



# CAF Response to Sexual Misconduct



DPMC-OpH

Canada

Sr V.3.1

*"Any form of harmful sexual behaviour undermines who we are, is a threat to operational readiness and is a threat to this institution.*

***It stops now.***

*Consider this my first order to all CAF members."*

**Gen Jonathan Vance, CDS  
July 17, 2015**



- The CDS has been clear in how he expects us to conduct ourselves
- He has ordered all members of the CAF to stop engaging in any form of harmful sexual behaviour (sexual misconduct).
- About this order:
  - This order is needed to ensure unit cohesion and operational effectiveness,
  - This order tells us about how to conduct ourselves in a morally correct way
  - This order is founded in our values and the ethical principles we are expected to uphold as members of the CAF.
  - The order is lawful, which means you will follow it.
- What happens when you do not abide by this order?
  - In addition to disobeying a lawful order, failure to follow may result in sexual misconduct and ensuing administrative/disciplinary actions.
- Every CAF member is responsible for their actions and will:
  - Ensure they understand what sexual misconduct is,
  - Be apart of the solution (including stopping it when it occurs and preventing it from ever happening).
- This brief will:
  - Show you that sexual misconduct in the CAF is real,
  - Explain sexual misconduct, and
  - Explain what happens when you disobey this order,
  - Provide you with tools to help you be part of the solution to the CAF's problem with sexual misconduct.



## Overview

- Background
- Operation HONOUR
- Definitions
- The Spectrum of Sexual Misconduct
- Actions Upon Receiving a Report/Disclosure of an Incident
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- Victim Support Services
- Questions



## Background

- **1998** – National media coverage on sexual harassment and assault within the CAF - Ombudsman office opens to review and investigate
- **Apr 2014** – Media allegations, victim testimonials – CDS responds by requesting former Justice of Supreme Court Madame Marie Deschamps to conduct an Independent External Review on Sexual Misconduct and Sexual Harassment in the CAF (Jun 2014 – Mar 2015)
- **26 Feb 2015** – The CAF Strategic Response Team on Sexual Misconduct (CSRT-SM) established to develop CAF-wide strategy and action plan
- **20 Aug 2015** - CDS gathers Senior Leadership and issues orders specific to Operation HONOUR
- **1 Sep 2015** – Sexual Misconduct Response Centre (SMRC) stood up, starts receiving calls and emails from CAF members two weeks later;

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- This is an issue the CAF has been dealing with for a very long time.
- The SMRC was initially stood up 6 mo prior to the original plan



## Background

- **24 Jul 2017** – SMRC service expanded to 24/7
- **July 2019** – the CSRT-SM is renamed the Directorate Professional Military Conduct - Operation HONOUR (DPMC-OpH), as it continues to fully integrate and institutionalize itself into the CAF

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How do we keep up the efforts to eliminate sexual misconduct and encourage the positive change while not succumbing to “Operation HONOUR fatigue”?

“Operation HONOUR is not going away, if members have had enough of it, they need to look more closely at what is going on around them – sexual misconduct is still happening, what are you doing to stop it?” - CAF CWO Guimond



## Operation HONOUR – Why an Operation?

- Past efforts were treated as a corporate imperative
- Operational methodology and language

*“By making this an operation, we took the best of our culture – get it done, apply resources, have all commanders involved – to attack the worst of our culture. ... We measure, report, inform, direct – like any Operation.” CDS*
- Leverages existing policies and orders

*“We are using what we think are powerful tools that don’t look like powerful tools from the outside but they are in this culture.” CDS*
- All leaders in the CAF are being held accountable.
- All CAF members are being trained and provided with tools starting with awareness then response, support and prevention.

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- As early as 1998, all members were required to attend short training sessions on sexual harassment and racism prevention (SHARP). It was not enough to change poor behaviour intended to be corrected by the training initiative.
  - Efforts at that time led to inconclusive results and lack of sustained impact
- Operation HONOUR was set up as a military operation – not a project or program or initiative. All members of the CAF (should) know what it means to be part of an operation. Everyone has a part in the mission’s success. Everyone.
- There are briefings, training, orders, direction and guidance; we measure the progress and report on it up the chain of command.
  - Operation HONOUR is not different.
- Leaders at all levels and all members have to be part of the mission success and will be held accountable for failures that permit sexual misconduct to continue.



What is this?:

A conceptual slide that tries to demonstrate both the magnitude and comprehensive nature of Operation HONOUR by highlighting many, albeit not all, of the key functions that work together towards mission success. The outcomes of the mission are many but linked... primarily it is the elimination of sexual misconduct from the CAF, but more broadly we discuss the need for a respectful workplace free from harassment and discrimination, victims supported, perpetrators held to account, unit cohesion and operational effectiveness.





Each of the key processes functions on the previous slide has a distinct entity(ies) within the CAF/DND that has a mandate or lead role in the management of those processes.

DHRD – Directorate of Human Rights and Diversity  
DMP – Director Military Prosecutions  
JAG – Judge Advocate General  
CFNIS – Canadian Forces National Investigative Services  
DGMPRA – Director General Military personnel Research and Analysis  
DMCA – Director Military Career Administration  
CFHS – Canadian Forces Health Services  
SMRC – Sexual Misconduct Response centre  
CDA – Canadian defence Academy  
ICCM – Integrated Conflict and Complaint Mechanism

The CAF Strategic Response Team on Sexual Misconduct coordinates and oversees these Operation HONOUR related functions on behalf of the CDS.

