



EXTERNAL MONITOR REPORT

Third Status Report – May 8, 2024

May 8, 2024

The Honourable Bill Blair, P.C., C.O.M., 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 Blair:

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

Sincerely,

Jocelyne Therrien

Enclosure: External Monitor Report – Third Status Report

Contents

Introduction..... 1

Third Report Findings..... 3

 Clarifying definitions and related policies..... 3

 Military Justice: Eliminating concurrent jurisdiction for criminal code sexual offences 4

 Administrative reviews related to the release of members for misconduct..... 5

 Complaints about sexual harassment and gender-based discrimination..... 5

 Grievances regarding sexual harassment and gender-based discrimination 5

 Duty to report as a barrier to reporting..... 6

 Victims’ rights and services..... 7

 The Sexual Misconduct Support and Resource Centre..... 7

 A shorter recruitment process, and assessment and early release of unsuitable candidates 8

 Military training and professional education..... 9

 Royal military colleges 9

 Performance appraisals, promotions and succession planning..... 10

 Medical releases 11

 Input and oversight..... 12

Conclusion 14

External Monitor Report – Third Status Report

Introduction

1. In accordance with Recommendation 48 of the Independent External Comprehensive Review (IECR) by former Justice Louise Arbour, I am required to provide an assessment of the Department of National Defence and Canadian Armed Forces (DND/CAF) progress with respect to the implementation of IECR recommendations and to provide a bi-annual status report to the Minister. This is the third status report.
2. In 2021, former Justice Arbour was asked to review matters of sexual misconduct within the DND/CAF. In 2022, she presented her findings to the Minister of National Defence (MND). Her mandate was to:
 - shed light on causes;
 - identify barriers to reporting;
 - assess adequacy of response when reported; and
 - suggest ways to prevent and eradicate harassment and sexual misconduct.
3. The IECR focused on a broad range of issues, including for example the DND/CAF's handling of complaints, the military justice system, administrative means to address misconduct, recruitment, the use of a probationary period, the CAF's performance appraisal and promotion process, succession planning, and the role of the Royal Military Colleges.
4. Prior to the IECR, the DND/CAF was the subject of several other reviews that had resulted in other recommendations related to misconduct:
 - *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces*, Marie Deschamps, 2015
 - *Inappropriate Sexual Behaviour – Canadian Armed Forces*, Office of the Auditor General, 2018
 - Final Settlement Agreement of the Heyder-Beattie class actions, 2019
 - *Report of the Third Independent Review Authority of the National Defence Act*, Morris Fish, 2021
 - *Report of the Minister's Advisory Panel on Systemic Racism and Discrimination*, 2022
5. In my first status report I had concluded that the DND/CAF needed a strategic, principle-based framework that would map out how the organization was planning to address the many recommendations stemming from these external reviews, prioritizing those that would bring about the fundamental changes required for culture evolution. At that time, I noted that there had been some prioritization, but that it was within distinct DND/CAF organizations, whereby the agenda was driven mainly by availability of resources and capacity issues versus an institutional, enterprise-wide prioritization based on a clear set of principles.

6. The DND/CAF has since produced a multi-year plan that shows dates by which recommendations will be implemented. This plan will be made public soon. While some might be disappointed at the length of time required to make some of the required changes, at least it establishes milestones that the Deputy Minister, the Chief of Defence Staff and the Minister of National Defence have endorsed, assuring a top-level accountability. Closely aligned to the plan is the Culture Evolution Strategy (CES), which delineates the role that each level of the organization must play for the strategy to succeed. I note that the CES confirms that performance measurement will focus on outcomes as opposed to the completion of activities. In the past, the CAF's tabulation of completed activities instead of measuring results has been cited as one of reasons for the apparent failure of previous efforts at culture change. While measuring outcomes is not an easy task, it is crucial when it comes to change management.
7. In my second status report I reiterated that the level of commitment to culture change was very high but that some of the internal processes presented a major impediment to timely progress. The fact that policy changes take years to action is detrimental to bringing about the structural and mindset changes required.
8. In this report I am commenting on the stage reached regarding the implementation of IECR and, in some cases, related recommendations from the other reports listed above. As such, it can be interpreted as a report card on progress so far, two years following the release of the IECR report.
9. My observations and conclusions are based on interviews and the review of documentation, policies and data. I meet regularly with the individuals responsible for implementation to enquire about incremental changes that have taken place since the last report. Once again, I would state that there is a strong desire to bring about the change that will reestablish trust in the CAF as a professional, inclusive workplace. But there is still a lot of work to accomplish, including the alignment of data sets that will support a better analysis of the situation and performance reporting.

