



EXTERNAL MONITOR REPORT

Fifth Status Report – June 27, 2025

June 27, 2025

The Honourable David J. McGuinty, P.C., M.P.
Minister of National Defence
National Defence Headquarters
Major-General George R. Pearkes Building
101 Colonel By Drive
Ottawa, ON K1A 0K2

Dear Minister McGuinty,

In accordance with the terms of reference for my engagement as external monitor, I am pleased to provide you with my fifth biannual report, in both official languages.

Sincerely,

Jocelyne Therrien

Enclosure: External Monitor Report – Fifth Status Report

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Introduction

1. In 2022, former Justice Louise Arbour provided her final report on sexual misconduct in the Canadian Armed Forces to the Minister of National Defence. It is referred to as the Independent External Comprehensive Review (IECR) report and it contained 48 recommendations that focused on reforming the “institutional shortcomings and structural impediments” that had allowed the problem to persist.
2. The IECR recommended that an external monitor be appointed to review progress made by the DND/CAF in response to the report’s findings and conclusions and report publicly on the results bi-annually. This is the fifth status report.
3. In my previous reports, I described the work accomplished to date. While all recommendations have been actioned, not all have reached the point of full implementation. Some changes will be ongoing over the years as corporate monitoring takes place and adjustments are made.
4. I believe that one of the critical paths, that of choosing members for leadership roles based on their moral integrity, has been duly integrated in the CAF’s processes. Furthermore, leaders who seek to set their team up for success are able to get assistance such as coaching and leadership advice. This, alongside the variety of culture-related learning opportunities available to all, is creating momentum. We will know in a few years if these tactical changes coalesce into a safer, more respectful workplace.
5. One of the biggest challenges for the CAF is the lack of integrated data to assist in gaining a clearer picture on the current state, both in terms of understanding the extent and nature of the problem and in terms of how well the institution is responding to situations where sexual misconduct has occurred. For example, there are numerous redress mechanisms used by the CAF to deal with misconduct, the results of which are captured in disparate systems. The CAF has recently brought structural changes to the harassment complaints process that could, in time, create a useful repository of information for the CAF.
6. Another important milestone has been recently met in the introduction of a probationary period for recruits. This is serving a double purpose for the CAF: a more effective onboarding of recruits and a more efficient removal of new members who do not meet the ethical standards of the CAF. Decision authorities have been delegated to the training establishments in order to streamline the process.
7. The response from all individuals that are contributing to the process for which I am responsible has been positive. As stated previously, there is a sincere willingness to make things better. Sometimes the difficulty is in bringing it all together strategically such that the most critical contributing elements are prioritized.

8. Overall, the CAF needs to ensure that policies and procedures and accountability mechanisms are lined up such that the organization's reaction to sexual misconduct, when it does occur, is coherent and consistent.

Findings

The importance of defining what constitutes unacceptable behaviour

9. Several IEGR recommendations point to the need for more clarity on how inappropriate conduct is defined in CAF policies. Former Justice Arbour proposed that the CAF abolish the term “sexual misconduct” and instead focus on sexual assault, sexual harassment and personal relationships/fraternization. She noted that the “current” state created confusion regarding “how to navigate the system, particularly where conduct may fall into several categories, and prevents clear and predictable routes for redress.”
10. Former Justice Fish, in his 2021 review of the military justice system (IR3), also emphasized the need for a refinement of what constitutes a service offence within the *National Defence Act* (NDA), referencing specifically the vagueness of NDA section 129(1) as it currently stands: “From the perspective of CAF members’ ability to adapt their behaviour to the applicable rules, a clear statutory prohibition is also preferable to a prohibition contained in a massive and constantly-changing body of regulatory and administrative measures.” He therefore recommended the creation of new, more specific service offences for sexual misconduct and hateful conduct.
11. A CANFORGEN¹ was issued last summer to communicate that the DND/CAF, going forward, would move away from the term “sexual misconduct” and would instead refer to the following:
 - conduct deficiencies of a sexual nature (acts not punishable under the *Criminal Code*);
 - harassment of a sexual nature; and
 - crimes of a sexual nature, referring to sexual assault and all other sex offences included in the *Criminal Code*.
12. The CANFORGEN also specified that the term “sexual assault” be defined as any “intentional, non-consensual touching of a sexual nature,” as recommended in the IEGR. By doing so, the CAF is adopting the distinction that the courts have reinforced in recent years that such behavior is clearly a criminal offence and should be treated as such. Furthermore, jurisprudence regarding workplace safety has emphasized that there is no lower end of the spectrum whenever there is non-consensual touching of a sexual nature.²
13. These definitions are deemed to be in force while the many updates to policies are effected, including several Defence Administrative Orders and Directives (DAODs). The CAF’s “Sexual and Gender-Based Violence Spectrum” is also used to inform CAF

¹CANFORGENS (Canadian Forces general messages) are messages about important changes from CAF leadership, and they are applicable to all CAF members.