Outcome:

The CAF has set out to change more than just how individual members behave. All of the cogs are working together to change the CAF culture that let sexual misconduct grow, to reinforcing a culture of Duty with HONOUR.



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## Definitions

**Sexual misconduct**<sup>1</sup> is defined as conduct of a sexual nature that can cause or causes harm to others. Sexual misconduct, includes:

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

(cont'd next slide)

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<sup>1</sup> CANFORGEN 049/19 VCDS 007/19 111754Z APR 19

CANFORGEN 049/19, released in Apr 11<sup>th</sup> 2019, is an interim policy modification of DAOD 5019-5, *Sexual misconduct and sexual disorders*, and defines Sexual Misconduct. DAOD 5019-5 pre-dates Operation HONOUR and a new version has not yet been promulgated. This CANFORGEN modifies the existing definition as well as the authority to investigate, in advance of the DAOD update.

The workplace is the physical work location and the greater work environment where work-related functions and other activities take place and work relationships exist. In the CAF context, the workplace includes places such as messes, on base clubs, quarters, dining halls, gyms, and sanctioned events such as holiday gatherings and course parties as well as office spaces, classrooms, garrisons, ships, hangars, vehicles, aircraft, online forums, etc. CAF members do not simply work for the CAF, but work, socialize and often live within institutional and social structures established by the military.



## Definitions

### Sexual misconduct (cont'd)

- Any Criminal Code offence of a sexual nature such as:
  - Surreptitiously observing or recording a person in a place where the person could expose his or her genital organs or anal region or her breasts or could be engaged in explicit sexual activity, or distributing such a recording (*voyeurism: section 162 of the Criminal Code*);
  - Publishing, distributing, transmitting, selling or making available an intimate image of another person - i.e., a visual recording in which the person depicted is nude, exposing genital organs, anal region or breasts, or engaged in explicit sexual activity - without their consent (*publication of an intimate image without consent: section 162.1 of the Criminal Code*);
  - Engaging in any kind of sexual activity with another person without their consent (*sexual assault: section 271 of the Criminal Code*);
  - Engaging in any kind of sexual activity with another person who is incapable of consenting, for example due to intoxication (*sexual assault: section 271 of the Criminal Code*); and
  - Engaging in any kind of sexual activity with another person by inducing that person to agree to the sexual activity through abuse of a position of trust, power or authority by virtue of rank or position (*sexual assault: section 271 of the Criminal Code*).

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Sexual misconduct can be addressed through the application of administrative measures, through the military justice system by charging an individual with a service offence, or, in the case of behaviour that is also captured in the Criminal Code, through the civilian criminal justice system.



## Definitions

- Sexual Assault:
  - “An assault committed in circumstances of a sexual nature such that the sexual integrity of the complainant/victim is violated”<sup>2</sup>
- In other words:
  - Unwanted physical touching
  - Sexual Nature
  - Without Consent

<sup>2</sup> Department of Justice, An Estimation of the Economic Impact of Violent Victimization in Canada, 2009

Sexual assault covers a full range of behaviours.

Sexual assault is unwanted physical contact of a sexual nature, which includes unwanted sexual touching and activity where the victim was unable consent.

Sexual assault and rape are not the same. The term rape is not used in Canadian law.

“Just over one in ten (12%) Regular Force members who were victims of sexual assault stated that they were victims of more than one type of sexual assault in the past 12 months, while 77% stated that the only form they experienced was unwanted sexual touching.”<sup>3</sup>

**Regardless of the category, Sexual Assault is a crime.**

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<sup>3</sup> 2016 Survey on Sexual Misconduct in the Canadian Armed Forces, 28 November 2016



# Adverse Personal Relationships

## Personal relationship

- An emotional, romantic, sexual or family relationship, including marriage or a common-law partnership or civil union, between two CAF members, or a CAF member and a DND employee or contractor, or member of an allied force.

CAF members shall notify their chain of command of any personal relationship that could compromise;

- prevention of erosion of lawful authority;
- maintenance of operational effectiveness;
- protection of vulnerable CAF members and others;
- maintenance of general standards of professional and ethical conduct; and/or
- avoidance of detrimental effects on unit operational effectiveness

*In keeping with professional military values, leaders and the chain of command have a responsibility to uphold standards of conduct in relation to personal relationships through personal example*

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- Adverse personal relationships **is described in DAOD 5019-1** and include situations where power or authority over someone would call into question whether “consent” would be valid when that relationship turned sexual.
- Even if consent were clear and unequivocal, not disclosing such a relationship may actually result in a charge under the CSD because the very nature of the relationship could call into question impartiality or fair treatment.
- In these circumstances intimate relations with a subordinate may be considered Sexual Misconduct.
- Onus is placed squarely on the person in that position of trust or power to be above reproach, in appearance and deed, in their personal relationships with subordinates. (includes superior/subordinate, instructor/student, and command relationships)
- Once disclosed to CoC, CAF leaders will take appropriate action (i.e.. Posting members out of unit)
- Fraternization is defined as: Any relationship between a CAF member and a person from an enemy or belligerent force, or a CAF member and a local inhabitant within a theatre of operations where CAF members are deployed. Fraternization can have detrimental effects on unit operation effectiveness due to potential threats to the security, morale, cohesion and discipline of a unit. Task force commanders shall issue orders and guidance on fraternization appropriate to the situation in their area of operations.





## Consent

- Consent is the voluntary and ongoing agreement to engage in sexual activity that is granted without the influence of force, threats, fear, fraud or abuse of authority<sup>3</sup>.
- Consenting to one kind or instance of sexual activity does not mean that consent is given to any other sexual activity or instance. Consent can be withdrawn at any time, even after sexual activity has been initiated.