Third Report Findings

Clarifying definitions and related policies

10. Recommendations 1 to 4 from the IECR focus on definitions related to matters of sexual misconduct and the clarity with which the CAF is communicating to its members what constitutes prohibited conduct.
11. First, it was proposed that the term ‘sexual misconduct’ be abandoned as it did not sufficiently distinguish between what is a crime versus a form of harassment and other prohibited activities. It was therefore recommended that all relevant policies should be more specific as to what constitutes sexual assault and sexual harassment—making reference to the *Criminal Code* for sexual assault and to the *Canada Labor Code* for sexual harassment. In terms of defining sexual assault, the IECR added that the CAF should define sexual assault as “intentional, non-consensual touching of a sexual nature.”
12. How the CAF defines conduct in policy is fundamental. The IECR concluded 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.” Clarity in terms of what is deemed as inappropriate behaviour arguably represents the first step in eradication. Former Justice Fish, in his 2021 review of the military justice system, 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. He recommended the creation of new, more specific, service offences for sexual misconduct and hateful conduct.
13. The DND/CAF has undertaken the revision of several policy instruments and guidance tools in response to the IECR. This includes the Defence Administrative Orders and Directives (DAOD) 9005-1, which is the current overarching policy that defines unacceptable conduct and how the organization is to respond to allegations of inappropriate sexual behaviour. The policy itself will be supplemented by detailed instructions and an updated Sexual Misconduct Spectrum. The Spectrum serves as a user-friendly reference that spells out, in plain language, some of the concepts relevant to this topic, such as the fact that a power imbalance is a common feature that can affect the ability of the affected person to expressly indicate that the sexual conduct is unwelcome. The Spectrum provides a comprehensive listing of what constitutes a safe, inclusive workplace, unacceptable conduct and then, finally, criminal acts. The suite of guidance will be rolled out over the summer, including a Canadian Forces General Message (CANFORGEN) on the revised definitions.
14. The IECR also recommended changes to the definitions surrounding personal relationships, repeating concerns raised in 2015 by former Justice Deschamps, who stated that the policies needed to be clarified in terms of relationships between members of different ranks when that relationship is not disclosed. In her appearance before the Standing Committee on the Status of Women in 2021, former Justice Deschamps stated: “The organizational structure of the Canadian Armed Forces is the reason behind an inherent risk of abuse of power.” The specific DAOD on personal relationships has been reviewed in light of the recommendations of both

former Justices. I understand that the latest draft is undergoing consultations, but the plan is to seek initial endorsements in two separate committees, in May and then July.

15. In terms of harassment, it is anticipated that the alignment of policies to the Canada Labour Code will be finalized in the fall. The IECR emphasized the point that the CAF should be subject to the same rules on harassment (which includes sexual harassment) as the rest of the public service. In 2015, former Justice Deschamps stated that the CAF definition of sexual harassment was narrower and more complex than that articulated by the Supreme Court of Canada and that it failed to capture all inappropriate conduct.
16. In the next few months, the DND/CAF plans to align its definitions across a multitude of policy statements and guidance tools, reflecting the intent of the IECR's recommendations. These changes will be communicated broadly to CAF members while work continues to formally update policy instruments. I will be able to provide a more fulsome update in my next bi-annual report.

