentary Information and Research Services, Library of Parliament: Daniel McBryde, Constance Naud-Arcand and Christina Yeung*

*Clerks of the Committee: Adam Thompson, Mark Palmer*

*Senate Committees Directorate: Diane McMartin*

## ORDER OF REFERENCE

Extract from the Journals of the Senate, Tuesday, January 26, 2016:

The Honourable Senator Raine moved, for the Honourable Senator Lang, seconded by the Honourable Senator Martin:

That the Standing Senate Committee on National Security and Defence be authorized to examine and report on Canada's national security and defence policies, practices, circumstances and capabilities;

That the papers and evidence received and taken and the work accomplished by the committee on this subject during the Fortieth Parliament and the Forty-first Parliament be referred to the committee; and

That the committee report to the Senate no later than December 31, 2017, and that the committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

After debate,

The question being put on the motion, it was adopted.

Charles Robert  
Clerk of the Senate

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Extract from the Journals of the Senate, Thursday, December 14, 2017:

The Honourable Senator Boniface moved, seconded by the Honourable Senator Sinclair:

That, notwithstanding the order of the Senate adopted on Tuesday, January 26, 2016, the date for the final report of the Standing Senate Committee on National Security and Defence in relation to its study on Canada's national security and defense policies, practices, circumstances and capabilities be extended from December 31, 2017, to December 31, 2018.

The question being put on the motion, it was adopted.

Nicole Proulx  
Clerk of the Senate

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Extract from the *Journals of the Senate*, Thursday, December 6, 2018:

The Honourable Senator Boniface moved, seconded by the Honourable Senator Wetston:

That, notwithstanding the orders of the Senate adopted on Tuesday, January 26, 2016, and Thursday, December 14, 2017, the date for the final report of the Standing Senate Committee on National Security and Defence in relation to its study on Canada's national security and defense policies, practices, circumstances and capabilities be extended from December 31, 2018 to October 31, 2019.

The question being put on the motion, it was adopted.

Richard Denis  
Clerk of the Senate



## RECOMMENDATIONS

The committee acknowledges with appreciation the assistance provided by all witnesses, with particular attention to the testimony of the Honourable Marie Deschamps as the External Review Authority (ERA) and the contents of her final report, *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces* [the Deschamps report], which was issued in 2015.

Although progress has been made in recent years on the issue of sexual harassment and violence in the Canadian Armed Forces (CAF), the recommendations of the Deschamps report have not been fully implemented and work remains to be done to resolve the issue. Based on the evidence gathered during its study, the committee makes the following eight recommendations to the Government of Canada:

### Recommendation 1

With the understanding that Defence Administrative Order and Directive (DAOD) 9005-1 (Sexual Misconduct Response) is to be promulgated, the committee recommends that DAOD 5012-0 (Harassment Prevention and Resolution), 5019-1 (Personal Relationships and Fraternization), 5019-5 (Sexual Misconduct and Sexual Disorders) and 9005-1, along with the relevant Treasury Board policies, be reviewed with specific attention to the recommendations made by the ERA. They should be amended to clarify the definitions of certain terms, such as harassment, sexual misconduct and adverse personal relationships, as well as to address the concepts of consent, hostile work environment, military sexual trauma, and duty to report. The revisions to the DAODs should therefore use plain language terminology as much as possible, as well as terminology consistent with relevant definitions, such as sexual assault, found in the *Criminal Code of Canada*.

In addition, the suite of relevant DAODs (5012-0, 5019-1, 5019-5 and 9005-1) should be made consistent with the most recent federal legislation addressing harassment and violence that occurs in the course of employment – *An Act to amend the Canada Labour Code (harassment and violence)*, *the Parliamentary Employment and Staff Relations Act and the Budget Implementation Act, 2017* – as follows: “*harassment* ... means any action, conduct or comment, including of a sexual nature, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an individual, including any prescribed action, conduct or comment.” The DAODs should continue to cover 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, pardoned conviction and conviction for which a record suspension has been ordered). Policy documents and directives should also clearly state that complainants of harassment have the option to pursue their complaint outside of the military system should they so choose.

Specifically, DAOD 5012-0 should be redefined to cover the harassment that potentially could occur outside the workplace for CAF members, given the nature of military organizations as “total institutions” where members of the military live, work, train and socialize together. DAOD 5012-0 should also cover:

- sexual harassment through the use of various forms of social media; and

- examples of conduct that, while not exhaustive, will assist in understanding what constitutes prohibited sexual harassment, such as:
  - o use of belittling language referring to body parts;
  - o unwelcome sexual invitations or requests;
  - o unnecessary touching or patting;
  - o leering at a person's body;
  - o unwelcome and repeated innuendo or taunting about a person's body, appearance or sexual orientation;
  - o suggestive remarks or other verbal abuse of a sexual nature; or
  - o visual displays of degrading or offensive sexual statements or images.

### **Recommendation 2**

That the mandate and resources of the Sexual Misconduct Response Centre (SMRC) be reviewed to better respond to the needs of individuals seeking support and that an external review mechanism be established to measure the Centre's effectiveness.

### **Recommendation 3**

That the Sexual Misconduct Response Centre provide its clientele with as much information as possible about the various complaint mechanisms, as well as the possible advantages and disadvantages of the military justice system and the civil justice system. Complainants in either the military or civil justice system should be provided with legal and therapeutic support through qualified civilian service providers by the SMRC, or the CAF should provide adequate funds to complainants to retain their own legal and therapeutic support for at least one year, with the option of applying for an extension. In all cases, the CAF should provide adequate funding to cover travel and other costs that complainants and their witnesses may incur in relation to the resolution of their complaint.

### **Recommendation 4**

That the CAF and the Department of National Defence (DND) implement evidence-based policies and practices to ensure that all CAF members, former CAF members, and civilians working for either organization who have experienced or been affected by sexual misconduct receive the medical, psychological, social, legal, and financial support that they need to heal from military sexual trauma, in any form. Support programs under these policies must be purpose-built for survivors of sexual trauma and respond to the individual clinical needs of members using them, while maintaining gender sensitivity and being culturally relevant. Spouses and children of military members who have been affected by sexual misconduct should be provided a similar level of support. Policies and programs must take into consideration the particular support needs of CAF members who are single, as well as those deployed or on tasking. In support of this recommendation, Queen's Regulations and Orders, Volume 1 - Chapter 34 (Medical Services) should be amended to ensure that all individuals listed above have the appropriate and adequate entitlements to care.

To be effective in ensuring the expected results, the Chief of Defence Staff (CDS) should utilize the expertise available within the External Advisory Council, recently established by the CAF, by



allocating additional support personnel and finances, including appropriate stipends. The External Advisory Council should be given a renewable five year mandate, which would allow them the time to use their expertise to review summaries of all investigations of any form of military sexual trauma (with gender noted but other identifying details removed), so that they can assess outcomes, identify issues of concern and make recommendations for improvement in how complaints are being handled. These advisors would not have enforcement authority, but their advice would go to the CDS or the Vice Chief of Defence Staff (VCDS) for the initial five years of their mandate, and all officers with any area of management responsibility in the chain of command would be advised as to the areas for improvement that they are directed to implement, with timelines for delivery to enable the CDS or VCDS to make specific annual public reports to the Minister of National Defence as to what actions if any are being taken, in response to the findings and recommendations of the advisory group. An effectiveness review should be conducted after the first five years.

#### **Recommendation 5**

That DND/CAF employ uniformed clinical psychologists or health care professionals with equivalent skills in post sexual trauma recovery and that they be available to all current and former CAF members. CAF members must have access to psychologists or other medical professionals who have received training on how to aid survivors of sexual misconduct even while deployed or on a tasking.