### Clear, Coherent, Voluntary, Ongoing

<sup>3</sup> Criminal Code S. 273.1(1)

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The courts decide whether there was consent or not.

There are however, a few simple messages that can help everyone better understand:

Consent has to be clear – it can be verbal or physical.

Consent has to be coherent – when alcohol or other drugs are involved consent may come into question.

Consent has to be willing – this is where the issue with “adverse personal relationships” comes into play (think instructor/student, supervisor/subordinate). The effects power differentials may have on validity of consent should not be underestimated. Most certainly -

-consent cannot be coerced through violence or threats or through emotional and psychological manipulation.

Consent has to be ongoing – it can be withdrawn at any point during the activity. Granting consent one minute doesn't mean it is still there five minutes later. If someone gets uncomfortable with where things are going they may not articulate that in just words and we need to “check in” to avoid miscommunication.

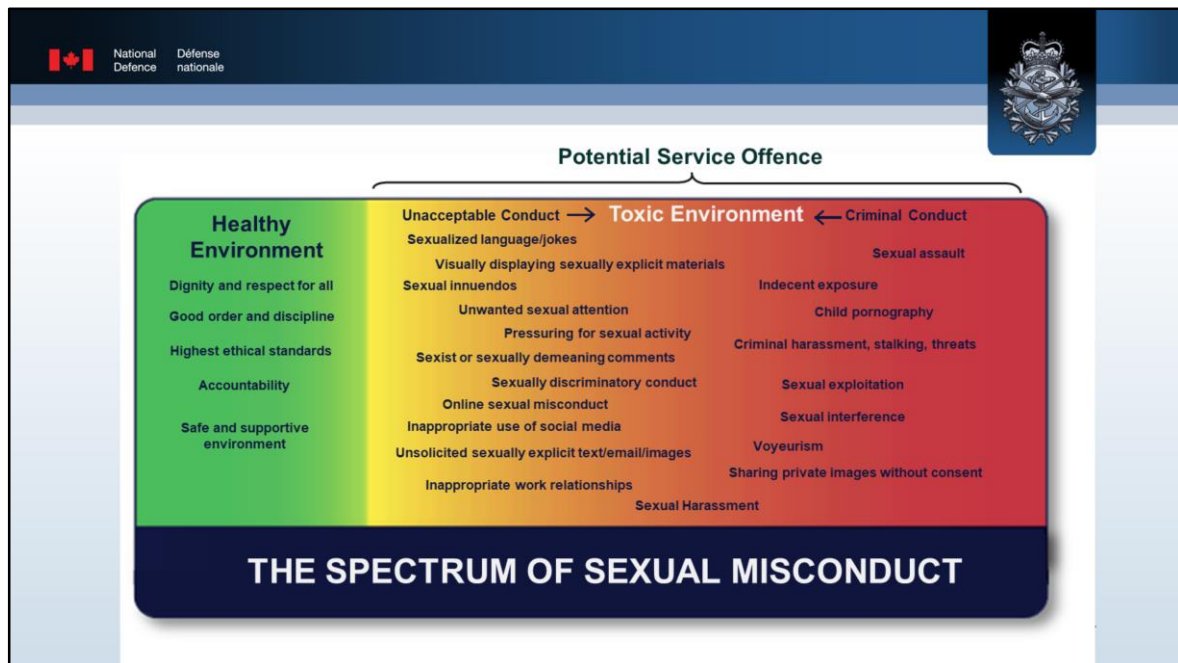
-Unclear consent is one of the most frequent reasons in sexual assault.



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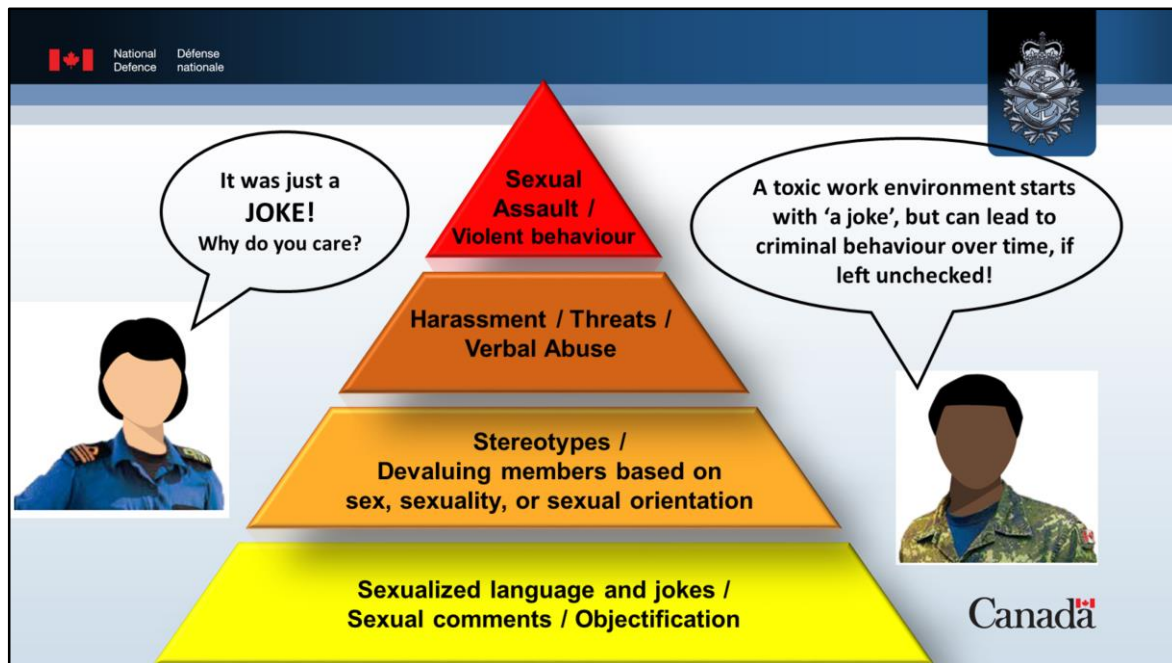
The list is extensive and may include behaviours some might not think of as sexual or offensive.