²AG Growth International Inc. v. Dupont, 2021 ABQB 663. See also Court of Appeal – Render v. ThyssenKrupp Elevator (Canada) Limited, 2022 ONCA 310.

members about the range of behaviours that are part of a healthy work environment and those that are not. It has been updated to reflect the changes in terminology. The CAF has recently added a Hateful Conduct Spectrum to its suite of information tools. It also clearly explains the type of behaviour that crosses the line to become a criminal act. Both are easily accessible on the DND/CAF intranet.

14. Regarding harassment specifically, both former Justices Deschamps and Arbour had serious concerns about how the CAF was dealing with harassment amongst members. The IECR thus recommended that the CAF adopt the *Canada Labour Code* definition to be more in line with current practice in other federal departments and with Canadian Human Rights Tribunal case law. The DND/CAF has just recently done so, thereby fulfilling the intent of this recommendation. This alignment is now reflected in an updated DAOD and policy manual.
15. This is a significant change for CAF members. Up until recently, the process revolved around necessarily meeting each of six criteria in order to establish harassment.³ This resulted in a complicated exercise that may have led to genuine harassment situations going unreported or being determined to be unfounded. The *Canada Labour Code* definition is much simpler and, as a whole, focuses more on identifying and addressing workplace issues in order to prevent similar occurrences in the future.
16. Furthermore, members can now go directly to a central authority to report harassment if they wish to bypass the chain of command. This option, along with a simplified definition, may in fact lead to more complaints. This, in my view, would be a positive sign, meaning that inappropriate behaviour is now more likely to be reported.
17. The Conflict Services group has undertaken several initiatives to familiarize CAF members with the new process, including recent information sessions for senior leaders and town hall sessions for other staff. So far, close to 3,000 members, across various levels and ranks, have participated. These sessions will continue for some time, including those targeting staff at the CAF's numerous Conflict and Complaint Management Services (CCMS) centres who serve as local service coordinators on harassment issues. Capacity at NDHQ has been increased in order to accommodate an anticipated increase in demand.
18. A corollary benefit to this new process is that the CAF will be able to accumulate better data on incident occurrence and monitor how cases are concluded. This should assist in more effective senior leadership visibility on the issues, trends and trouble spots. Up

³1) improper conduct by an individual; 2) individual knew or ought reasonably to have known that the conduct would cause offence or harm; 3) if the harassment does not relate to a prohibited ground of discrimination, the conduct must have been directed at the complainant; 4) the conduct must have been offensive to the complainant; 5) the conduct may consist of a series of incidents, or one severe incident which had a lasting impact on that complainant, and 6) the conduct must have occurred in the workplace.

until now, the CAF did not have reliable data regarding harassment in the workplace that involved CAF members.

19. Finally, in terms of better defining unacceptable behavior, former Justice Arbour raised concerns about the CAF's policy on personal relationships. In December 2022, then Minister Anand committed to modifications to the current policy that would address the issues with the extant policy as highlighted by both former Justice Arbour and former Justice Deschamps in 2015.
20. It was agreed that the DND/CAF would, for example, create an administrative presumption that, when the relationship is not properly disclosed, the relationship should be considered to be an adverse personal relationship and that the onus to rebut the presumption would fall onto the more senior member whenever there is a difference in rank. The specific DAOD on personal relationships has been reviewed in light of the recommendations made in 2015 and more recently in 2022. It remains under revision.
21. Many of the recommendations coming from external reviews over the years have led to the need for substantive policy and regulatory adjustments. The CAF is struggling to keep up with the tempo of these changes. DND/CAF policy documents stipulate in great detail what it expects from its members. Therefore, changes to one DAOD generally create a substantial domino effect. The wording and intent must then be replicated in a series of other related policy and guidance documents. This is a massive undertaking considering the density of policies and guidelines that has been created over time dealing with a wide range of activities from permissible hair length to removing someone from command.
22. So, there is volume to contend with. But there are, in my opinion, other compounding factors. I note that CAF members who are trained for military duties are often involved in writing policy. While I would agree that the military nexus of most policies necessarily requires the input of military experience, it remains that policy writing and administration is a specialty that requires another type of knowledge and experience. The fact that members are on a rotation schedule adds to the predicament. Several policies that I have reviewed seem unnecessarily long and complicated. I see this as problematic because members who deal with misconduct at the unit level must have incisive guidance on how to proceed.
23. As highlighted in a previous report, I believe it would be worthwhile for the DND/CAF to invest in a "whole-of-enterprise" view to its policy framework. It would need to systematically assess what needs to be in a regulation and, from there, which policy instrument and/or guidance instrument is best suited to deal with the intent. This higher-level view would conceivably lead to more coherence between regulations and policy instruments. This is not easy to do when one is constantly reacting to external pressure to create or modify the rules. In my view, it would be an error to continuously repeat the process that is currently in use without a more interconnected network.