#### **Recommendation 6**

That the government review the laws, regulations, and policies that result in little or no information being available to current and former CAF members affected by sexual misconduct regarding the outcomes of administrative review processes, following their report of an incident of sexual misconduct and the filing of a complaint.

#### **Recommendation 7**

That there be better oversight and accountability of Operation HONOUR commitments, including more frequent reporting of progress achieved and the production of quarterly reports. That an independent external committee also be created to assess the effectiveness of the measures put in place under Operation HONOUR, given that the Sexual Misconduct Response Centre cannot be considered an external body. One possible option could be to give the newly established External Advisory Council the authority to have an official oversight role.

#### **Recommendation 8**

That DND and CAF improve the collection and dissemination of data on harmful and inappropriate sexual behaviour (HISB) within their organization, including how visible minorities, lesbian, gay, bisexual, transgender, queer and two-spirit (LGBTQ2) members and other designated groups are affected by HISB. The SMRC could play a role with regards to centralized data collection.

## BACKGROUND

The issue of sexual harassment, as well as issues related to sexual violence in the workplace, have been longstanding concerns that come to the fore periodically. In 1990, sexual misconduct was reported in the media as a “major issue within the Canadian Armed Forces” and became a “subject of intensive reporting again in 2014.”<sup>1</sup>

The report that followed the *Survey on Sexual Misconduct in the Canadian Armed Forces*,<sup>2</sup> a voluntary survey conducted in 2016 and completed by 43,000 active members of the Regular Force and Primary Reserve of the Canadian Armed Forces (CAF), noted that, among Regular Force members, 27.3% of women and 3.8% of men have been victims of sexual assault at least once since joining the CAF.<sup>3</sup> Moreover, in the 12 months prior to their participation in the survey, roughly four in five (79%) members of the Regular Force saw, heard or were personally targeted by sexualized behaviour in the military workplace or involving other military members or Department of National Defence (DND) employees or contractors.

Five years after the publication of *Conduct Becoming: Why the Royal Canadian Mounted Police Must Transform Its Culture*<sup>4</sup> and three years after the *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces*,<sup>5</sup> led by the Honourable Marie Deschamps, former justice of the Supreme Court of Canada, the Standing Senate Committee on National Security and Defence decided in April 2018 to look at these issues again.

The committee believes that it is important to regularly review these issues which, as more than one witness pointed out, are still relevant today.<sup>6</sup> This interim report is limited in scope to the situation within the CAF. The committee may also address the issue of sexual misconduct and violence in other security and defence institutions in the future.

This report is divided into two parts. The first section provides background information on sexual misconduct and violence within the CAF. The second deals with Operation HONOUR, which was launched in 2015 to eliminate harmful and inappropriate sexual behaviour (HISB) within the CAF. Based on the testimony of the 15 individuals who appeared before the committee between April and October 2018 and publicly available information, the committee presents the following findings and recommendations to the Senate.

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<sup>1</sup> Department of National Defence and the Canadian Armed Forces (DND/CAF), *Canadian Armed Forces Progress Report Addressing Inappropriate Sexual Behaviour*, 1 February 2016, p. 3.

<sup>2</sup> Statistics Canada, *Sexual Misconduct in the Canadian Armed Forces, 2016*, 28 November 2016.

<sup>3</sup> The term “victim” is used throughout this report, however it is recognized that an individual affected by harmful and inappropriate sexual behaviour and/or sexual misconduct may define their own experience and/or context, and as a result may prefer the term “survivor” or “affected person”.

<sup>4</sup> Senate, Standing Senate Committee on National Security and Defence (SECD), *Conduct Becoming: Why the Royal Canadian Mounted Police Must Transform Its Culture*, June 2013.

<sup>5</sup> The Honourable Marie Deschamps, *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces*, 27 March 2015.

<sup>6</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 11 June 2018 (Gen. Jonathan Vance). Similar remarks were made by Marie-Claude Gagnon, Founder, It’s Just 700; see: SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018.

# Part 1: BACKGROUND INFORMATION

## TERMINOLOGY

Many framework documents and codes address the conduct expected of CAF members. In addition to the Code of Values and Ethics,<sup>7</sup> some specifically address the issue of sexual misconduct and violence within the CAF. These include certain Defence Administrative Orders and Directives (DAODs), the Code of Service Discipline and the CDS (Chief of the Defence Staff) Operation Order – Operation HONOUR.

### A. Defence Administrative Orders and Directives

DAODs are policies and standards that address a variety of topics and that are issued by or under the authority of the Deputy Minister and the CDS. Some provide specific information on sexual harassment and violence.

DAOD 5012-0,<sup>8</sup> issued in 2000 and modified in 2017, is on harassment prevention and resolution. It applies to DND employees, and CAF officers and non-commissioned members.

Harassment is defined as

[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, pardoned conviction and conviction for which a record suspension has been ordered). Harassment is normally a series of incidents but can be one severe incident which has a lasting impact on the individual.<sup>9</sup>

In DAOD 5012-0, the definition of “harassment” is currently drawn from the Treasury Board Policy on Harassment Prevention and Resolution. The committee is cognizant that this definition of harassment may not cover acts that potentially could occur amongst CAF members outside their workplace, given the nature of military organizations as “total institutions,” where “members of the military live, work, train and socialize together within a closely regulated environment largely set apart from the rest of society,” as noted by the Honourable Marie Deschamps.<sup>10</sup> The committee acknowledges, however, that a CANFORGEN was released on 11 April 2019 that states:

<sup>7</sup> DND/CAF, *Department of National Defence and Canadian Forces Code of Values and Ethics*, 2012.

<sup>8</sup> DND/CAF, *DAOD 5012-0, Harassment Prevention and Resolution*.

<sup>9</sup> Note that, pursuant to *An Act to amend the Canadian Human Rights Act and the Criminal Code*, which received Royal Assent on 19 June 2017, gender identity and gender expression are now prohibited grounds of discrimination under the *Canadian Human Rights Act*.

<sup>10</sup> The Honourable Marie Deschamps, *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces*, 27 March 2015, p. 13.

In the CAF context, the workplace includes places such as messes, on base clubs, quarters, dining halls, gyms, and sanctioned events such as holiday gatherings and course parties as well as office spaces, classrooms, garrisons, ships, hangers, vehicles, aircraft, online forums, etc. CAF members do not simply work for the CAF, but work, socialize and often live within institutional and social structures established by the military.<sup>11</sup>

In addition, DAOD 5012-0 notes that harassment “may include the abuse or misuse of authority inherent in the position of an individual” but that, if an individual “has authority over another individual in a situation by virtue of law, military rank, civilian classification or appointment, the proper exercise of that authority is not harassment.” The DAOD also states that “[a]ny ceremony or other event, such as an initiation rite, that involves participation as a result of expressed or implied coercion, and that demeans, belittles or causes personal humiliation or embarrassment, is harassment.”

DAOD 5019-5,<sup>12</sup> issued in 2008,<sup>13</sup> is on sexual misconduct and sexual disorders. It applies to officers and non-commissioned members of the CAF. Sexual misconduct is defined as one or more acts that:

- are either sexual in nature or committed with the intent to commit an act or acts that are sexual in nature; and
- constitute an offence under the *Criminal Code* or Code of Service Discipline (CSD).

It notes that sexual misconduct includes offences such as “sexual assault, indecent exposure, voyeurism and acts involving child pornography.” The DAOD states that no CAF member may engage in sexual conduct and that CAF members are required to report any incidents of sexual misconduct. It also sets out actions that may be taken in a case of sexual misconduct.