These behaviours are:

- Inconsistent with the Profession of Arms.
  - Our first ethical principle is to respect the dignity of *all* persons ... and that includes people at work.
- All service offences, some are offences under the Criminal Code of Canada
  - Both require an investigation
  - Service offences may be dealt with through disciplinary actions, administrative actions, or both.
  - Criminal Code offences are dealt with through Court Martial or civilian criminal prosecution.
- Not remaining in the green zone may result in administrative actions, disciplinary actions or both.
- Leadership has a mandate to create and/or maintain the conditions so behaviour stays in the green zone
- Where is the line?
  - There is a spectrum of unacceptable conduct and behaviours, this slide shows that all these inappropriate behaviors can lead to a service offence. Every instance will be addressed by the CoC.
  - The line is very clear... stay in the green!
- Any of these inappropriate behaviours may lead to a toxic work environment.
- A toxic work environment occurs when people's behaviours make other people feel excluded, isolated and even have concerns for their safety.

*Note: The placement of items in the Toxic Environment zone is for conceptual purposes to show there is a spectrum with increasing seriousness and those on the far right, in the red zone tend to be criminal.*

*The placements do not convey any value judgement, [[particularly as each type of issue may have a spectrum of its own.]]*



“It was just a joke”

“Can’t you take a joke”

“I didn’t mean any harm, it was just a comment”

None of these behaviours are acceptable and all may result in administrative, disciplinary actions or both.

The negative behaviours associated with the base of the pyramid (sexualized jokes, overtly sexual language, objectification, etc.) are behaviours that Mme Deschamps was referring to in her report when she said that CAF had “an underlying sexualized culture”<sup>5</sup>. If these behaviours are ignored, accepted, or even condoned, we create a toxic environment that, at a minimum, sets us up for more serious and even criminal behaviour. The more individuals are allowed to engage in at the pyramid’s base level, the more personnel will move on to the next level of more serious behaviours, and so on up the pyramid.

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<sup>5</sup> External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces, 27 March 2015



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## Addressing the issue

### Common pitfalls

- Disbelief, confusion, shock, questioning/curiosity, anger/mixed loyalties, protective

### Helpful reactions

- Believe, listen, remove guilt, provide options, avoid being inquisitive, allow space for expressions of feelings

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**If a SMRC representative is present, they shall present this slide.**

### **Step 1: Acknowledge and Listen**

**Acknowledge:** The leadership has a responsibility to acknowledge the event: "Something bad just happened." Or "That was a tough one." It is okay to make a global statement about how the group is feeling. It is important to be calm, straight forward and clear.

**Listen:** Your job is not to fix it (you can't). However, you can listen by providing an opportunity for discussion. Expect that some members will not want to talk about the event, while others may only wish to discuss it with other subordinates not with you. This is okay. Each person will cope with an event in their own way, and we do not want to interfere with people's natural coping strategies.

### **Step 2: Inform (intervene) -**

After acknowledging the event and providing the opportunity to talk, you should remind them how important it is for them to take care of themselves (we will talk about strategies for self-care in a few slides). For some, they may not be bothered at all but for others some symptoms of distress may continue over the next few days or even weeks (behaviours from the yellow or reacting zone such as irritability, difficulty concentrating, loss of sleep, physical stress symptoms or social isolation – behaviours we have talked about in previous slides). Hearing that these reactions are normal may help members cope.

### **Step 3: Respond -** Observe, follow up, model

Observe and follow-up with members later on to see how they are doing, and model healthy coping. Should you notice that your subordinates are not bouncing back from an event or are overly distressed, refer them to the Mental Health services.

\* People want to hear leader's negative emotions or thoughts after a distressing event. They don't need you to pretend that everything is okay.



## Duty to Report

- “An officer shall: report to the proper authority any infringement of the pertinent statutes, regulations, rules, orders and instructions governing the conduct of any person subject to the Code of Service Discipline when the officer cannot deal adequately with the matter.”<sup>6</sup>
- “A non-commissioned member shall: report to the proper authority any infringement of the pertinent statutes, regulations, rules, orders and instructions governing the conduct of any person subject to the Code of Service Discipline.”<sup>7</sup>

<sup>6</sup> QR&O 4.02 (1) e.

<sup>7</sup> QR&O 5.01 e.

In other words: All members, of any rank, have a duty to report incidents of sexual misconduct if they become aware of them.