Military Justice: Eliminating concurrent jurisdiction for criminal code sexual offences

17. In March of this year, government legislation was tabled that would in effect remove the CAF's jurisdiction for the investigation and prosecution of criminal code sexual offences committed in Canada. Bill C-66 also addresses several recommendations made by former Justice Fish in his review of the military justice system, such as the appointment process for the Canadian Forces Provost Marshal (CFPM), the Director of Military Prosecutions (DMP) and the Director of Defence Counsel Services (DDCS), in order to enhance their independence.
18. Very recently, a Memorandum of Understanding (MOU) was concluded between the Minister of National Defence and the Solicitor General and Attorney General of Ontario laying the groundwork for coordination between the participants to support the implementation of Recommendation 5, including discussions related to resources. It also sets the stage for continued communication between the signatories to establish operational-level practices and protocols for details such as information sharing, victim support coordination and evidence preservation.
19. For Ontario, a working group has recently been created to commence the work on such a protocol between the Office of the CFPM and that of the Solicitor General. Members include representatives from the Ontario Solicitor General's Office, the Office of the CFPM, provincial victim services and the Sexual Misconduct Support and Resource Centre (SMSRC). This will establish the best way forward in cooperating with all Ontario police agencies.
20. These are important milestones, as the province of Ontario is likely to be receiving the largest proportion of the cases. Both the MOU and the creation of the working group will serve as models for coordination with other provinces moving forward.

Administrative reviews related to the release of members for misconduct

21. Recommendation 6 from the IECR expresses the need for an externally led review of 52 administrative files wherein the National Defence Headquarters (NDHQ) determined that the individuals should be retained without any career restrictions even though unit commanding officers were recommending release. This review has not yet occurred, although several steps have been undertaken to accommodate the recommendation, such as drafting a Statement of Work and other stipulations of the contracting process.
22. I believe that this exercise will be useful in determining whether the CAF's approach in determining outcomes in cases of misconduct is in line with a modern regime. I am told that the review is likely to be completed in 2025. Thus far, it is a missed opportunity. Jurisprudence/case law around workplace misconduct is evolving rapidly, leading some organizations to consider specific parameters such as presumptive dismissal for certain acts. In a recent review of 250 sex-related misconduct decisions at the RMCP, it was noted that "there remained an unexplained reluctance to dismiss or even demote, and over-reliance placed on transfers and forfeited pay".¹ Further, in many cases there was a failure to assess the 'public interest' as a consideration, notwithstanding the higher expectation for police officer conduct. No one knows at this time if the CAF conduct system suffers from the same issues, but the review of the 52 files would be a good first step.

Complaints about sexual harassment and gender-based discrimination

23. One of the main themes of the IECR was the need to civilianize elements of the complaints management process. Thus, Recommendations 7 and 9 focus on the role of the Canadian Human Rights Commission as a direct receiver of complaints from CAF members regarding sexual harassment and gender-based discrimination. In 2023-24 the Canadian Human Rights Commission (CHRC) received 25 complaints, which are at various stages of inquiry. The external perspective that the CHRC brings to its review of harassment and discrimination cases should, in my view, be beneficial to the CAF in identifying potential systemic issues.
24. Under this process, the CAF acts as a 'respondent', and the success of this endeavour will depend on the ability of both parties to engage in a timely dialogue on how to best resolve each individual case. Recently, representatives of the CHRC have been meeting with staff of Conflict and Complaints Management Services (CCMS) units from bases/wings to explain the role of the CHRC and how the process works.

Grievances regarding sexual harassment and gender-based discrimination

25. The CAF receives approximately 1,000 grievances in any given year on many topics. In terms of grievances that relate specifically to sexual harassment and gender-based discrimination and/or allegations of reprisal for reporting, the IECR recommended that the Military Grievances

¹ *Paul Ceyssens, W. Scott Childs, Barristers & Solicitors, February 24, 2022, "Phase 1, Final Report Concerning Conduct Measures, and the Application of Conduct Measures to Sex-Related Misconduct under Part IV of the Royal Canadian Mounted Police Act"*

External Review Committee (MGERC) be mandatorily involved. These grievances are to be flagged as priority and expeditiously transferred to the MGERC for its review.