General Jonathan Vance, Chief of the Defence Staff, outlined four categories of sexual misconduct that form the basis upon which the chain of command acts “when made aware of a complaint or the basis upon which a complaint can be lodged by a victim.”<sup>14</sup> The four categories are as follows:

The first is inappropriate sexual behaviour, which includes sexually demeaning language and jokes, as well as displays of sexually offensive material not specifically targeted at an individual.

Second is sexual harassment, which includes unwelcome sexual invitations, unnecessary touching, leering at a person’s body, taunting, making sexually suggestive remarks, and displays of sexually offensive material specifically directed at an individual or group.

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<sup>11</sup> CAF, *CLARIFICATION ON THE DEFINITION OF SEXUAL MISCONDUCT AND APPROPRIATE ADMINISTRATIVE ACTIONS*, CANFORGEN 049/19, 11 April 2019.

<sup>12</sup> DND/CAF, *DAOD 5019-5, Sexual Misconduct and Sexual Disorders*.

<sup>13</sup> According to DND/CAF’s response to the report by the Auditor General of Canada entitled *Inappropriate Sexual Behaviour—Canadian Armed Forces*, a new version of DAOD 5019-5 should be officially approved by summer 2019.

<sup>14</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 11 June 2018 (Gen. Jonathan Vance).

The third category is sexual assault, which includes unwanted sexual touching, sexual violence and non-consensual sexual activity.

And, finally, situations with Operation HONOUR nexus, including times when the complainant has yet to be determined or cannot be determined or cannot be disclosed.<sup>15</sup>

Some witnesses were critical of the terminology used by the CAF and felt that existing policies were not exhaustive enough. The committee is of the opinion that these criticisms are valid. According to the Honourable Marie Deschamps, DAOD 5012-0 is drafted:

[...] in very narrow terms and does not cover certain situations that should be covered. For example, a situation in which a hostile environment is created by sexist remarks is not covered by this policy. One of the reasons why we found it was not covered is related to the criteria used, because the remarks concerned must be directed at one person in particular. Consequently, where no single person in particular is concerned, the Canadian Armed Forces policy does not apply.<sup>16</sup>

In her report, *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces*,<sup>17</sup> she cited as an example:

[...] a situation in which female military members entered meeting rooms and saw, written on whiteboards, highly offensive comments and unacceptable words that were clearly aimed at women. Those members may not file complaints for this type of situation because no single person in particular is concerned. Many other armed forces cover this type of hostile environment situation, and it would not take much to include it.<sup>18</sup>

In the same document, the Honourable Marie Deschamps also cautioned against the use of the term "sexual misconduct," stating that the meaning given to this concept in DAOD 5019-5 was different from what it means in plain language. She recommended, and this is also the committee's view, that the term "sexual assault," which is commonly understood by Canadians and consistent with the *Criminal Code*, be "used to describe all cases of intentional, non-consensual touching of a sexual nature."<sup>19</sup>

Nancy Taber, Associate Professor, Department of Undergraduate and Graduate Studies in Education, Brock University, also criticized certain definitions used by the CAF:

[...] in the 2017 revision of DAOD 5012-0, Harassment Prevention and Resolution and the associated set of instructions, the definition of harassment was not

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<sup>15</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 11 June 2018 (Gen. Jonathan Vance).

<sup>16</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Hon. Marie Deschamps).

<sup>17</sup> Hon. Marie Deschamps, *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces*, 27 March 2015.

<sup>18</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Hon. Marie Deschamps).

<sup>19</sup> Hon. Marie Deschamps, *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces*, 27 March 2015.

changed to eliminate the wording “directed at” and “offensive to.” Therefore, any behaviour not directed at a particular person, such as a sexual joke, would not be considered harassment...There is no definition of sexual harassment or sexual assault in the policy, no recognition of the role of consent, and no description in the definition of adverse personal relationships that recognizes the effect of the CAF’s hierarchical structure outside direct reporting relationships, despite these recommendations being made by Deschamps.<sup>20</sup>

Associate Professor Taber suggested that the definition of harassment be rephrased to read something like “improper conduct by an individual, including at any event or any location related to work, that is an objectionable act, comment or display, demeans, belittles, causes personal humiliation or embarrassment.”<sup>21</sup>

The committee acknowledges that efforts have been made to revise some of the CAF terminology. In particular, the committee recognizes that a new definition of sexual misconduct was promulgated in a CANFORGEN and in the Operation HONOUR Manual that were released in April 2019, and other terminology changes will be forthcoming with DAOD 9005-1.<sup>22</sup> The new definition states:<sup>23</sup>

Sexual misconduct is a conduct of a sexual nature that can cause or causes harm to others. Sexual misconduct, includes:

- Actions or words that devalue a person or group of persons on the basis of their sex, sexuality, sexual orientation, or gender identity or expression;
- Jokes of a sexual nature, sexual remarks, advances of a sexual nature or verbal abuse of a sexual nature in the workplace;
- Harassment (DAOD 5012-0) of a sexual nature, including initiation rites of a sexual nature;
- Viewing, accessing, distributing or displaying sexually explicit material in the workplace; and
- Any *Criminal Code* offence of a sexual nature...

The committee noted that some of the witnesses heard in camera also mentioned the importance of agreeing on terminology, in addition to referring to the concept of “military sexual trauma” to talk about their experience, a concept that is not found in the DAODs that deal with these issues and that requires specific medical treatment.<sup>24</sup>

## B. Code of Service Discipline

The CSD is the basis of the CAF military justice system. The CSD, which appears in Part III of the *National Defence Act*,<sup>25</sup> contains service offences found in sexual misconduct cases, such as “disgraceful conduct” or

<sup>20</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 30 April 2018 (Nancy Taber).

<sup>21</sup> Ibid.

<sup>22</sup> CAF, *CLARIFICATION ON THE DEFINITION OF SEXUAL MISCONDUCT AND APPROPRIATE ADMINISTRATIVE ACTIONS*, CANFORGEN 049/19, 11 April 2019.

<sup>23</sup> The new definition of “Sexual Misconduct” in its entirety is available at: DND/CAF, *Operation HONOUR Manual: A Comprehensive Guide to Information and Resources on Sexual Misconduct (Interim Edition)*, April 2019, p. 3-4.

<sup>24</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 22 October 2018 (Witnesses B, C and D).

<sup>25</sup> *National Defence Act*, R.S.C., 1985, c. N-5.



“conduct to the prejudice of good order and discipline.”<sup>26</sup> The CSD is criminal and penal in nature; it includes “by reference, every offence under every federal act, such as the Criminal Code and other similar acts.”<sup>27</sup>

As Colonel (ret'd) David Antonyshyn, Deputy Judge Advocate General, Military Justice, explained:

A trial before a court martial is a criminal trial, even though it is called a disciplinary trial. What an employer calls discipline, we call an internal and administrative process. That is not what we mean when we refer to the Code of Military Discipline; we are referring to a trial with penal consequences.

The administrative measures that the Canadian Armed Forces may impose as an employer and that may include penalties such as a warning or release from the Canadian Forces, are part of a parallel process in the same way as when an employee is suspected of having committed theft and the employer may decide to institute proceedings against that person.<sup>28</sup>

Colonel-Maître (ret'd) Michel Drapeau, barrister and solicitor and adjunct professor in the Faculty of Law, University of Ottawa, argued:

Those accused of sexual crimes continue to be simultaneously charged with Criminal Code offences and Code of Service Discipline offences...Far too often this provides the offender with the opportunity to plea to a much lesser disciplinary offence and, in the process, evade the collateral consequences of a criminal conviction such as, inter alia, legal sanctions, restrictions, disqualifications, and a criminal record.<sup>29</sup>

The committee holds the view that the individuals affected by sexual harassment and violence in the CAF should be better protected from possible retaliation. The committee is aware that when an alleged attacker faces a summary trial, the trial could happen within the structure of the victim's unit and that, when an alleged attacker faces a court martial, the victim's unit is often made aware of the case.