## Duty to Investigate

- “Where a complaint is made or where there are other reasons to believe that a service offence may have been committed, an investigation shall be conducted as soon as practical<sup>8</sup> to determine whether there are sufficient grounds to justify the laying of a charge.<sup>9</sup>
- “Any complaint that is frivolous or vexatious need not be investigated.”<sup>10</sup>

<sup>8</sup> DAOD 5019-5 (4.1)

<sup>9</sup> QR&O 106.02 (1)

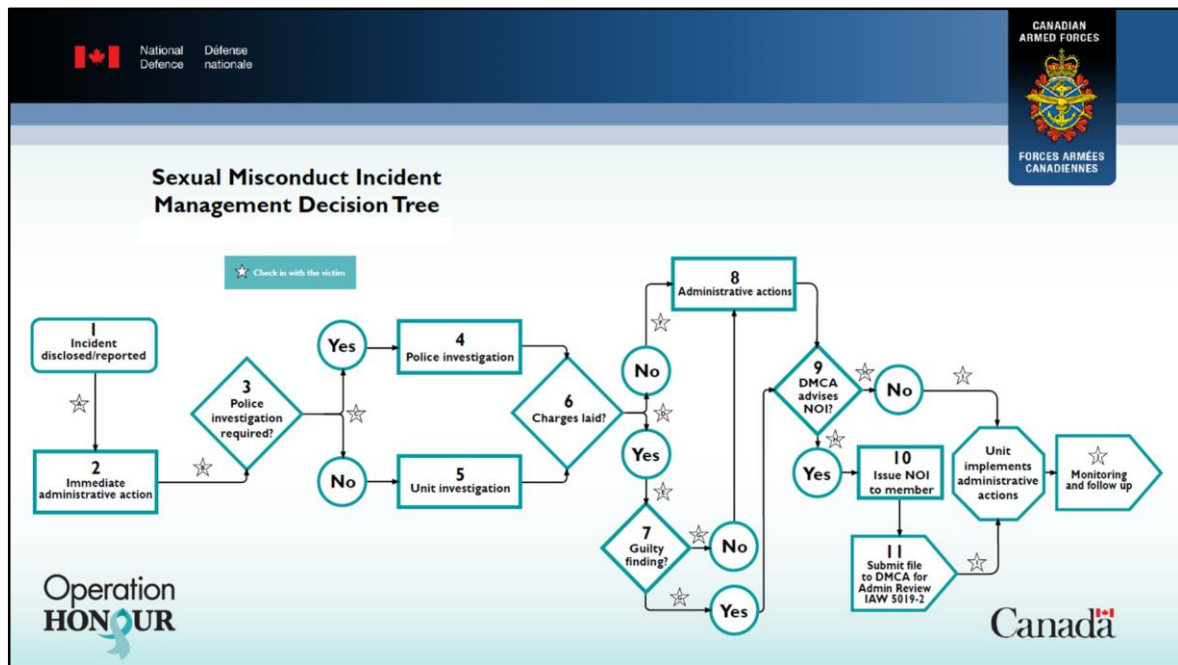
<sup>10</sup> QR&O 106.02 (2)

### QR&O 106.02

#### Notes

“(A) A charge is defined in article 107.015 (Meaning of “Charge”).

(B) The purposes and objectives of an investigation are reconstructing events, gathering evidence, identifying elements of the alleged offence and identifying those responsible. Cooperation between unit authorities, unit legal advisers, the local military police, the National Investigation Service and, where applicable, the local civil authorities will ensure that the most appropriate type of investigation is conducted.”



**The Decision Tree has 2 focuses: administrative/disciplinary action focus (numbers) & Guidance for the CoC with respect to victims (stars)**

### Administrative/disciplinary action focus:

#### 1. The chain of command's role and responsibilities:

- Be prepared to receive disclosures. Consult the Respect in the CAF App or the online Operation HONOUR Manual for more details on how to be prepared, particularly with respect to support to victims, and procedural fairness.
- Ensure ongoing communication and transparency with the victim. Inquire with the victim as to immediate care, safety and support needs and ensure these are addressed, including encouraging the victim to seek support from individuals close to them (such as friends, partners or colleagues) and referring the victim to support services such as the Sexual Misconduct Response Centre (SMRC).
- Determine whether there is a relationship between the victim and the alleged perpetrator which may need to be mitigated. Do you need to separate those involved? Check what the victim would like to have happen. Consider how to mitigate (and monitor continually) the real and ongoing risk of retaliation and immediately address any such issues.
- Document lessons, as they are part of a prevention strategy.
- Initiate Operation HONOUR Tracking & Analysis System (OPHTAS) case management.
- Consult your local Conflict and Complaint Management Services (CCMS) centre for suspected cases of harassment.
- Consult with the SMRC for guidance on effective response as well as on support to victims. SMRC is available to provide coaching to members of the chain of command.

2. The commanding officer should consult the Unit Legal Advisor to determine the best approach to dealing with the incident. There are circumstances that will warrant administrative action even before any police or disciplinary investigation is contemplated/complete, such as: removal from command, relief from the performance of military duty (e.g., from supervisory, instructional or key positions), separating the member from their unit, and ordering no contact, nor any form of communication, directly or indirectly with the victim(s) if applicable. A Significant Incident Report (SIR) or CDS Commander's Critical Information Requirement (CCIR) may be required.

3. Commanding officers are not to investigate alleged incidents of sexual misconduct until it is clear that



all police with jurisdiction to investigate the matter have declined to investigate. Before proceeding they are to seek advice from their Unit Legal Advisor.

**4.** Regardless of where the complaint was made, jurisdictions (mil or civ) will be decided among the implicated police services and prosecutors, in consultation with the victim. If the incident is sensitive or complex, the Military Police may conduct the investigation even if the alleged behaviour does not constitute a criminal offence. Your Unit Legal Advisor will advise on the most appropriate investigation process. The unit should not conduct an investigation while there is an ongoing police investigation.