26. One of the difficulties is that the database that contains information about grievances does not include a separate category for sexual harassment and gender-based discrimination, nor for reprisals. This means that it is difficult to ascertain the precise number of grievances that have been submitted related to this matter.
27. However, as of February this year, grievances can be submitted by CAF members via an easily accessed digital form. The form includes a distinct ‘misconduct’ category. This means that the Chief Professional Conduct and Culture (CPCC) now has a more complete picture of the types of grievances that are being submitted and can ensure that the input into the data base is accurate. The seven cases identified centrally have been referred to MGERC and are currently being reviewed by that organization.
28. The intent behind this recommendation was to ensure that these grievances were dealt with efficiently, by subject matter experts outside the chain of command, and to increase their visibility within the organization, particularly among senior leaders. The process is being refined to meet that intent, including the identification of the CPPC as the initial authority for these types of grievances. The amendments to the Queen’s Regulations and Orders (QR&O) are underway.
29. Former Justice Fish also commented on the CAF grievance process during his review in 2020-21 and provided several recommendations to the CAF. The broad-based re-engineering of the grievance process currently underway will address a significant portion of the concerns raised during that review.

Duty to report as a barrier to reporting

30. In 2023, the Minister of National Defence announced that the provisions of the regulations related to the duty to report would be formally repealed. As of the date of this report, the provisions remain as they were. While it is true that the intentions of the repeal have already been communicated, the problem is the impact this interim phase is having on other policies. Until the repeal is official, all references to the duty to report in the CAF’s many policies and guidelines reflect a now-outdated approach to responding to allegations about misconduct of a sexual nature.
31. It is worth repeating some of the history around the duty to report. It has been flagged repeatedly as an obstacle to reporting sexual misconduct by those affected. It was deemed problematic by the Office of the Auditor General in 2018 and, more recently, it led to recommendations from both former Justices Arbour and Fish. In December 2022, the then Minister informed Parliament that a working group would develop the required policy framework. The direction was clear, yet the debate continued. I am told that the required changes to the regulations are underway to bring the repeal into force by July of this year.

Victims' rights and services

32. As a result of the coming into force of Bill C-77 in June 2022, victims' rights related to service offences have been formalized. This means, for example, that victims have access to Victim Liaison Officers (VLOs) to assist them in navigating the military justice process. I note that one of the provisions of the recently tabled Bill C-66 provides access to victim liaison services to individuals who are acting on behalf of victims of service offences.
33. Further, the CAF Military Police Group operates a victim services program that provides support to victims and refers them to both military services and civilian community resources. This is accomplished in close liaison with the SMSRC as well as civilian victim services programs across the country. In terms of criminal code offences that are being investigated and/or prosecuted in the civilian justice system, the SMSRC can also assign a counsellor to provide support to those affected and to coordinate services.

The Sexual Misconduct Support and Resource Centre

34. Former Justice Arbour was of the view that the mandate of the SMSRC should be adjusted to crystallize its role as provider of resources and services to anyone who feels they have been directly affected. She recommended that the SMSRC no longer be directly involved in training and monitoring. In the two years since the IECR, victim services have been expanded geographically and to other groups such as former CAF members, current and former DND employees, and family members of those affected. The latest annual report of the SMSRC shows that more than 1400 new cases were created in 2022-23². The demand for SMSRC services appears to be growing year to year.
35. Interestingly, many individuals who call the 24/7 line are members of the Chain of Command seeking advice on how to deal with misconduct allegations. This is a good trend in my view. It demonstrates that the Chain of Command strives to do the right thing by seeking advice from the professionals. Both those affected by misconduct and the chain of command can receive advice from the SMSRC counsellors and members of the Military Liaison Team (MLT) that supports the SMSRC. They are an objective third-party source of information regarding how military processes work. I believe this is helping to break down some of the barriers encountered by victims. And timely access to this information for the Chain of Command can assist in 'educating' individuals whose responsibility it is to deal with situations of sexual misconduct in their units, especially in terms of inadvertently creating secondary harm.
36. Recommendations stemming from the IECR regarding the SMSRC have all been actioned, including the legal assistance program, an initiative that was also recommended by former Justice Fish. Currently, the support consists of reimbursing eligible legal expenses by individuals who experienced sexual misconduct. The next iteration of this program is to bring in a lawyer and a paralegal on staff whose objective will be to provide legal information and advice directly to clients of the SMSRC, making it easier for those affected to get support. This will be all the more