The committee is mindful that a February 2018 Supreme Court of Canada ruling stated that:

[...] the trial judge committed the very error he had earlier in his reasons instructed himself against: he judged the complainant's credibility based solely on the correspondence between her behaviour and the expected behaviour of the stereotypical victim of sexual assault. This constituted an error of law.<sup>30</sup>

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<sup>26</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 30 April 2018 (Colonel-Maître (ret'd) Michel Drapeau).

<sup>27</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Col. (ret'd) David Antonyshyn).

<sup>28</sup> Ibid.

<sup>29</sup> Colonel-Maître (ret'd) Drapeau, *Sexual Assault in the Canadian Military: Is the Military Making Headway?*, brief submitted to SECD, 30 April 2018.

<sup>30</sup> Supreme Court of Canada, *A.R.J.D. vs Her Majesty the Queen*, 13 February 2018.

In other words, the ruling found that a victim's behaviour should not be used as a means of determining the victim's credibility or whether an act constitutes sexual assault; the evidence of the offence itself is what matters.<sup>31</sup>

C. Chief of Defence Staff Operation Order – Operation HONOUR

CDS Operation Order – Operation HONOUR, issued by the CDS for the coordinated execution of this operation, refers to harmful and inappropriate sexual behaviour (HISB) within the CAF.

According to the CDS Operation Order – Operation HONOUR, HISB includes but is not limited to:

actions that perpetuate stereotypes and modes of thinking that devalue members on the basis of their sex, sexuality, or sexual orientation; unacceptable language or jokes; accessing, distributing, or publishing in the workplace material of a sexual nature; offensive sexual remarks; exploitation of power relationships for the purposes of sexual activity; unwelcome requests of a sexual nature, or verbal abuse of a sexual nature; publication of an intimate image of a person without their consent, voyeurism, indecent acts, sexual interference, sexual exploitation, and sexual assault.<sup>32</sup>

Colonel-Maître (ret'd) Drapeau expressed some concern about this definition, explaining that:

What rankles is that according to Operation HONOUR sexual misconduct does not distinguish between the utterances of gauche, boorish or trite comments and violent sexual assault; all are considered as 'harmful behavior', and, all are treated as deserving of sanctions and adverse career consequences. In a perverse way, this banalizes 'sexual violence' per se.<sup>33</sup>

Witnesses such as Stéfanie von Hlatky, Associate Professor, Centre for International and Defence Policy, Queen's University, pointed out that certain enabling factors exist in the CAF work environment that contribute to the incidence of HISB within the institution:

One of the enabling factors recognized by both the literature and the data collected by the Deschamps investigation and the Canadian Armed Forces is that the tolerance of misogyny and of a sexist military environment leads to harmful behaviour for both individual members of the organization and the organization as a whole.<sup>34</sup>

<sup>31</sup> Leslie Mackinnon, "[Top court rejects use of sexual stereotyping in case of man who abused stepdaughter](#)," *Huffington Post*, 9 February 2018.

<sup>32</sup> Chief of the Defence Staff, [CDS OP ORDER – OP HONOUR](#), August 2015.

<sup>33</sup> Colonel-Maître (ret'd) Drapeau, [Sexual Assault in the Canadian Military: Is the Military Making Headway?](#), brief submitted to the Standing Senate Committee on National Security and Defence, 30 April 2018.

<sup>34</sup> SECD, [Evidence](#), 1st Session, 42nd Parliament, 30 April 2018 (Stéfanie von Hlatky).

## Part 2: OPERATION HONOUR

### A. Description of Operation HONOUR

Four years ago, the Chief of the Defence Staff, General Vance, launched Operation HONOUR to eliminate HISB within the CAF. Operation HONOUR was his response a few months later to the *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces*<sup>35</sup> by the Honourable Marie Deschamps [the Deschamps report]. Tasked in 2014 to conduct an independent external review of sexual misconduct and sexual harassment in the CAF, she found that there was “an underlying sexualized culture in the CAF” and that “[c]ultural change [was] therefore key.”<sup>36</sup>

Operation HONOUR has four lines of effort:

- Understand: “The CAF shall establish a clear understanding of what constitutes harmful and inappropriate sexual behaviour, the means to identify members who are in need of support, and improved reporting and assessment measures.”
- Respond: “The CAF shall institutionalize a cultural change, framed by clear direction and training for leaders on how to better direct and effect culture change throughout the institution.”
- Support: “The CAF shall provide support and better facilitate services to CAF members affected by harmful and inappropriate sexual behaviour including the establishment of a Sexual Misconduct Response Centre.”
- Prevent: “The CAF shall develop a unified policy approach to specifically define what constitutes harmful and inappropriate sexual behaviour in plain language, enhance education and training on harmful and inappropriate sexual behaviour, and establish an objective and enduring capability to measure performance and effect.”<sup>37</sup>

To implement Operation HONOUR, the DND/CAF created the Canadian Armed Forces Strategic Response Team on Sexual Misconduct. The team is currently led by Commodore Rebecca Paterson, but was previously led by Rear-Admiral Jennifer Bennett, who testified before the committee. This team focuses on policy, training and education, and performance management, and is also responsible for action plans and progress reports on HISB.<sup>38</sup>

On 5 March 2018, General Vance approved FRAG O 004<sup>39</sup> to institutionalize Operation HONOUR. In this fragmentary order, General Vance said he:

[...] intends to move Operation HONOUR from a strategic response to an institutionalized activity that integrates the extensive personnel policy changes stemming from SSE, and puts primacy on the dignity of the individual. This will begin with the reconfiguration and realignment of the CAF Strategic Response Team on Sexual Misconduct (CSRT-SM) to ensure Operation

<sup>35</sup> Hon. Marie Deschamps, *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces*, 27 March 2015.

<sup>36</sup> Ibid.

<sup>37</sup> DND/CAF, *CDS OP ORDER – OP HONOUR*, August 2015.

<sup>38</sup> DND/CAF, *CAF Strategic Response Team on Sexual Misconduct*, 28 April 2017.

<sup>39</sup> DND/CAF, *FRAG O 004*, 5 March 2018.

HONOUR has an enduring function supported by a permanent organization within the CAF. Concurrently, the development of a more deliberate approach to sustain culture change will begin to reinforce the foundational principles of Duty with Honour.<sup>40</sup> It will also and incorporate all of our other initiatives on diversity, inclusivity, health and wellness to ensure we have a culture of leadership, respect, and honour, and one that values our people, encourages resilience, and supports and cares for all members of the CAF.