**5.** The incident may best be served by conducting a disciplinary investigation, administrative investigation, or a harassment investigation. If a police investigation is not required, and on advice from the Unit Legal Advisor, a Unit Disciplinary Investigation may be conducted. Cases of sexual harassment may be of a serious/sensitive nature such that a special harassment investigator is required in accordance with DOAD 5012-0. Consult with your Harassment Advisor (HA) and your local CCMS centre to determine the need.

Alternate Dispute Resolution may be desired by the affected person for incidents where they feel the impact is minor, or where they prefer a restorative approach, but they must not be ordered to pursue such processes.

**6.** Charges will normally be laid after consultation with the appropriate legal advisor. Lack of a charge should not be construed as a belief that unacceptable behavior did not occur; administrative decision-makers must exercise their own discretion, based on the evidence that is available to them, and based on the standard of proof that they are required to consider (i.e. proof on a balance of probabilities) in making decisions to take or not take any particular administrative action.

**7.** If the member was found not guilty on all charges the chain of command should still evaluate if, based on the known facts, it is more likely than not that sexual misconduct did occur, in order to determine whether administrative action is warranted. A review of the facts of the case is required to determine whether, on a balance of probabilities, an incident, special circumstance, or professional deficiency has occurred. If such a determination is made, then a review of the facts of the case is required in order to ensure that the most appropriate administrative action is selected in accordance with DAOD 5019-2. This includes the CAF member's entire period of service (taking into account their rank, military occupation, experience & position), previous conduct deficiencies, if any, and leadership role, if any,

**8.** Administrative action, including remedial measures, may be taken regardless of the outcome of any disciplinary/criminal investigation or trial. For a conviction in a court, the standard of proof is 'beyond a reasonable doubt', for administrative purposes the standard of proof is 'balance of probabilities'. In conducting the review of the case, keep these principles in mind and carefully look at the evidence based on this standard of proof in order to determine whether an incident, special circumstance, or professional deficiency has occurred. If so, then, in accordance with DAOD 5019-2, carefully look at

the facts of the case, their entire period of service (taking into account the CAF member's rank, military occupation, experience and position), previous conduct deficiencies, if any, and leadership role, if any, in order to ensure that the most appropriate administrative action is selected. Investigation reports may be sought from the MPs/CFNIS by the commanding officer as part of the review. Civilian investigative reports are not normally made available to the chain of command; however, in the event that a CAF member is found "not guilty", a review of the trial transcript, decision of the court, or account of the proceedings obtained from the attending officer may be necessary to determine whether there is sufficient evidence to determine, on a balance of probabilities, that sexual misconduct did occur. Legal advice should be sought in such cases, and Director Military Career Administration (DMCA) 2 consulted, to ensure consistency across the CAF.

**9.** If the case involves repeat offences, cumulative misconduct, or based on other considerations is serious, then a release may be warranted. After reviewing the [DMCA 2 - Misconduct Administrative Review web page](#), consult DMCA 2 for guidance on what administrative actions are warranted. If a Notice of Intent (NOI) to Recommend Release is not advised, and in conjunction with all available information and advice from DMCA 2, take the appropriate administrative action. A guilty finding is not required to recommend a release or impose other administrative actions.

**10.** The NOI to Recommend Release is in and of itself an administrative action. The notice format and requirements can be found at [DMCA 2 - Misconduct Administrative Review](#).

**11.** In accordance with DAOD 5019-2, the administrative review file to DMCA 2 shall include the following:

- Commanding officer's administrative action recommendation
- Investigation report(s)
- Member's conduct history
- Synopsis of member's personnel file
- Member's representation
- The court transcript, if applicable
- Any other pertinent information

Ensure that the OPHTAS case management file is updated as necessary.

### **Guidance for the CoC with respect to victims:**

#### **A.**

- Victims should not be forced to report if they do not feel prepared to do so; they can be referred to SMRC to receive confidential support and information. SMRC can also facilitate anonymous contact with their Military Police Liaison Officer, who can provide further information on the options available to them and the process that would be involved.
- The guiding principles for supporting affected members, particularly victims, through any process include: maintaining regular and open two-way lines of communication (rather than only one-way transmission of information); checking in with the victim

throughout the process at all stages, including during delays (long silences and inaction without information can be very difficult); verifying at regular intervals whether the necessary and appropriate resources and services have been secured for the affected member; and whether there are any barriers or other concerns preventing them from reaching out and seeking the needed supports, resources or information. Victims should be strongly encouraged to reach out to, and receive support from, the person(s) of their choosing. In certain regions, professionally trained victim accompaniment personnel may be available, although this new service is not yet widely implemented. Consult the SMRC for more information on the accompaniment services which may be available.

- Given that sexual misconduct can often be an experience of losing control and having choices taken away from a victim, it is essential to avoid, as much as possible, repeating that experience through the formal reporting and investigation process. Providing choices and information and ready access to resources at all stages will help ensure that the impact on the affected member is minimized as much as possible and will increase the chances of retention in the long term. This includes being clear and upfront about what kinds of information they may and may not have access to throughout the process. (e.g. privacy limitations on the sharing of sensitive personal information such as medical or psycho-social assessments or treatment).
- It is important to remember that those affected by sexual misconduct, particularly the more severe and harmful forms, can be under significant emotional/psychological stress. One of the effects this can have is to impair executive functioning (including memory, planning, decision-making, multi-tasking, etc.). Affected members may need to receive information more than once, and it is important to not only convey information, but also to ensure that it has been understood. This is one of the reasons for ensuring that the affected member has a trusted support person to accompany them; they can assist them through the process.
- Consult with victims on any accommodations needed to enable them to function effectively until the situation is fully resolved. It is important to work with the victim to balance their perspective and needs with the requirements of the service.