24. DND/CAF has recently created a centralized regulatory group to oversee the development of all regulatory proposals and amendments and advise senior management on priorities. One of the objectives is “to ensure strategic alignment.” I see the need for a similar process for DAODs. And, ideally, governance over these two streams would be connected, if not the same, in order to continuously assess the interdependencies.
25. There needs to be a top-down approach that supports senior leadership visibility of the whole. The Chief of Military Personnel’s (CMP) Military Personnel and Policy Integration group, which oversees a very large number of the CAF’s policies, has been focused on balancing its own suite of policies and leveraging best practices in policy development. Some of that work could be used to provide the conceptual framework that would ensure that the DND/CAF is more deliberate and strategic in its policy-making activities.

A meaningful range of victim services and assistance

26. Several recommendations from the reports by both former Justices Arbour and Fish refer to the work of the Sexual Misconduct Support and Resource Centre (SMSRC). For example, both recommended the need for victim access to free legal advice. This recommendation has been implemented. The first phase consisted of reimbursements to individuals having incurred legal expenses. The program has since progressed. The SMSRC now has a full-time legal resource dedicated to dispensing information and assistance to victims who request this service.
27. The next phase of the program contemplates, as recommended, compiling a roster of civilian lawyers that would be able to provide assistance in multiple locations across Canada. The program would provide for a direct payment to lawyers, thereby sparing victims the need to pay upfront. A request for offers is planned for January 2026.
28. Both former justices also spoke about the need to protect the independence of the centre vis-à-vis the DND/CAF. IECR recommendation 18 stipulates that the administrative structure of the SMSRC be reviewed in order to increase its independence and effectiveness. I identified this as an ongoing issue in my previous report. Attempts were made during the last several years to stabilize both the financial situation and the administrative structure of the centre, but there had been little actual progress.
29. There has been some improvement since last fall. For example, the executive level positions have since been made permanent. However, work remains on the rest of the organizational structure. I gather that this is underway. This is important because it allows the centre’s leadership to permanently staff positions, build expertise and provide continuity for its clients.

30. In terms of financial stability, the Chief Operating Officer of the centre confirms that most expenditures are now part of a baseline budget, as opposed to year-by-year increments that were being provided by the DND/CAF in the past. This includes funding for the Peer Support Program and the Grants Program that provides direct services within communities across Canada.
31. One of the SMSRC's programs is the Restorative Engagement initiative, which stems from the Heyder-Beattie final settlement agreement. Class members who wish to participate have various options for engagement, including meeting with DND/CAF leaders to talk about their experiences. The objective for Defence representatives is to acknowledge, listen and learn. I call attention to this program because it gives victims a voice and, just as importantly, it has the distinct potential to inform the organization about the root causes of the problem and to inform policy making.
32. So far, 2,154 claimants and 286 Defence representatives have completed their participation in the program. The DND/CAF's Review Services group is currently undertaking an evaluation of the program's relevance, effectiveness and efficiency.
33. One of the most critical policy changes in recent years for the CAF in terms of sexual misconduct has been the 2024 repeal of the duty-to-report (DTR) regulations that once created a legal obligation to report any wrongdoing. DTR had been criticized by external reviewers and stakeholders as a barrier to reporting. Changes to the regulations were announced last year in a CANFORGEN.
34. The CANFORGEN explains that the repeal seeks to put the victim's needs before those of the organization. The goal is to create an environment that does not actually prohibit the chain of command from investigating misconduct but "encourages members to consider the needs of the victim or affected person before doing so, while using a trauma-informed approach." It allows a CAF member the ability to discuss their situation with other members of the CAF and receive support services without necessarily triggering a formal investigation.
35. The CANFORGEN also announced that the Chief Professional Conduct and Culture (CPCC) would develop a workplan to "address policy alignment, training, performance measurement, and the need to prescribe mandatory reporting for specific circumstances." The working group would also focus on addressing other potential barriers to reporting. Many policies and guidance documents are impacted by the repeal of the duty to report, along with related elements within CAF training material. These all need to be reviewed.
36. I note that some of the follow-on changes have been made. For example, the Respect in the CAF (RitCAF) application and some of the ethics-based scenarios have been updated, as has the Misconduct Incident Management Decision Tool. The training material

covered in the Victim Liaison Officer program has also been modified in accordance with the repeal. The working group plans to ensure that the “inventory” of required changes is coordinated and tracked.

37. Considering that the repeal represents a major shift in direction, the CAF may wish to review whether or not the principles evoked in the CANFORGEN are clearly understood, especially by those tasked with disciplinary functions. This may determine the need for further guidance and/or adjustments. Determining if there are other barriers to reporting is also worth pursuing.

Military Justice

38. Another significant shift occurred when former Justice Arbour recommended that the CAF no longer hold concurrent jurisdiction over *Criminal Code* sexual offences. This change has been reflected in Bill C-66 that was presented by the Minister to Parliament last spring.⁴ The intent is to formally remove the ability of the CAF to investigate and prosecute any crime of a sexual nature.