The fragmentary order further states that:

there is a need for the CAF to review existing operational designs to ensure a long-term strategic institutional plan and clearly articulate measurable, short, medium, and long-term objectives for Operation HONOUR. The focus and reinvigoration of Operation HONOUR will set the conditions for the enduring change required to eliminate HISB. This will be achieved through the development of a formal campaign plan, which will define Operation HONOUR objectives and ensure that activities are fully coordinated and resourced. This campaign plan will replace the previously published “CAF Action Plan” issued in April of 2015 as the initial response to the Deschamps Report.<sup>41</sup>

Rear-Admiral Bennett also highlighted that Operation HONOUR should not just exist in a silo, but is rather intended as a strategic initiative implemented at all levels of the CAF:

Any form of sexual misconduct is a threat to the morale and operational readiness of the Canadian Armed Forces. It undermines good order and discipline, and it is unacceptable. For this reason, Operation HONOUR is a top institutional priority and will remain so indefinitely. Eliminating sexual misconduct requires the engagement and sustained effort of all members at all levels of the Canadian Armed Forces, and we have taken an operational approach that is using language and tools that are familiar to our members and relate to our core *raison d'être*, operational effectiveness, as well as our principles of team work, trust, respect and duty with honour.<sup>42</sup>

Associate Professor von Hlatky argued that Operation HONOUR aims to breed a culture of respect in the CAF, and linked this objective to the attainment of broader organizational goals, including operational effectiveness, as well as the recruitment and retention of women by the CAF.

It was a positive step when the Chief of the Defence Staff not only acknowledged the problem but launched Operation HONOUR, which stresses the importance of breeding a culture of respect while pointing out that a failure to do so undermines operational effectiveness. This link between the CAF and operational effectiveness seems to be the dominant hook not only in terms of Operation HONOUR but in terms of promoting the integration of women more

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<sup>40</sup> Manual produced by the CAF that fully defines the professionalism of Canada’s military.

<sup>41</sup> DND/CAF, *FRAG O 004*, 5 March 2018.

<sup>42</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Rear-Admiral Jennifer Bennett).

broadly. You see this as a rationale for recruitment efforts, retention efforts and the integration of women in the CAF.<sup>43</sup>

The committee is aware of the recent statement that a comprehensive campaign plan for Operation HONOUR is being developed, and that two of the plan's main components are victim support and an integrated national case management system.<sup>44</sup> In addition, the committee is cognizant that a cultural change strategy, informed by expert advice, is reportedly to be included in the CAF campaign plan.<sup>45</sup>

To date, several new initiatives have been implemented under Operation HONOUR, some arising from the recommendations of the Deschamps report. For example, a Sexual Misconduct Response Centre (SMRC) was established within the Department of National Defence in September 2015.<sup>46</sup> These initiatives are intended to provide support to CAF members affected by HISB for as long as they need it. In his testimony before the committee, General Vance stated that he ordered that:

all victims of sexual misconduct will remain in the Canadian Armed Forces so that they can keep accessing these services throughout their recovery, no matter how long it takes. If someone cannot continue their career with us, they will stay in uniform until all long-term support services are in place for their life outside the military.<sup>47</sup>

The committee heard from several other witnesses on Operation HONOUR. The following positive points were raised, among others. Associate Professor von Hlatky said that, since the launch of Operation HONOUR, CAF members have had better access to information on HISB through the CAF website and the Respect in the CAF mobile app, which provides research, information and tools on HISB. Associate Professor von Hlatky also noted that the training for leaders and witnesses has improved since the launch of Operation HONOUR.<sup>48</sup> She added that making the elimination of sexual violence a priority in Canada's defence policy, *Strong, Secure, Engaged*, and the focus on cultural change within CAF in recent years, are also improvements.<sup>49</sup> Maya Eichler, Assistant Professor, Department of Political and Canadian Studies, Mount Saint Vincent University, commended the work done by the many stakeholders within DND and the CAF to implement Operation HONOUR, as well as recent efforts to revitalize it.<sup>50</sup>

#### I. Use of Military Justice System

Witnesses appearing before the committee also levelled a number of criticisms. One was that the CAF relies on the military justice system to handle HISB cases. Colonel-Maître (retd) Michel Drapeau testified that he believes that the military police and courts martial lack:

<sup>43</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 30 April 2018 (Stéphanie von Hlatky).

<sup>44</sup> According to DND/CAF, the "campaign plan will be sent for review and approval by 1 October 2019." See: Office of the Auditor General of Canada, *2018 Fall Report*, "[Report 5–Inappropriate Sexual Behaviour–Canadian Armed Forces](#)," para. 5.63.

<sup>45</sup> Chief of Defence Staff, *CDS Intent – Operation Honour*, CAF, 21 December 2018.

<sup>46</sup> DND/CAF, *Sexual Misconduct Response Centre – Charter*, October 2017.

<sup>47</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 11 June 2018 (Gen. Jonathan Vance).

<sup>48</sup> For more information on current training initiatives and the Respect in the CAF mobile app, see the [April 2017 progress report](#), pp. 24–30.

<sup>49</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 30 April 2018 (Stéphanie von Hlatky).

<sup>50</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 30 April 2018 (Maya Eichler).

the kind of specialized expertise and independence from the chain of command to be truly effective. Both are also failing victims of sexual crimes by excluding them from the statutory protection provided to every other individual on Canadian soil under the Canadian bill of rights for victims of crime.<sup>51</sup>

He suggested that it would be better to return to the system in place prior to 1998, when CAF members who wanted to file complaints about HISB incidents could rely on the civilian justice system. Colonel-Maître (ret'd) Drapeau said that civilian courts have judges with training and experience on sexual crimes and police services have units made up of officers specifically trained to deal with sexual crimes. This is why the civilian justice system can handle these cases more effectively than the police and military courts, in his opinion.<sup>52</sup>

Other witnesses who have had dealings with the Canadian Armed Forces National Investigation Service, an independent unit of the Military Police, also noted shortcomings in the investigation process and in providing information to complainants.<sup>53</sup> On the subject of communicating information, the Auditor General of Canada also noted in his report that, given the requirements of the *Privacy Act*, the chain of command “did not tell victims whether administrative actions had been taken and why. In these cases, members may believe that no action was taken.”<sup>54</sup> According to the Auditor General, the CAF is aware of this problem and is looking for ways to address it.

Another problem identified by the committee concerns cases where a victim files an official complaint within the context of the chain of command, so that the incident is on the record for use in another case, or for other purposes. Filing an official complaint automatically triggers an investigation, regardless of whether the victim wants one. In an interview in December 2018, General Vance stated that a “new set of guidelines will be released shortly. They will say the duty to report sexual assault and harassment still exists, but what happens after a report is made will be done with the input of the victim.”<sup>55</sup> The committee notes that the duty to report remains in the Operation HONOUR Manual released in April 2019. The committee also understands that a new directive, DAOD 9005-1 on Sexual Misconduct Response, that contains further guidance on the duty to report will be promulgated soon.<sup>56</sup> In the interim, the committee acknowledges that recent policy direction in a CANFORGEN and the Operation HONOUR Manual issued in April 2019 appear to make greater efforts to direct the Commanding Officer to consult with the victim, however a complaint of sexual misconduct would still trigger either a police or unit investigation.<sup>57</sup>

General Vance has previously stated that CAF members who prefer their complaints to be dealt with through the civilian justice system have the opportunity to do so. He told the committee that, in the past year, 22% of charges laid by CAF members for incidents were handled by civilian courts.<sup>58</sup> Similarly, Colonel (ret'd) Antonyshyn stated that CAF members who have been affected by sexual assault and other sexual crimes can

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<sup>51</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 30 April 2018 (Colonel-Maître (ret'd) Michel Drapeau).

<sup>52</sup> Ibid.

<sup>53</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 22 October 2018 (Witnesses A and C).

<sup>54</sup> Office of the Auditor General of Canada, *2018 Fall Report*, “[Report 5–Inappropriate Sexual Behaviour–Canadian Armed Forces](#),” para. 5.58.

<sup>55</sup> Gloria Galloway, “[Top military general to revise plan to combat sexual misconduct amid push for better gender balance](#),” *Globe and Mail*, 17 December 2018.