**B.** The response to alleged incidents of sexual misconduct should, to the greatest extent possible, reflect the victim's preferences, including the decision whether to proceed with disciplinary or administrative processes. The victim should be made aware that an administrative process (such as harassment or ADR) may be conducted and the victim will be informed and constantly updated throughout either (disciplinary, administrative, harassment) process.

**C.** Explain to the victim who will be investigating and why. Provide information on what factors contribute to deciding whether the matter will be investigated by CFNIS, the MPs, the civilian police, or the Unit. Provide information to the victim, via the investigator on case progress. The victim should also be made aware of the different avenues available to them IOT obtain information on the status of their investigation and case (e.g. Military Police Liaison Officer through SMRC, via the prosecutor, or the chain of command). SMRC response and support coordinators may also be available to support them through this process, should the victim choose to make a request. If the decision is

not to lay a charge the investigator should explain why and discuss the next steps. Victim should be made aware if a Service and/or Criminal Offence is suspected to have occurred and who will be conducting the investigation. The chain of command should discuss with the victim how determination was made (and by whom) and ensure a clear understanding of the difference between Code of Service Discipline and Criminal Code and what constitutes an offence under each, as it relates to the incident.

**D.** Explain whether charges were laid and why, in consultation with legal advisor. When determining which system will exercise jurisdiction, investigators and military prosecutors consider a number of factors including the degree of military interest in the case, the degree of civilian community interest (e.g., public safety concerns), whether the accused, the victim, or both are members of the CAF, and the views of the victim. It should also be noted that the Military Justice System has more options in the type of charges that can be laid with respect to sexual misconduct. In addition to offences under the Criminal Code and the civilian Criminal Justice System, service offences that can be prosecuted also include sexual assault, as well as disgraceful conduct, abuse of a subordinate, and conduct to the prejudice of good order and discipline (including sexual harassment). A decision to not lay charges may be significantly upsetting for those affected by the incident. It is important to set aside sufficient time for a discussion with them to help them understand the decision taken, and to ensure they understand their options if they are not satisfied with the process undertaken. It is important at this stage to check in with the victim about the impact of the decision on them, and to ensure again that they have adequate supports in place.

**E.** The case will proceed either through a Court Martial, Summary Trial, or through the civilian criminal justice system. The chain of command needs to ensure that the victim is provided with the necessary information regarding the type of trial that will take place. The chain of command should provide information regarding the Summary Trial process. The prosecutor and the investigator will provide information to the victim in accordance with their policies about the Court Martial process. If the matter proceeds through the civilian criminal justice system, the participants in that system will provide information to the victim as per their policies. Victims may obtain information about the status of their case and the court martial process, from military prosecutors at [CMPSVictimInformation-SCPMInformationVictime@forces.gc.ca](mailto:CMPSVictimInformation-SCPMInformationVictime@forces.gc.ca), monitored daily, or to get answers on questions they may have about their file. Information available to victims includes the decision of the prosecutor on whether to prefer a charge against the accused.

**F.** The chain of command must ensure that victims have adequate supports in place if charges are not laid. Victims should also be provided adequate information regarding options available to them in cases where their complaint is not pursued or they are not satisfied with the outcome (administrative action, relocation request, etc.).

**G.** Discuss the process after a finding of guilty or not guilty. The process does not stop here, and administrative action up to and including release could still be applied.

**H.** Ensure that the victim understands the contents of CANFORGEN 049/19 which does not automatically necessitate that the chain of command issue a NOI to Recommend Release. Administrative action short of release can also be applied.

**I.** Inform the victim whether any administrative actions or disciplinary measures have been or will be taken and the substance of these actions/measures if it is deemed appropriate to do so. However information about such actions/measures that include highly sensitive personal information such as medical or psycho-social assessments or treatment will not be shared.

**J.** The chain of command should check in on occasion with the victim, to ensure they are fully supported in their recovery (e.g., access to support services). Monitor the impact on unit morale and cohesion and seek supports ([CCMS](#), [SMRC](#), etc.) to address remaining issues.



## Considerations for Appropriate Administrative Action

- Rank differential, seniority/experience of accused
  - Position of authority (e.g. CoC, Supervisor, Instructor) or trust (e.g. Physician, Med A, MP, Padre) in relation to the victim(s)
  - Recurrence (received a RM for previous SM / not first incident of SM)
  - Ignored a request to stop
  - Intent to harm / harass
- Example – consider if the incident was an inappropriate comment made without intending to direct it at an individual or was it a vulgar, hurtful comment directed at the victim*
- Severity/seriousness of the incident (including impact on victim(s))
  - Impact on the CAF (e.g. Operational impact (repat from deployment), unit morale)

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The impact or severity of the observed behaviour will vary based on context, circumstances, who is involved, and much more. When determining the appropriate action, we need to consider these factors.