39. Late in 2021, the DND/CAF put in place procedures to transfer cases to the provinces, which took into consideration the choice of the victims. So far, 242 cases have been referred to civilian police, 58 of which were declined. The Canadian Forces Provost Marshal (CFPM) confirms that 308 were not transferred mainly because the victims preferred to remain within the military justice system or the victim was not interested in proceeding with a criminal investigation at the time of reporting.

40. A working group was recently created to develop a protocol between the Office of the CFPM and that of the Ontario Solicitor General. The group is developing a framework that could serve as a model for other provinces. It includes representatives from various civilian police forces, Ontario government officials, provincial victim services, Military Police and the SMSRC.

41. The group is currently working out the details on an approach to accommodate information-sharing back to the CAF for disciplinary or administrative purposes. I am told that there may be an agreement by the summer. This is conceivably one of the most critical paths in the process. Whether or not a criminal investigation results in prosecution, the CAF must be able to address the matter through its internal processes. This requires them to have access to information from the civilian justice system.

Military education and professional development

42. On the topic of military training and education, the IECR concluded that “despite the abundance of doctrinal and training materials, events have demonstrated that ethical education in the CAF continues to fall short of its objective.” As a result, former Justice Arbour reiterated former Justice Deschamps’ concerns and recommended that the CAF

⁴Bill C-66 also includes changes to the military justice system that were recommended in the 2021 Fish report.

use better, more interactive, teaching methods, incentivize instructor positions at the early training schools, and ensure a more rigorous screening of instructors, both for competence and character.

43. The Canadian Defence Academy (CDA) is the lead for CAF professional development. Along with CPCC subject matter experts, a continuum of training and education related to conduct and culture was developed. It drives the learning events that should be delivered to the different ranks at different periods of their career. Efforts are ongoing in terms of ensuring that the major leadership programs that the CAF offers remain anchored in modern leadership concepts. For example, the distance learning portion of the Primary Leadership Program is being revised and will be piloted later this summer. The Intermediate Leadership Program will shortly be undergoing validation testing to ensure that the content remains relevant and has been internalized.
44. The DND/CAF's Review Services, in response to a recommendation by former Justice Fish, have recently assessed several CAF programs. These assessments, which will be covered in an upcoming evaluation report, examined the design, delivery and effectiveness of four military justice and grievance modules. The reviewed programs include the Victim Liaison Officer program, the Military Justice at the Unit Level program and grievance-related information delivered to recruits and assisting members. Findings from the report and recommendations for improvements will be provided to those responsible for the programs.
45. While the quality of the training material and the methods used are critically important, the skill set and moral integrity of the instructors are even more so. During their reviews, both former Justices Arbour and Deschamps had heard that the instructors did not necessarily have the right background, or right attitude, making culture-related training nothing more than a check in the box. This issue is being addressed on several levels.
46. The CDA conducts Character-Based Leadership (CBL) workshops for instructors based on interactive exercises and on progressive leadership tenets in keeping with the CBL model developed by the Ivey Business School.⁵ Many instructors from the Canadian Forces Leadership and Recruit School have attended the workshop, and I am told that the feedback has been very positive. Participants leave the workshop with "practical implementation tools for leadership training." Other instructors from CAF's numerous training establishments are also receiving this type of training, meant to give them support in their role as teachers of CBL.
47. In my last status report, I described the work being done to ensure a better selection of instructors. A screening tool has been developed to provide for a more structured approach in approving nominations to training establishments. Those that are selected

⁵For more information regarding the CAF's application of CBL, see a March 2025 article in Forbes Magazine.

are expected to continue with their own professional development through the CAF's Instructor Development Program, which provides three progressive levels of training. The CAF believes that this approach is preferable to potentially creating a new trainer/educator/instructor occupation within the CAF (IECR recommendation 24).

48. I believe that right-fit postings to training positions are a priority for the CAF. However, it remains complicated with so many competing priorities caused by the lack of personnel. Several years ago, in order to create an incentive, the CAF modified its approach by attributing to teaching positions the same scoring level (for promotion purposes) as that of a deployment. The other issue is that accepting a teaching role often entails negative financial implications. The CAF is looking for ways to raise the profile of these postings and to reduce disincentives.
49. CPCC also offers a series of learning events that are geared to supporting its leaders in developing their skills as managers of people, including coaching sessions with feedback based on personal psychometric assessments, and conflict management courses. In my opinion, anyone looking to become a better leader in the CAF has ready access to modernized, interactive didactic materials and training sessions.