<sup>56</sup> DND/CAF, *Operation HONOUR Manual: A Comprehensive Guide to Information and Resources on Sexual Misconduct (Interim Edition)*, April 2019, p. 35.

<sup>57</sup> Ibid, p.89; and CAF, *CLARIFICATION ON THE DEFINITION OF SEXUAL MISCONDUCT AND APPROPRIATE ADMINISTRATIVE ACTIONS*, CANFORGEN 049/19, 11 April 2019.

<sup>58</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 11 June 2018 (Gen. Jonathan Vance).



choose where to file their complaint. He said that there is no obligation to deal with civilian or military police forces; the choice is up to the victim.<sup>59</sup> However, the Honourable Marie Deschamps noted that, while victims have a choice in theory, in practice, most cases that go before civilian courts are domestic violence cases. She said that very few CAF members she met with filed HISB complaints in a civilian court.<sup>60</sup>

The committee is aware of a 19 September 2018 Court Martial Appeal Court ruling<sup>61</sup> that found that the current process of trying CAF members for serious crimes, such as murder and sexual assault, violates their rights under the *Canadian Charter of Rights and Freedoms*. The committee is also aware that the CAF had asked the Supreme Court of Canada to stay the decision, a request that the Supreme Court refused on 14 January 2019. According to some observers, this ruling leaves dozens of criminal cases currently before the military justice system, as well as the future of the system itself, in limbo.<sup>62</sup> The committee will continue to monitor this issue, including when the Supreme Court renders its decision on the appeal on the merits of the Beaudry case, which it heard on 26 March 2019.

## II. Resources

Some witnesses also commented on the lack of resources to adequately address sexual misconduct and violence in the CAF. For example, Assistant Professor Eichler deplored the insufficient resources for the implementation of Operation HONOUR initiatives. She told the committee that:

In my work with the military, I noticed that dealing with Operation HONOUR-related activities was often added to people's regular workloads, there was a lack of expertise on gender and sexual violence issues, and other more pressing operational issues tended to take priority.<sup>63</sup>

She added that, "without sufficient resources, expertise and personnel, that is, with the necessary support to actually implement Operation HONOUR, and without sufficient oversight from external forces, I don't think it is possible to ensure deeper change."<sup>64</sup>

In a similar vein, Associate Professor von Hlatky opined that:

I do think that a substantial increase in the amount of resources so that there is solid internal expertise and a mechanism to engage in a more sustainable manner with external sources of expertise would be very beneficial and potentially game-changing. That would be one of my main recommendations, because it's true that these types of tasks can't just be add-ons to existing roles and responsibilities.<sup>65</sup>

<sup>59</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Col. (retd) David Antonyshyn).

<sup>60</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Hon. Marie Deschamps).

<sup>61</sup> Court Martial Appeal Court of Canada, *Corporal R. P. Beaudry vs Her Majesty the Queen*, 19 September 2018.

<sup>62</sup> Lee Berthiaume, "[Court ruling raises questions about future of Canada's military justice system](#)," *Globe and Mail*, 28 September 2018; Murray Brewster, "[Cases adjourned, charges withdrawn as military struggles with constitutionality of courts martial](#)," *CBC News*, 5 December 2018; and Murray Brewster, "[Supreme Court rejects bid to block court ruling that left dozens of military prosecutions in limbo](#)," *CBC News*, 14 January 2019.

<sup>63</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 30 April 2018 (Maya Eichler).

<sup>64</sup> Ibid.

<sup>65</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 30 April 2018 (Stéfanie von Hlatky).

### III. Culture

Another criticism raised by a number of witnesses was the need to go beyond HISB prevention and complaints handling in order to change the organization's culture more deeply. Several recommendations were made to that effect. Assistant Professor Eichler believed that social and cultural barriers preventing women's full participation in the CAF need to be removed.<sup>66</sup> For Associate Professor Taber, cultural change is needed to change the "sexualized culture" of the CAF and to make the organization more flexible to meet the needs of women with children.<sup>67</sup> In the same vein, Associate Professor von Hlatky mentioned the need to change the misogynist and sexist culture of the CAF through a feminist overhaul of the military education and training system.<sup>68</sup>

Assistant Professor Eichler also commented on the aspects of military culture that create an environment conducive to sexual harassment and violence:

These include an emphasis on uniformity, hierarchy, obedience, as well as loyalty to the group and mission before self. It is both the gendered construction of soldiering and the structural features of military institutions that make them so prone to systematic sexual harassment and violence. I believe it is both of these aspects that need to be addressed in order to change the institution. Focusing on behavioural change or the recruitment of more women will not be sufficient.<sup>69</sup>

The committee is aware that the CAF is currently developing an Operation HONOUR campaign plan to be in effect by 31 July 2019, which will be informed by a "cultural change strategy" focusing on education and formal leadership training.<sup>70</sup>

### IV. External Oversight

Other witnesses raised the issue of a lack of external oversight with respect to Operation HONOUR's progress. Marie-Claude Gagnon, founder of the support group It's Just 700,<sup>71</sup> noted a lack of oversight and accountability with regard to Operation HONOUR. She said that the CAF progress reports "made an impressive list of commitments, but the status of these commitments is hard to find since the last progress report was over a year ago. This is despite the promise of quarterly reports." She also gave the example of the court martial review that was to be delivered by July 2017 but was only released in 2018 subsequent to journalists making access-to-information requests, remarking that "[t]his lack of follow-through and denial by the military is concerning."<sup>72</sup> To correct these shortcomings, Assistant Professor Eichler believed that there needs to be "External oversight and evaluation of the efforts that have been developed to address sexual misconduct in the Canadian Armed Forces."<sup>73</sup>

<sup>66</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 30 April 2018 (Maya Eichler).

<sup>67</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 30 April 2018 (Nancy Taber).

<sup>68</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 30 April 2018 (Stéphanie von Hlatky).

<sup>69</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 30 April 2018 (Maya Eichler).

<sup>70</sup> Chief of Defence Staff, *CDS Intent – Operation Honour*, CAF, 21 December 2018.

<sup>71</sup> On its [website](#), the group describes itself as a support group dedicated to current and past service members of the CAF who survived a work-related sexual trauma.

<sup>72</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Marie-Claude Gagnon).

<sup>73</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 30 April 2018 (Maya Eichler).

In the same vein, Associate Professor Taber said that creating an external body to assess the effectiveness of the measures put in place by Operation HONOUR is crucial.<sup>74</sup> The committee is aware that an External Advisory Council composed of eight public- and private-sector experts has been established, and that it held its inaugural meeting in the first quarter of 2018–2019. However, the committee regrets that the council, in its current form, is designed mainly to “provide independent, third party advice”<sup>75</sup> to the Deputy Minister and the CDS concerning their response to sexual misconduct, as well as to advise the Executive Director of the SMRC,<sup>76</sup> rather than give “an independent assessment of its response to inappropriate sexual behaviour,” as recommended by the Auditor General of Canada in his fall 2018 report.<sup>77</sup> The committee believes that this council or another body should have the ability and authority needed to conduct stringent external oversight.