² Sexual Misconduct Support and Resource Centre Annual Report 2022-23 online: <https://www.canada.ca/en/department-national-defence/corporate/reports-publications/smsrc-annual-report-2022-2023.html>

important considering the move to transfer criminal code cases to the civilian criminal justice system.

37. The future of SMSRC is dependent on access to sufficient funds to deliver on core programs and services such as independent legal advice and the Peer Support Program which is delivered jointly with Veterans' Affairs Canada (VAC). To provide stability, the Government has committed to increasing the SMSRC's core funding budget for 2025-26. Thus far, the SMSRC's funding has been supplemented by in-year adjustments. This makes it difficult for the SMSRC management team to plan its activities. And currently there are shortfalls that may affect some of the core programs described above.

A shorter recruitment process, and assessment and early release of unsuitable candidates

38. Several IECR recommendations focus on making the recruiting process more efficient while at the same time introducing an effective method for the quick release of unsuitable recruits.
39. Chief Military Personnel (CMP) has several initiatives underway to address the capacity of the CAF's system to recruit efficiently. The common enrolment medical standards are being reviewed to see if applicants with pre-existing medical conditions could nonetheless enrol in the CAF, with the proviso that the medical condition would not prevent the applicant from safely attempting to meet the physical demands of basic training and those of the trade/occupation to which they are applying. Also, an Information Sharing Agreement has been signed with Immigration, Refugees and Citizenship Canada (IRCC) to enable better access to information that will assist in determining the eligibility of Permanent Resident applicants.
40. In reviewing its metrics, the CMP noted that the CAF was losing many candidates just prior to the administration of the Canadian Forces Aptitude Test (CFAT). Therefore, on a trial basis, the CFAT is being bypassed for certain occupations with applicants with university degrees or college diplomas and for those that already meet educational requirements for their occupations. According to the Military Personnel Generation Group (MPGG), there are more than 1,800 individuals currently being processed this way as of 18 April 2024. For them, the CFAT is applied later on during basic training. The CAF is also updating the test itself to ensure it remains predictive of suitability regarding the occupation that the candidate is choosing.
41. In terms of establishing a probationary period as recommended by the IECR, the CMP has struck a working group that is looking at how this can be done. A new process will be trialed in the next few months whereby members who fail to meet the professional conduct and ethical expectations of the CAF while at basic and early training schools/units would be subjected to a conduct review board, for a decision regarding release. The process would require some changes to policies and potentially to the CAF's release authorities.
42. The Defence Policy Update that was recently released identified probation as a means to render recruiting more efficient. As highlighted in 2022 by former Justice Arbour, the capacity to release members with less administrative burden than currently exists would directly support a streamlined recruiting process. There is a clear benefit to creating a probationary period. Implementation is currently planned for some time next year.