The military colleges

50. The IEGR raised significant concerns about the DND/CAF's two military colleges. As a result, it was recommended that:
 - a review be conducted to determine the benefits, disadvantages and costs for both the CAF and more broadly, of continuing to educate officer cadets at the military colleges;
 - the Cadet Wing responsibility and authority command structure be eliminated (the DND/CAF had decided to include this practice within the scope of the board's review);
 - CPCC engage with both colleges to address long-standing issues; and
 - the exit survey be adapted to capture cadets' experiences with sexual misconduct or discrimination.
51. The Board that was struck to review the colleges, consisting of five external experts and two Defence Team representatives, recently submitted its report to the Minister. It was released in March by the Minister's office noting that the report would enable the DND/CAF to make meaningful changes and investments. The report contains 49 recommendations that cover a wide range of matters, such as costs, governance, the quality of the curricula, and the attributes required of college leaders.
52. The Board did not recommend the elimination of the Cadet Wing authority structure but agreed with former Justice Arbour that it had created unintended effects and required significant modification. Hence, the Board suggested several changes, including that of removing all authority—and all appearance of authority—to impose corrective

measures or loss of privileges, in order to ensure that no cadet has disciplinary authority, real or perceived, over another cadet.⁶

53. The DND/CAF is mapping out the recommendations. Some have already been actioned while others can only be addressed through long-term budget/infrastructure planning. It is anticipated that it will take several years to fully address the majority of the recommendations. One of the recommendations made by the Board was that the Deputy Minister and the Chief of the Defence Staff establish a team to “enable the implementation of these recommendations, within the framework of a sequenced, time-bound and measurable Implementation Plan,” and for the Minister of National Defence to publish an annual report on the state of implementation.
54. In the interim, the survey that was developed in 2022 in response to the IECR is administered yearly to students in every year of its program. It is a valuable source of information. The third such survey has been recently launched. Since its inception, the results of the survey have been discussed with students and college staff in town hall discussions. The college leadership has responded with action plans to address the issues raised. These are monitored by the CDA.

A shorter recruitment process and early release of unsuitable candidates

55. Recommendations 20, 22 and 25 focus on making the recruitment process more efficient while simultaneously enabling a more thorough assessment of the suitability of recruits. The IECR described the recruitment process as cumbersome and largely unable to get the right people in the door in a timely manner. The recommendation was to restructure and simplify recruitment, enrolment and basic training.
56. Numerous initiatives to the onboarding process have been undertaken recently. In response to the IECR, the CAF has created a probationary period for its recruits for both the Regular Force and the Primary Reserve. Its objective is to improve the CAF’s performance on two fronts:
 - Supporting a more efficient process whereby medical, suitability and security requirements can be assessed post recruitment.
 - Timely removal of recruits who demonstrate behaviors and attitudes that do not coincide with the CAF ethos.
57. Structural changes were required in order to accommodate this, and the use of probation for new members was launched last December. The CAF introduced a modified statement of understanding (SOU) that is to be signed by recruits acknowledging their agreement that “during the probationary period... my observance of CAF standards of professional conduct will be closely monitored and evaluated. Failing to meet any of these standards may result in my release from the CAF.”

⁶See CMCRB Recommendations 31–38 (2025).

58. The CAF has also recently changed the authorities required for releasing an unsuitable recruit. The training establishments, through conduct boards, are now more directly involved in the decision to release a member who has yet to reach fully trained status or what is referred to as the “operational functional point” (OFP).
59. The Board that reviewed the military colleges also saw the need for a more direct process for releasing unsuitable cadets, stating that the commandants of the colleges were best positioned to authorize the release of a recruit for unacceptable conduct, rather than awaiting a review from a central authority. This represents a significant change within the CAF’s authority structure.
60. According to the new policy, the unit responsible for military careers at National Defence Headquarters will be monitoring and collecting data on releases during the probationary period. Information and knowledge gleaned from these outcomes will be useful in determining whether adjustments are required and whether or not the objective is being achieved.

A more systematic approach to promoting the right people

61. Several recommendations of the IECR focus on ensuring that future leaders of the CAF are selected based on complete information, with more of a focus on character alongside competency and performance. While acknowledging that the CAF had taken positive steps to improve the selection of its leaders, the IECR recommended that:
 - there be an external review of the evaluation tools currently used for general officer/flag officer (GOFO) promotions, and that the use of these tools be extended to other ranks;
 - formal and systemic disclosure of past or current misconduct be included in the performance evaluation process;
 - succession planning boards consistently and systematically consider misconduct via an incident review list; and
 - a misconduct sheet be prepared for candidates being considered for promotion to the ranks of LCol/Cdr and above, and to the ranks of CWO/CPO1.
62. The CAF has since issued a “past conduct deficiency” form that is now in use for promotions to the ranks of LCol/Cdr and above and to the rank of CWO/CPO1. The form requires a review of the member’s personnel file and conduct sheet by the commanding officer (CO), who will then certify to the absence or presence of convictions or remedial or disciplinary measures. The related CANFORGEN states that selection boards will use the information to determine readiness to perform at the next rank.
63. The CAF has also introduced a screening form that candidates being considered for promotion to the ranks of CWO/CPO1 and LCol/Cdr and above and/or for command appointments must submit. In it, they must certify that they are not subject to any

administrative or disciplinary action, and that they do not have a conviction for a civilian offence. In terms of accounting for conduct deficiencies in the performance evaluation process, the CAF indicates in its guidelines that authors must assess the member's conduct both on and off duty as either "acceptable" or "unacceptable."