## V. Data

Lastly, several witnesses said that they felt that DND/CAF should better collect and disseminate data on HISB within their organization, as well as on the progress made with Operation HONOUR. Rear-Admiral Bennett argued that “research and data collection, vigilance and diligence with respect to conduct are embedded across all levels of our institution.” She added that the CAF is using “the widest possible range of metrics, tools, types of evidence, data and engagement to measure the prevalence and scope of issues as well as the outcomes and impact of our efforts.”<sup>78</sup>

However, several witnesses believed that these efforts are insufficient. For example, the Honourable Marie Deschamps said that data on HISB allegations within the CAF are not centralized, a point also made by the Auditor General of Canada in his recent report on inappropriate sexual behaviour in the CAF.<sup>79</sup> In her view, studies are strongly related to data collection; it is impossible to conduct studies without sufficient data. She asserted that the SMRC has a role to play in collecting and centralizing data on allegations.<sup>80</sup> There are also areas where existing data appear to be contradictory, which may warrant the collection and evaluation of additional data. For example, according to Sanela Dursun, Director, Research Personnel and Family Support with DND/CAF, Statistics Canada’s November 2016 report on sexual misconduct in the CAF broke down sexual harassment cases by visible minority group and found no differences between these groups. However, she said that, in other research studies, “it’s not unusual to find that visible minorities are at greater risk, similar to LGBTQ2 members and members of other designated groups.”<sup>81</sup> The committee notes that the CAF is reporting the development of OPHTAS, the Operation HONOUR Tracking and Analysis System.<sup>82</sup> The database is supposed to facilitate the “detailed tracking of sexual misconduct incidents, from report to closure.”<sup>83</sup>

<sup>74</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 30 April 2018 (Nancy Taber).

<sup>75</sup> Sexual Misconduct Response Centre, *Annual Report 2017–2018*, p. 19.

<sup>76</sup> CAF, *Progress Report Addressing Sexual Misconduct*, 26 February 2019, p. 11.

<sup>77</sup> Office of the Auditor General of Canada, *2018 Fall Report*, “[Report 5–Inappropriate Sexual Behaviour–Canadian Armed Forces](#),” para. 5.120.

<sup>78</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Rear-Admiral Jennifer Bennett).

<sup>79</sup> Office of the Auditor General of Canada, *2018 Fall Report*, “[Report 5–Inappropriate Sexual Behaviour–Canadian Armed Forces](#),” para. 5.113.

<sup>80</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Hon. Marie Deschamps).

<sup>81</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Sanela Dursun).

<sup>82</sup> House of Commons, Standing Committee on National Defence [NDDN], *Evidence*, 1st Session, 42nd Parliament, 11 April 2019 (LGen Paul Wynnnyk).

<sup>83</sup> CAF, *Progress Report Addressing Sexual Misconduct*, 26 February 2019, p.17.

In terms of the evaluation of the progress achieved with Operation HONOUR, Assistant Professor Eichler said that “there has been no independent evidence-based research conducted on the various initiatives that have taken place as part of Operation HONOUR to assess their efficacy.” She also noted the delay in producing a progress report on Operation HONOUR since the release of the third report in April 2017.<sup>84</sup> It is therefore clear that reports on the progress of Operation HONOUR have not been produced with the frequency expected by stakeholders. The SMRC’s annual report, which covers the 2017–2018 fiscal year, was released on 3 October 2018.<sup>85</sup> A fourth progress report on Operation HONOUR was released on 26 February 2019, 22 months after the publication of the previous progress report. The results of a Statistics Canada survey on sexual misconduct in the CAF are expected to be published in May 2019.<sup>86</sup>

## B. Sexual Misconduct Response Centre

In the report by the Honourable Marie Deschamps following her *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces*<sup>87</sup> in 2015, she made a recommendation to:

[c]reate an independent center for accountability for sexual assault and harassment outside of the CAF with the responsibility for receiving reports of inappropriate sexual conduct, as well as prevention, coordination and monitoring of training, victim support, monitoring of accountability, and research, and to act as a central authority for the collection of data.<sup>88</sup>

A centre was created in September 2015. The SMRC’s executive director, Dr. Denise Preston, describes it as follows:

as part of the Department of National Defence and independent from the chain of command, the Sexual Misconduct Response Centre ensures the provision of timely, compassionate and comprehensive support to Canadian Armed Forces members affected by sexual misconduct, while working in partnership with the CAF to increase understanding, improve preventive measures and enhance the response to sexual misconduct.<sup>89</sup>

Under the Centre’s charter, which was “signed off to replace the initial interim mandate letter and define their roles and responsibilities”<sup>90</sup> in October 2017 and which should be updated by the end of the 2018–2019 fiscal year,<sup>91</sup> the Centre participates in the:

<sup>84</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 30 April 2018 (Maya Eichler).

<sup>85</sup> DND/CAF, *Sexual Misconduct Response Centre Releases Its Second Annual Report*, 3 October 2018.

<sup>86</sup> Statistics Canada, *Survey on Sexual Misconduct in the Canadian Armed Forces (SSMCAF)*.

<sup>87</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Rear-Admiral Jennifer Bennett).

<sup>88</sup> Hon. Marie Deschamps, *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces*, p. 36.

<sup>89</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 11 June 2018 (Denise Preston).

<sup>90</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Rear-Admiral Jennifer Bennett).

<sup>91</sup> Office of the Auditor General of Canada, *2018 Fall Report*, “[Report 5–Inappropriate Sexual Behaviour–Canadian Armed Forces](#)”, para. 5.40.

[d]evelopment, delivery, management, and evaluation of victim support services in the CAF to ensure timely, comprehensive, consistent, evidence-based services delivered by SMRC and internal partners.<sup>92</sup>

The Centre also supports the “chain of command in responding to sexual misconduct through the provision of advice, information, and expertise,” and advises “the CAF on the nature of sexual misconduct and its impact on CAF members as a means of facilitating the development of education, training, policy, and support services.”<sup>93</sup>

Just over 1,000 individuals have contacted the Centre since its creation.<sup>94</sup> The Centre provides 24-hour service to the following members, no matter where they are in the world: members of the Regular Force; members of the Primary Reserve; members of the Supplementary Reserve; members of the Cadet Organizations Administration and Training Service; and members of the Canadian Rangers.<sup>95</sup> Veterans do not have access to the Centre’s services.

According to the Honourable Marie Deschamps, the “centre that has been created is not even a shadow of the centre I outlined in my report.”<sup>96</sup> Ms. Gagnon, of the support group It’s Just 700, believed “support is inadequate. The Sexual Misconduct Response Centre provides a hotline that redirects victims to services. That is not a centre, and that is not support.”<sup>97</sup>

The committee notes that, among CAF members who contacted the SMRC in the past two years, there were more members of the chain of command (37% in 2017–2018 and in 2016–2017) than members who were affected by some form of sexual misconduct (29% in 2017–2018 and 31% in 2016–2017).<sup>98</sup> The committee wonders whether, in practice, the SMRC meets the needs of the chain of command more than those of individuals directly affected by some form of sexual misconduct.

The fact that the Centre is still only doing “groundwork and engaging in research”<sup>99</sup> to determine the unique needs of LGBTQ2 clients and the type of interventions needed has surprised the committee. The committee also notes that the Centre does not offer alleged victims medical leave or publicly supported legal services. It is also problematic that the Centre’s mandate does not include any mention of accountability for the chain of command, as outlined above.

Rear-Admiral Bennett said that the SMRC “continues to evolve”<sup>100</sup> and acknowledged that the CAF hasn’t “completely implemented all of the Deschamps report. The three [recommendations] that are remaining have to do with the SMRC, what they would be responsible for and the reporting relationship.”<sup>101</sup>

<sup>92</sup> DND/CAF, *Sexual Misconduct Response Centre – Charter*, October 2017.

<sup>93</sup> Ibid.

<sup>94</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 11 June 2018 (Denise Preston).

<sup>95</sup> DND/CAF, *Sexual Misconduct Response Centre – Charter*, October 2017.

<sup>96</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Hon. Marie Deschamps).

<sup>97</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Marie-Claude Gagnon).

