



ADDRESSING SEXUAL MISCONDUCT IN THE CAF

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In the past number of years, a great deal has been learned about the degree to which sexual harassment, abuse and assault of women has been pervasive within our society. At the individual level, the impacts can be, and often are, devastating and of long standing, particularly when there seems no viable means to address the harm. Thankfully, and with greater acknowledgement of the issue, much work has been undertaken to address the problem. At the institutional level this has, in some cases, had a massive impact as organizations have been compelled to not only consider the degree to which the problem impacts their operations but that their cultural foundations may be significantly contributing to it. This has been the case with the Canadian Armed Forces (CAF). Their response to it has been significant but has also been fraught with difficulties and setbacks. It thus demands ongoing and determined efforts to create a safe and productive environment in which the contribution of every member is valued and of which Canadians can again be justifiably proud.

The issue of sexual misconduct in the CAF became more generally recognized and indeed a matter of institutional consideration in the late 1980s, coinciding with the progressive removal of restrictions on the employment of women, including those in combat trades and occupations. Although attempts were made to address it, these were generally ineffective and incidents of improper and sexually-motivated behaviour continued to be reported. From the mid-1990s, greater emphasis was placed on early training and mentorship programmes, with education being seen as the appropriate means to address the issue. Significant structural change was not considered as being necessary and the problem was still managed within the hierarchical system of the military and with the proactive involvement of the chain of command. Policy guidance was developed, but the emphasis remained upon a “duty of care,” with implementation primarily focused on the unit/tactical level. Some progress was made but again it was inadequate, particularly in relation to the developing societal understanding of the extent of the problem of violence against women. Much greater understanding and public attention was being paid to this issue, and in conjunction with that reports of sexual misconduct within the CAF continued to multiply.

In 2014, Gen Tom Lawson, the Chief of Defence Staff (CDS), concerned at the extent of the problem but uncertain as to its full scope, initiated the process for an independent, external investigation. This was conducted by Former Supreme Court Justice Marie Deschamps who delivered her report the following year. The report identified an underlying, sexualized culture within the military, that the problem of sexual misconduct was both under-reported and insufficiently addressed, and that training was ineffective. Broad policy change was recommended, and coincident with the arrival in office of the new CDS, Gen Jonathan Vance, the order was issued to initiate OPERATION HONOUR,¹ with the goal to eliminate improper sexual behaviour in the CAF, the impact of which was considered to pose an existential challenge to the institution. As stated, “[a]ny attitudes or behaviours which undermine the camaraderie, cohesion and confidence of serving members threatens the CAF’s long-term success.”²

It was intended that action to address sexual misconduct would proceed in four broad areas – understanding the problem, supporting the victim, responding to the allegation, and preventing recurrence. Significantly, it was acknowledged that to achieve these aims would require modification of the traditionally-accepted culture of the military, and thus direct strategic-level engagement on the issue. In support of this effort, broad structural change was envisioned in order to: increase understanding and vigilance at all levels of leadership; modify harmful behaviours; and, improve support for CAF members affected by sexual misconduct.

As a result, several institutions/agencies were established over the following couple of years. To enhance understanding and support, a Sexual Misconduct Response Centre (SMRC) was created to provide counselling and advice, and agencies providing Victim Support Services (VSS) were expanded. Similarly, to prevent and respond to misbehaviour, a CAF Strategic Response Team on Sexual Misconduct was created at the national level, as was an Action Response Team (SMART) within the Directorate of Military Prosecutions. On the front line of investigations, Sexual Offence Response Teams (SORTs) were established within the Military Police Branch and dispersed at regional offices across the country. Extensive data management processes were also developed. Standardized collection, reporting and tracking systems for sexual misconduct were established, as were complaint management systems, one to simplify the process and the other to enable the tracking of complaints, through to resolution.

Implementing the recommendations of the Deschamps Report was imposing an enormous administrative burden upon the CAF, but to large degree it seemed that the measures adopted were having a progressively positive impact in its fight against sexual misconduct, and in achieving the necessary culture change that entailed. There had been only one substantive measure proposed by Madame Deschamps upon which there had been no progress, that being the engagement of civilian agencies in addressing the issue of sexual misconduct. The programme for change remained firmly within the chain of command and dependent upon the steadfast commitment of military leadership to its success. However, in the early 2000s that commitment was being called into question by a series of allegations of sexual misconduct on the part of the most senior officers in the institution.