64. IECR recommendations 33 and 34 refer to the CAF's use of psychometric assessments and 360-degree reviews to assist in the evaluation of individuals seeking promotions to higher ranks. It was recommended that these tools be assessed by an external expert annually "with a view to their progressive refinement," and that results be reported to the Minister. This review has yet to take place. The CAF is in the process of establishing its next contract for psychometric tools. This could potentially result in a change of instruments being used going forward.
65. So far, the use of the psychometric tools has been extended to promotions to the Col/Capt (Navy) ranks in the Regular Force. I have been informed that, once the contract capacity to expand further is in place, the use of psychometric assessments and 360-degree reviews will be expanded to the ranks recommended in the IECR. The CMP has recently engaged the service of individuals who can assist in the analysis of the information that results from the expanded use of these instruments to assess a member's suitability for promotion.
66. Since 2021, the CAF has reiterated its interest in promoting those who can be most instrumental in the quest for culture change. At this point, one could say that some of the key elements are in place. It is clear that a more robust collection and documentation of misconduct, over a member's entire career, is a crucial first step. The ability to ensure that this information is factored in performance evaluations and promotions will be the determining factor.
67. Considering the current inability to proceed to an external review of its assessment tools at this time, the CAF may wish to consider providing the Minister with whatever assurance it can that the process in place is achieving the desired results. This could, for example, include a synopsis of cases where results of the assessment tools or the external independent interview have led to individuals not being put forward for promotion.

A more proactive succession planning apparatus

68. Several IECR recommendations referred to the need for a modernized approach to ensuring that the right people are in the right place from year to year. This requires a longer-term planning horizon. The IECR contained several recommendations regarding succession planning, noting that the policies and practices varied widely amongst the environments and branches and that there was a lack of clear guidance. Former Justice Arbour noted that progress had stalled in recent times regarding the promotion of women and their representation at higher ranks.

69. The CAF is planning a series of activities that aim to achieve equity for women. For example, it is establishing promotion goals for women for different ranks within each military occupational group. These will be promulgated in the CAF’s 2025–2028 Employment Equity Plan that is anticipated for the fall. CPCC plans to develop reporting mechanisms to measure progress towards meeting the goals.
70. The IECR also recommended that succession boards for certain ranks include a civilian member outside of the DND/CAF. The CAF has opted for a different approach whereby succession boards will now include both a “non-affiliated” CAF member from a different Level 1 organization or command—and at a rank equal to or higher than the board members—as well as a civilian Defence Team member with a position just below the executive level, or higher. This configuration of members is deemed mandatory and is reflected in its new policy on talent management and succession planning.
71. Finally, the IECR recommended that the universality-of-service policy be reviewed “through a GBA+ lens.” The CAF has recently released its new policy. It is the result of several years of work. An external subject-matter expert was consulted throughout the process to provide advice regarding the GBA+ analysis. While the policy emphasizes the operational need to enforce minimum standards, it also states that the CAF will provide support to enable members to meet the standards while they are temporarily unable to do so. This is an important feature that may help the CAF retain some of its members who are temporarily “unqualified.”

Organizational response to occurrences of sexual misconduct

72. The new probationary period that is being applied to recent recruits has the potential to effectively deal with conduct issues early on. As stated earlier, the CAF now has a more streamlined method of extricating those who are unable to abide by the CAF’s ethical standards. This process applies to anyone who has yet to reach the OFP. Hopefully, the message will be clear: only those who can conduct themselves professionally merit a place in the CAF.
73. Once the probationary period is over, there are other avenues of redress, including: summary hearings, courts martial, and administrative reviews. Administrative reviews are the process by which the CAF determines “the viability of a CAF member’s continued service” due to a conduct deficiency.
74. Recommendation 6 of the IEGR proposed a review of sexual misconduct cases where the central authority has determined, after an assessment of the facts, that the member should be “retained without career restrictions” (RWCR), even though the COs may have recommended a release. The review was led by a quality assurance expert from the Public Service Commission. A team of internal specialists assisted in the review, consisting of departmental civilian professionals from such fields as labour relations, review services and victim services.

75. After reviewing over 80 case files,⁷ the team recommended several improvements:

- Changes to the decision-making framework, including the use of a spectrum of severity and corresponding chart of consequences. For example, transgressions at the higher end of the spectrum such as *Criminal Code* sexual offences (child pornography, sexual assault, etc) would fall in the realm of a presumptive dismissal. Cases dealing with transgressions at the lower end of the spectrum would then be dealt with via less severe consequences.
- Changes to the structure of decision-making. The review team recommended a board that would include an expert in administrative decision-making, an expert in sexual misconduct, and the member's CO.
- Changes to the mechanics of the process in order to introduce a more robust case management system and standardized access to information held by police forces and prosecution offices. The protocol being developed by the CFPM and the Ontario Solicitor General's office regarding the transfer of cases to the civilian justice system could be instrumental in this regard (see "Military Justice" section of this document).