<sup>98</sup> Sexual Misconduct Response Centre, *Annual Report 2017-2018*.

<sup>99</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 11 June 2018 (Denise Preston).

<sup>100</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Rear-Admiral Jennifer Bennett).

<sup>101</sup> Ibid.

Regarding the Centre's mandate, General Vance said that "the service required, at arm's length, by the Armed Forces was such that the SMRC's mandate needed to grow to more fully accomplish the recommendations of the Deschamps report."<sup>102</sup>

The committee notes the current intention to make the SMRC "the 'authoritative voice' on all aspects of victim support and advocacy from the time incidents take place until victim needs have been fully supported and addressed."<sup>103</sup>

A case management function is also envisioned, with a "tracking system following the victim through all those processes so that the victim liaison assistant is, at all times, interfacing with various parties in the system on behalf of the victim, making sure time frames are met and that appropriate follow ups are done, et cetera."<sup>104</sup> The committee notes that the SMRC reports that "an enhanced Response and Support Coordination program", or case management service, is currently in development.<sup>105</sup>

C. Other forms of support available to current and former CAF members affected by sexual misconduct and their families

According to the CDS Operation Order – Operation HONOUR, one of the lines of effort is support, specifically that the "CAF shall provide support and better facilitate services to CAF members affected by harmful and inappropriate sexual behaviour including the establishment of a Sexual Misconduct Response Centre (SMRC)."<sup>106</sup>

The committee is aware that, outside of the initiatives led by the SMRC, current and former CAF members affected by sexual misconduct do not have access to care or programs specifically designed to treat this type of injury and/or trauma. Ms. Gagnon summarized the situation by saying that support is inadequate.<sup>107</sup>

Various witnesses told the committee about the challenges they faced as they tried to access treatment after experiencing sexual misconduct.<sup>108</sup> They talked about the weeks that went by before they could meet with a psychologist. They mentioned that the psychologist was a civilian since the CAF does not have uniformed clinical psychologists. They said that they had participated in group therapy, either in civilian groups or in groups composed mainly of CAF members of the same sex as their abuser, which caused them anxiety.

One witness said that some organizations, like Women Warriors Healing Garden and Project Trauma Support, offer more targeted initiatives but the costs of participation are not covered by the CAF or Veterans Affairs Canada.<sup>109</sup>

Like this witness, the committee believes that current and former CAF members affected by sexual misconduct deserve as much support as CAF members and veterans who have been injured or traumatized as a result of

<sup>102</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 11 June 2018 (Gen. Jonathan Vance).

<sup>103</sup> Office of the Auditor General of Canada, *2018 Fall Report*, "[Report 5–Inappropriate Sexual Behaviour–Canadian Armed Forces](#)", para. 5.40.

<sup>104</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 11 June 2018 (Denise Preston).

<sup>105</sup> NDDN, *Evidence*, 1st Session, 42nd Parliament, 11 April 2019 (Denise Preston).

<sup>106</sup> Chief of the Defence Staff, [CDS OP ORDER – OP HONOUR](#), August 2015.

<sup>107</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Marie-Claude Gagnon).

<sup>108</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 22 October 2018 (Witnesses A, B and C).

<sup>109</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 22 October 2018 (Witness B).



their service, including in combat. The committee also deems that support services should be available for the families of these members when they express a need for them.

As well, the committee notes the high proportion of active CAF members affected by sexual misconduct who have been released for medical reasons, including mental health reasons. One witness said that career guidance, and work accommodation measures and guidance, would greatly assist more of these members to continue their career within the CAF if they chose to do so.<sup>110</sup>

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<sup>110</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 22 October 2018 (Witness A).

## CONCLUSION

The launch of Operation HONOUR three years ago suggests that senior members of the CAF take sexual harassment and violence issues seriously, and are genuinely committed to addressing this issue. Witnesses who appeared before the committee said that, because of Operation HONOUR, CAF members have better access to information on HISB and that training for leaders and witnesses has been improved. These initiatives have helped to sensitize CAF members regarding the need to prevent and identify HISB, and to better respond when cases are observed or reported. CAF members affected by HISB also have new, but limited, options for support and services through the measures put in place under Operation HONOUR, including the creation of the SMRC.

However, the testimony heard by the committee also suggests that the measures put in place to date fall short of what is required, and that further work remains to be done. For example, some witnesses were critical of the terminology used by the CAF, particularly in regard to the narrow scope of the definitions used by the CAF for terms such as “harassment.” Others raised concerns about the lack of external oversight with respect to the progress made by Operation HONOUR. Several witnesses also expressed the need to go beyond HISB prevention and complaints handling in order to change the organization’s culture more deeply. A number of witnesses said that DND/CAF should better collect and disseminate data on HISB within their organization. Some witnesses criticized the insufficient resources to implement Operation HONOUR initiatives. Finally, the SMRC was the subject of numerous criticisms, including from the Honourable Marie Deschamps, who said that the Centre is “not even a shadow” of the Centre she outlined in her report.<sup>111</sup> Issues concerning the quality and timeliness of support received by current and former CAF members affected by sexual misconduct and their families were also discussed.

Although progress has been made in recent years, the recommendations of the Deschamps report have not been fully implemented and work remains to be done to resolve the issue of HISB. Based on the evidence gathered during its study, the committee makes the eight recommendations to the Government of Canada that are found at the beginning of this report.

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<sup>111</sup> SECD, *Evidence*, 1st Session, 42nd Parliament, 28 May 2018 (Hon. Marie Deschamps).

## APPENDIX A – ACRONYM LIST

CAF: Canadian Armed Forces

CDS: Chief of the Defence Staff

CSD: Code of Service Discipline

DAOD: Defence Administrative Orders and Directions

DND: Department of National Defence

ERA: External Review Authority

FRAGO: Fragmentary Order

HISB: Harmful and Inappropriate Sexual Behaviour

LGBTQ2: lesbian, gay, bisexual, transgender, queer and two-spirit

SMRC: Sexual Misconduct Response Centre

VCDS: Vice Chief of the Defence Staff

## APPENDIX B – LIST OF WITNESSES

<b>Monday April 30, 2018</b>	
<i>As individuals</i>	<p>Colonel-Maître (retd) Michel Drapeau, Senior Counsel, Michel Drapeau Law Office</p> <p>Maya Eichler, Assistant Professor, Department of Political and Canadian Studies, Mount Saint Vincent University</p> <p>Nancy Taber, Associate Professor, Department of Undergraduate and Graduate Studies in Education, Brock University</p> <p>Stéphanie von Hlatky, Associate Professor, Centre for International and Defence Policy, Queen's University</p>
<b>Monday May 28, 2018</b>	
<i>As an individual</i>	The Honourable Marie Deschamps, C.C.
<i>National Defence and the Canadian Armed Forces</i>	<p>Rear-Admiral Jennifer Bennett, Director General, Canadian Armed Forces Strategic Response Team on Sexual Misconduct</p> <p>Sanela Dursun, Director, Research Personnel and Family Support</p> <p>Col. (retd) David Antonyshyn, Deputy Judge Advocate General, Military Justice</p>
<i>It's Just 700</i>	Marie-Claude Gagnon, Founder
<b>Monday June 11, 2018</b>	
<i>National Defence and the Canadian Armed Forces</i>	<p>General Jonathan Vance, Chief of the Defence Staff</p> <p>Denise Preston, Executive Director, Sexual Misconduct Response Centre</p>
<b>Monday, October 22, 2018</b>	
<i>As individuals</i>	<p>Witness A</p> <p>Witness B</p> <p>Witness C</p> <p>Witness D</p>



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