Military training and professional education

43. Last fall I reported that the DND/CAF was focused on creating an education system that would serve as a prevention tool in its longer-term efforts to create a respectful, inclusive workplace, mainly due to a substantive shift not only in content but also teaching methods. My assessment was based on the following:
- more emphasis on the quality of educators;
 - more hands-on, interactive learning;
 - a focus on character-based leadership; and
 - the development of a professional development framework that spans a member's career, both for officers and non-commissioned members.
44. The Canadian Defence Academy (CDA), the organization within the DND/CAF responsible for the education of all CAF members, has worked in close collaboration with the CPCC on the concepts to be included in each of the developmental periods. This has led to a re-design of several programs, including the basic military qualification curricula at the Canadian Forces Leadership and Recruit Training School (CFLRS) and the Intermediate Leadership Program at the Osside Institute. Work is ongoing to incorporate character-based leadership in other segments of the education continuum.
45. The CAF continues to work on addressing the disincentives that are attached to some of the instructor postings in order to attract the best possible teachers. It is also creating a CAF-wide common standard to screen applicants for instructor positions. Notwithstanding the current challenges in terms of vacant positions across the CAF, the organization has committed to 100% staffing for the CFLRS.
46. With respect to the IECR recommendation that the CAF increase the number of secondment opportunities, especially for General Officers and Flag Officers (GOFOs), the MND noted in her December 2022 report that, while GOFOs can benefit from these secondments, consideration should also be given to more junior officers. An updated Secondment List, potentially inclusive of ranks below GOFO, was discussed very recently at a senior level military governance committee. Once the necessary talent management structure has been created, the CAF will proceed with the terms of reference for the prioritized secondments and move ahead, subject to capacity and support from other government departments and external organizations.

Royal military colleges

47. The IECR provided several recommendations to the DND/CAF on the military colleges, including the need for an external review of “the costs, benefits, advantages and disadvantages” of the current approach compared to different models for delivering university-level education. The Canadian Military Colleges Review Board (CMCRB) has been established with seven members having expertise in several diverse fields, including education, social work, university management and leadership, human resources, as well as senior public service and CAF experience. The review will include an examination of the Cadet Wing responsibility and authority command structure. To date the Board has met with many DND/CAF officials as well as some of the authors of past reports on the colleges, including former Justice Arbour. The

Board has visited each college twice since starting their review in January of this year and has met with senior leadership of the colleges as well as college faculty and staff. It is anticipated that the Board's final report will be presented early in 2025.

48. It was also recommended that the current exit survey conducted by the CAF be expanded to include cadets' experiences with sexual misconduct and discrimination. The DND/CAF chose to go beyond the recommendation by extending the survey to students in every year of their program. The DND/CAF research group developed a survey for that purpose, and it was administered in 2023 to the entire student body at both Royal Military College of Canada in Kingston (RMC) and Royal Military College Saint-Jean (RMC Saint-Jean). The results were analyzed and discussed with the students and staff at both colleges during townhall sessions. The results of the survey have also been presented to the CMCRB. The survey results will serve as a baseline against which change will be monitored over the years. The second survey is currently underway.
49. In the interim, the CDA is working on changes that will potentially affect the structural underpinnings of a sexualized culture. For example, referencing research that indicates the positive impact of having higher proportions of women in the workplace, the CDA is seeking ways to increase the ratio of women attending the colleges. It has also recently commissioned an external review of the physical performance test including how the test is administered, in order to identify potential barriers to equitable access.

Performance appraisals, promotions and succession planning

50. Several of the IECR's recommendations relate to ensuring that future leaders of the CAF are selected on the basis of complete information, with more focus on the character of the individual. While acknowledging that the CAF has 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 GOFO promotions, that the use of these tools be extended to other ranks, and that external assistance be provided to the Minister in approving GOFO promotions;
 - formal and systemic disclosure of past or current misconduct by supervisors and members 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 Lieutenant-Colonel/Commander or above and Chief Warrant Officer/Chief Petty Officer First Class.
51. Many of these are in various stages of preparation for the launching of new policy, new forms, and guidance for members. For example, a new form has been created that will document a due diligence check by supervisors for those being considered for promotion. The form also includes a self-certification by the member attesting to the presence or absence of administrative/disciplinary action or a civilian offence conviction. Another new form will include a commanding officer's certification that both the unit personnel file and conduct sheets have been reviewed. Both of these are expected to be formally launched this summer. The

selection board manual will be updated accordingly, in time for the next national selection board this fall.