76. The DND/CAF is currently planning several changes to the framework surrounding a member's release from the CAF. For example, the review of the facts would be conducted by a board that would include the member's chain of command. Other changes are being contemplated, including the introduction of a scale of severity from which decision makers could determine the most appropriate outcome, including release for the more serious offences.

77. If the CAF wishes to modernize its conduct process, it could start by familiarizing itself with superior court judgements and appeal tribunal decisions related to sexual misconduct over the last ten years. In reviewing these judgements, I note a clear trend towards supporting dismissal for any sexual touching in the workplace. Much of it is based on the following logic:

- Any sexual harassment that involves non-consensual touching of a sexual nature is unequivocally defined as sexual assault; and sexual assault is a *Criminal Code* offence.⁸
- The mere existence of a corporate policy that prohibits sexual harassment is sufficient warning to an individual such that there is no need for a pre-emptive official warning. Furthermore, there is no necessity to forewarn an employee that any criminal act is grounds for dismissal.
- The fact that similar cases in the past were dealt with through administrative measures other than dismissal no longer carries any weight.

⁷The review sample consisted of 50 RWCR files covering the period 2015–2021. Other cases were reviewed, including samples covering a different timeframe or a different decision.

⁸Other sexual *Criminal Code* offences include, for example, sexual offences against children, voyeurism, child pornography and procuring sexual services.

- Workplace safety legislation emphasizes the employer's legal obligation to provide a safe workplace, including one that is free of harassment and discrimination. Releasing someone from employment is part of the range of measures available to employers in order to achieve that goal.

78. Changes made in 2021 to the *Canada Labour Code* created a significant shift in how workplace safety is viewed in Canada. This, combined with rapidly evolving case law surrounding sexual harassment within the context of one's employment, has put the focus on the employer's obligations. I would suggest that the inherent value of remedial measures has become less relevant in many cases as the overriding factor becomes the maintenance of a work environment that is harassment-free for everyone, not only for the affected individual. Not releasing in some instances can lead to liability claims.⁹ In the past, transfers were viewed as a viable solution, separating victims and respondents. Today, there is a moral imperative to factor in that the employees in the receiving unit are now being exposed.

79. One of the concerns raised in the 2021 Fish Report was the apparent inability of the CAF to impose disciplinary measures on reservists at all times. This stems from limitations on when reservists are subject to the Code of Service Discipline under the NDA. According to the report, this was viewed as a problem by many senior leaders. Former Justice Fish recommended that a working group be struck to review this matter, especially as it relates to sexual misconduct and hateful conduct, "and make recommendations on means of reform." Considering the large number of reservists within the CAF, this issue needs to be addressed. The CAF needs a better understanding of the scope and nature of the problem.

Input/oversight to guide best practices

80. Several IECR recommendations focused on the need to bring in other expertise as a way to modernize business and management practices. For example, former Justice Arbour recommended that the CAF increase the number of secondments to other government departments and to the private sector for some of its senior leaders so as to broaden their experience. A framework for secondments is currently being developed.

81. The input of external researchers was also considered valuable. Recommendations were made to consult the academic community about facilitating external research. This consultation led to changes to internal policies. The CAF has created a database of its own research regarding sexual harassment and misconduct, diversity, inclusion, and culture change that researchers and members of the public can request. CPCC confirms that this database is updated periodically, as required.

⁹See, for example, the 2024 decision under British Columbia's *Police Act*, which concluded that retaining the respondent would amount to negligence on the part of the employer.

82. The IECR also recommended a more deliberate role for both the Canadian Human Rights Commission (CHRC) and the Military Grievances External Review Committee (MGERC). Both organizations are well positioned to inform the CAF of issues that may have become more prevalent or systemic. The external perspective provided by both the CHRC and MGERC can be informative in terms of structural obstacles to culture change.
83. In response to IECR recommendations, the CAF has removed the obligation for individuals to exhaust internal complaint mechanisms before having access to the CHRC. The CHRC has thus far received 83 complaints related to sexual harassment or discrimination. Some of these are still at various stages of the process but, as of last month, 29 files had been concluded. The commission has recently changed part of its process to increase its efficiency and more rapidly deal with the complaints.
84. For grievances related to sexual misconduct, as recommended in the IECR, CPCC has been identified as the initial authority. CPCC relies upon the subject-matter expertise of the SMSRC when reviewing these cases. If the grievance is not resolved at the initial authority level, it is referred to MGERC. From April 2024 to April 2025, 24 cases have been referred. Summaries of the files that have been concluded are presented on the MGERC website.
85. Former Justice Arbour also spoke of input that could be provided internally, indicating that the CAF was not taking advantage of the expertise that resides within the civilian core of the department. She highlighted the area of human resource management as an example. All told, the CAF is probably much less insular than it was 20 years ago. However, more can be done. The discussion earlier in this report on policy development offers another example. And, in terms of conduct redress, I believe that the CAF would gain by adding a labour relations/employment law focus to its deliberations as to who should remain as a member of the CAF.