Most damning, given their unique military responsibilities, were those against two CDSs, made in short order early in 2021. One was against Gen Vance, the initiator and the identified champion of OPERATION HONOUR, and another and unrelated allegation against his successor, Adm Art McDonald. The shock of the accusations and the perceived extent of wrongdoing shook the confidence of the public, and indeed of those within the CAF working to bring about meaningful change. That the outcome of these cases proved to be very different was unfortunately lost in the understandable backlash of criticism against the military and its ability to change.

Relatively new to appointment as CDS, Adm McDonald, upon learning of the allegations against him in January 2021, voluntarily recused himself from office, believing it appropriate to do so in order to ensure investigative independence from the chain of command – the very issue that would later become a central recommendation of a future independent review of CAF procedures. He was indeed investigated and it was concluded that there were no grounds to proceed with charges, either of a criminal nature or in relation to professional conduct. McDonald was replaced as CDS. However, this was not for any sexual impropriety but rather in publicly advocating for re-instatement. By comparison, the investigation into allegations of sexual misconduct by Vance did result in the laying of a charge of obstructing justice. His guilty

plea not only acknowledged his own culpability but did material harm to the programme of reform initiated under OPERATION HONOUR and with which he was so intrinsically connected.

Dramatic change was initiated almost immediately upon Vance's conviction and sentencing. In March, the incumbent CDS, Gen Wayne Eyre, moved to terminate the operation, identifying it as having culminated. He noted that despite the numerous initiatives, misconduct persisted in the CAF and that sufficient culture change had not been achieved. The institution was thus set on "fundamentally new approaches to address the root causes of all forms of systemic misconduct, which includes sexual misconduct."³ In April, the position of Chief of Professional Conduct and Culture was established at the LGen/VAdm level with the mandate to unify and integrate all associated culture change activities across the Department of National Defence (DND) and the CAF. As well, a second external review into sexual harassment and misconduct in the Canadian military was initiated under the leadership of another Former Supreme Court Justice, Louise Arbour, this some six years after the first.

Madame Arbour's report was released in May 2022 with recommendations ranging from issues of recruitment, training and the role of the Military Colleges, to the mandate and responsibilities of the SMRC, to the functions of both internal and external oversight mechanisms, and to the jurisdiction of the CAF over criminal sexual offences.⁴ The report was tabled in parliament in December 2022 by Minister of National Defence, Anita Anand, with assurances that the most critical recommendations were already being actioned and that all 48 of them would be. The year 2023 has thus seen the recommitment of government, of DND and the CAF to the issue of addressing sexual misconduct. Thankfully, there has been some pause of late in the public reporting of cases of misconduct, and in that space one would expect that measures were taking effect to bring meaningful change to the military culture and create a safer and healthier working environment.

There is no doubt that doing so demands will and commitment but also the resources and energy to manage an enormously complex and bureaucratic process. This task has been both difficult for the military to come to grips with, and equally difficult to address. It has been the work of a generation and it must succeed. Recent commentary on recruiting failures and of persistent problems of retention have highlighted the shortfall in numbers of military personnel, and of the perilous state of readiness of the CAF. The need to attract more Canadians to service in uniform is acute. To do that, the institution must regain the confidence of Canadians that those who join will not be subject to a workplace that demeans or harms them, that allows and indeed encourages the reporting of misconduct, and that appropriately investigates and addresses the allegations. Successfully addressing the issue of sexual misconduct within the CAF, and of convincing Canadians of that success, is a critical challenge.

Notes

¹ OPERATION HONOUR, available at <https://www.canada.ca/en/department-national-defence/services/benefits-military/conflict-misconduct-honour/about-operation-honour.html>

² Ibid.

³ CDS Directive for the Termination of OPERATION HONOUR, dated 9 May 2022, available at <https://www.canada.ca/en/department-national-defence/services/benefits-military/conflict-misconduct/sexual-misconduct/orders-policies-directives/cds-directive-termination-of-operation-honour.html>

⁴ Update on Madame Arbour's Independent External Comprehensive Review Final Report and Culture Change Reforms in the Department of National Defence and Canadian Armed Forces to Address Sexual Misconduct, available at <https://www.canada.ca/en/department-national-defence/news/2022/12/update-on-madame-arbours-independent-external-comprehensive-review-final-report-and-culture-change-reforms-in-the-department-of-national-defence-an.html>