52. The external evaluation of the assessment tools used for GOFO promotions has not advanced, as the CAF is anticipating using a different set of tools starting in 2025. I gather that the CMP intends to contract an external resource for the review of what will be the new suite of assessment tools next year.
53. In terms of succession planning, a draft policy that includes instructions regarding the establishment and maintenance of incident review lists is expected to be promulgated at the end of this year. It includes guidance on how to mitigate bias that may “negatively impact different groups.” In terms of the composition of the boards, the IECR had recommended the participation of a member that is external to the DND/CAF for certain ranks. Thus far, the approach has been to include a CAF member from a different environment/level 1 who is not in the chain of command of any other board member or the approving authority, and a Defence Team civilian. The CANFORGEN that was released last year on succession planning also specified that officers conducting succession boards “must plan for meaningful representation from designated groups, such as women, Indigenous peoples, persons with disabilities, visible minorities and members of the LGBTQ2 Plus communities.”
54. Former Justice Arbour also recommended that the CAF establish progressive targets for the promotion of women “with a view to increasing the proportion of their representation in the GOFO ranks above their level of representation in the overall CAF workforce.” DND/CAF is currently working on establishing representation goals within each military occupational group. At the same time, it is developing a process for members to voluntarily ‘self-declare’ as a member of a designated group, as the CAF wishes to replicate progressive targets for all designated groups.
55. As highlighted in my previous report, the Chief of the Defence Staff (CDS) has also undertaken a proactive exercise with his senior leaders to manage the talent of women, with the desire to expand this to other equity-seeking groups that have the potential to reach the most senior appointments within the CAF. The objective is to create the right conditions over a 10-year horizon in terms of work experience and of professional development opportunities to enable their progression. The CAF has recently taken steps to remove one of the barriers for women. They have created additional Captain (Navy)/Colonel positions in specified support and specialist occupations with structural disadvantages to promotions, ultimately to provide more pathways to the GOFO ranks in occupations where there are more women.

Medical releases

56. The IECR report included a recommendation for the CAF to review its Universality of Service policy through a Gender Based Analysis Plus (GBA Plus) lens. Former Justice Arbour referred to data on the overrepresentation of women in medical release categories, adding that victims of misconduct may be unduly affected. As I noted in my previous report, input in key areas for the GBA Plus assumptions was sought from a variety of departmental subject matter experts, as well as an external expert. The recommendation has been examined from the perspectives of both women and victims of sexual misconduct irrespective of gender. The draft policy is now going

through the corporate policy process. I have been advised that the GBA Plus analysis will be considered in all stages of implementation.

Input and oversight

57. Several IECR recommendations focused on information that the Minister should be receiving on investigations relating to sexual harassment, sexual misconduct and leadership culture in the Defence Team. It was determined that CPCC is the most appropriate source for that information, and in December 2023 the Minister was provided with a report detailing aggregate results of surveys and other information gleaned from the sexual misconduct tracking system. Earlier in the year, the Assistant Deputy Minister, Review Services (ADM(RS)) provided a report on statistics and activities relating to investigations under DAOD 7026-1, in line with what is required under the Public Sector Disclosure Protection Act (PSPDA). Both of these reports constitute a new practice and will be provided annually to the Minister.
58. The IECR also recommended that the Chief Operating Officer of SMSRC should be able to independently direct the ADM(RS) to conduct an administrative investigation into matters relevant to the SMSRC mandate. There is now a Service Level Agreement between these two organizations with respect to the criteria for any referrals and the mechanism to be used.
59. With respect to Governor in Council (GIC) appointees, IECR recommended the removal of any impediments that would prevent the Privy Council Office (PCO) from having access to candidates' personnel records. I reviewed the consent form that the DND/CAF has included for candidates to sign so as to allow access to their personnel records and a police check. In addition, they are asked to proactively provide information regarding any administrative or disciplinary actions they have been subject to, as well as any civil criminal convictions. This was put in place for the recent Judge Advocate General (JAG) nomination and will be followed as well with the upcoming Chief of the Defence Staff (CDS) appointment.
60. In terms of facilitating research by external groups, an internal CANFORGEN will be communicated soon to make CAF members aware that their full participation in research is supported, while the adjustment to formal policy documents is underway.
61. In response to the IECR an online Conduct and Culture Research and Policy Database was launched in fall 2023. It includes over 150 internal research and policy documents that are now publicly available. This database will eventually be included in a broader Conduct and Culture Data Centre that will be made public in the next few months. I am told that this online database will provide "interactive data visualizations on issues related to conduct and culture" across the organization.
62. And finally, the IECR recommended the Minister inform Parliament of any recommendations the DND/CAF did not intend to implement. A report was presented to Parliament in