Conclusion

86. In my estimation, from all of the changes that I have surveyed these last two years, it seems that the CAF is on track to meeting the intent of all IEGR recommendations by the end of this year, as planned.
87. Many changes have taken place since former Justice Arbour began her review in 2021. The CAF has modernized its doctrinal core documents, reconfirming its values and its commitment to upholding those values. It has consulted broadly, both internally and externally, to understand the nature of the problem. It has adopted the Character-Based Leadership model, which emphasizes the individual's character when evaluating or promoting members. It continuously provides opportunities for supervisors to better themselves in terms of optimizing their value as a leader. It also has a network of restorative and conflict-management services, which can assist in better understanding and addressing root causes. The foundation is becoming increasingly solid.
88. However, in many instances, there are more steps to complete to make those changes an integral part of the way forward. For example, much work remains to ensure a consistent flow-through in CAF policies and guidance manuals so that the values can be supported concretely. The constant change brought about by external pressure has added turbulence to a process that was already, in my view, quite problematic. The newly established regulatory unit offers a potential solution. But, as with all good ideas, it will require a lot of up-front work to make it viable. Ideally, the CAF's regulatory/policy suite would be refined in a way that addresses duplication and misalignment between instruments and reflects strategic priorities.
89. Then there is the clarity of the message. It goes without saying that using unambiguous terminology to define what constitutes unacceptable behaviour is the unconditional first step. I believe that there has been much progress in that regard. IEGR recommendations related to terminology and definitions have all been actioned. This should assist in dealing with the confusion described by former Justice Arbour, both for those administering investigations, complaints and grievances, and for the victims.
90. I also believe that the system change brought about earlier this year regarding the adoption of the *Canada Labour Code* harassment definition will lead to much-needed restructuring regarding complaints by CAF members. The process in use up until recently was much more complicated for CAF members than the process in place for the rest of the public service. The alignment is now complete. This should bring more consistency in how harassment is handled in the CAF. Furthermore, the leadership will finally have a better picture of the situation by virtue of the data that the system now has the capacity to generate.

91. Accurate data is obviously a crucial element for any organization that seeks to evolve. Change management is difficult without information that provides details about the elements that constitute the problem. This impacts the ability to monitor and to accordingly adapt policies and programs. It is currently impossible to know how well complaints are being addressed across the enterprise.
92. The issue for the CAF is that data related to different types of misconduct are scattered across numerous databases that have been built over the years. CPCC is working on creating an integrated database that will capture all elements of misconduct. It is a vast undertaking. If it gets to the point where it can systematically compile the outcomes of the various redress mechanisms, the CAF will be in a much better position to determine whether or not the results of individual conduct reviews stack up in a way that supports the culture change that the CAF seeks.
93. It has been said that the misconduct issues that have plagued some organizations, including the CAF, are the product of a culture that is largely misogynistic, creating a work environment that allows or even encourages unprofessional conduct to persist. The DND/CAF is putting a lot of effort into dismantling that environment. What remains is the matter of individuals who are unable to internalize the CAF ethos once the “system” has corrected its course.
94. The CAF’s probationary period that has been recently introduced for recruits represents a helpful tool for the CAF. If that system works as it should, some recruits will be invited to look for another career before reaching their fully trained status. The visibility at the unit level that this will create will be very valuable to the CAF.
95. Decisions rendered by higher courts and tribunals clearly demonstrate that jurisprudence around workplace-related sexual misconduct has evolved significantly over the last 10 years. Now, more than ever, any type of non-consensual touching of a sexual nature within the context of one’s employment is likely to lead to dismissal, even for a single event and even if there are mitigating factors.
96. A recent examination of the administrative review process that is used to determine one’s viability for continued service has led to recommendations for improvement. These are being addressed. The plan going forward will need to factor in the evolution in case law. These decisions provide useful guideposts for commanding officers, including consideration of the “public interest” element. Once again, as with the probationary period, decisions to release as part of a unit-level process will bring much needed visibility to the CAF’s determination to exclude from its ranks those who cannot abide by its ethical standards. And, increased visibility goes hand in hand with increased accountability.
97. In Canada, workplace safety—an environment free of harassment and discrimination—is increasingly viewed as an enshrined right, reflecting views held by civil society. For

organizations like the CAF, the impact of unprofessional conduct that goes unchecked can bring discredit both from within its ranks and externally, and can affect its ability to deliver on its mandate.