December 2022 by the then Minister detailing the way forward on each of the IECR recommendations.³

³ *Minister of National Defence's Report to Parliament on Culture Change Reforms in response to former Supreme Court Justice Arbour's recommendations*. (DND, 12 December 2022) online: <https://www.canada.ca/en/department-national-defence/corporate/reports-publications/conduct-and-culture-change/minister-of-national-defences-report-to-parliament-on-culture-change-reforms-in-response-to-former-supreme-court-justice-arbours-recommendations.html>

Conclusion

63. It is now two years since the IECR report. This is my third status update since I was appointed in the fall of 2022. I believe that the commitment to make the CAF a better place is still very much present. However, there is a large bureaucratic burden that weighs heavy on the organization. This is having a major impact on timelines.
64. For example, the process involved in establishing or modifying policy and guidance documents is an elaborate, multi-layered process that involves many checkpoints. I have observed that many people are called upon to comment throughout the development phase, sometimes leading to many versions that keep circulating. While I would agree that some discussion with specialists and other stakeholders may be required, in my view, at some point, these consultations become counterproductive, and they create significant delays. I also see a tendency to create working groups to work out the details of new policy directions. This is valid if the discussion is how to best action a policy, but not if it reopens the debate on the merits of the policy.
65. I spoke about this in my second report. It is an inefficient use of resources. But it is more than that. The intended message can become blurred due to the excessive details that result from the consultations. And, perhaps worse, there may be compromise in terms of the intended corporate message in order to assuage all of the different viewpoints. I put myself in the position of a unit commanding officer when I read DAODs and other policy documents. These are the individuals who will most often be directly dealing with inappropriate behavior. They need guidance that is more incisive.
66. This brings me to another point, which is how accountability is driven in these policies. The wording under the paragraph ‘Consequences of Non-Compliance’ in instructional directives and orders states that military leaders must take action and that action will depend on “the degree of risk based on the impact and likelihood of an adverse outcome resulting from the non-compliance and other circumstances of the case.” I cannot see how this type of wording can lead to enforceable accountability. That said, the portion of the policies that specify individual roles and responsibilities and authorities are in fact instructive.
67. On a positive note, headway is being made in terms of operationalizing culture change. Since 2021, the DND/CAF has created a foundation to support the evolution that is sought, starting with the inception of CPCC. Whereas the Comprehensive Implementation Plan (CIP) creates the milestones, the Culture Evolution Strategy (CES) is the mechanism by which a more professional, inclusive workplace will be institutionalized, beyond the confines of Ottawa.
68. Efforts are underway to guide each of the Commands and level one organizations to create their own pathway to culture change. While many already had developed their own strategies, the CES should ensure a structured, more consistent approach.
69. It is also encouraging to see the many initiatives that have created forums for the sharing of best practices, learning from actual cases, scenario-based vignettes and cross-pollination between the different sections within the DND/CAF. In the past, discussions about cases of inappropriate behaviour were for the most part limited to the unit. Now they are part of a broader conversation.

70. But there is a lot more that needs to be achieved, including ensuring 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 from beginning to end.