- Rank differential, seniority/experience of accused

Increasing rank differential will call into question the issue of consent, may constitute abuse of subordinates

Increasing seniority/experience would suggest a higher understanding of expected behaviours

- Position of authority (e.g. CoC, Supervisor, Instructor) or trust (e.g. Physician, Med A, MP, Padre) in relation to the victim(s)

Position of authority or trust will call into question the issue of consent, may constitute abuse of subordinates

- Recurrence (received a RM for previous SM / not first incident of SM)

Any previous incidents of misconduct (sexual or otherwise) may call into question the member's suitability for rehabilitation

- Ignored a request to stop
- Intent to harm / harass

Example – consider if the incident was an inappropriate comment made without intending to direct it at an individual or was it a vulgar, hurtful comment directed at the victim

- Severity/seriousness of the incident (including impact on victim(s))
- Impact on the CAF (e.g. Operational impact (repat from deployment), unit morale)

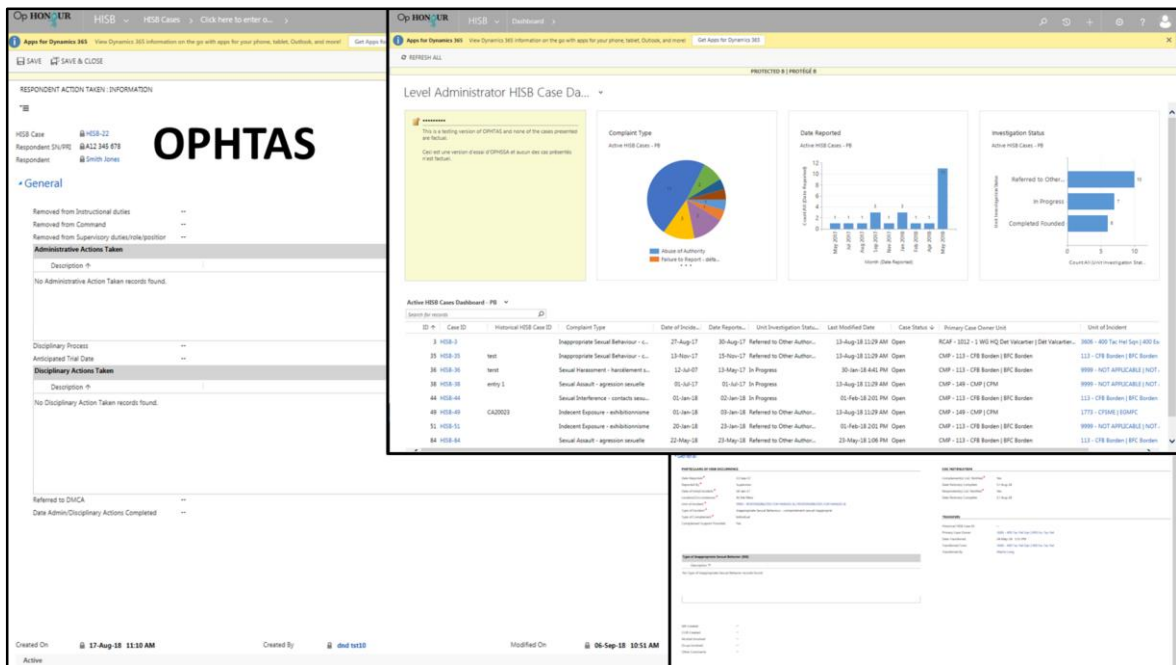
If any of these considerations (among others) are applicable for the incident being reviewed, the CO shall consider more severe Admin Action up to and including NOI to recommend release.

When going the Admin only route, the chain of command will look at the circumstances surrounding the incident as well as the respondent's past conduct history in order to determine the appropriate action (anything from NIL or retain without restriction to remedial measures (see DAOD 5019-4, Remedial Measures) to compulsory release).



## Overview

- Background
- Operation HONOUR
- Definitions
- The Spectrum of Sexual Misconduct
- Actions Upon Receiving a Report/Disclosure of an Incident
- **Operation HONOUR Tracking & Analysis System (OPHTAS)**
- Victim Support Services
- Questions



This is a screenshot of the Sandbox (testing) site.

This slide is meant to be a brief introduction the Operation HONOUR Tracking & Analysis System (OPHTAS).





## OPHTAS

- Central to fully understanding the scope and complexity of the problem and assessing OP HONOUR's progress, is the ability to track and measure trends within the organization and the effectiveness of actions taken at all levels.
- IAW ERA, reporting and tracking was missing:
  - Frequency of reported incidents
  - How these incidents were dealt with
  - Including whether investigations were carried out
  - The length of time between a complaint was lodged and any resolution achieved
  - The nature of the ultimate sanction if any

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### Limitations:

The data is only as accurate as the record keeping.

As some of the incidents reported through this mechanism were also reported to other agencies (i.e., MP, NIS, HI) for investigation, there is a possibility of future "double" counting of the same incident.



## OPHTAS

- Incidents have been tracked since April 2016, previously there was no standardized method of reporting and tracking incidents across the CAF
- Introduction of OPHTAS has resulted in some data fields not being completed (as they were not tracked in the legacy spreadsheets)
- Data is only as accurate as the record keeping
- Reported incidents should be entered into OPHTAS within 48 hrs and should be kept up-to-date until the incident is closed

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- Incidents are uploaded and tracked within 48 hours upon being reported to the CoC
- helps keep CoC accountable (i.e.. L1s and DPMC-OpH run reports on a regular basis)
- tracks every step, process utilized, etc. from as soon as an incident is reported, to when the HISB case is closed and disciplinary/admin action has been carried out
- cases can be transferred between units to ensure the responsible authority (unit) handling the case is always the responsible authority
- Protected B site



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## Victim Support Services

### Deployed Operations Support/Standardized Access

- CJOC, SMRC and DPMC-OpH collaborating and developing protocols to ensure VSS are provided to all deployed CAF members anywhere in the world

### Director Military Prosecutions

- Director of Military Prosecutions (DMP) has launched a pilot project to provide victims of sexual misconduct with information about the case where the matter has previously been referred to DMP<sup>11</sup>

### Military Police

- Military Police Victim Assistance Program

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<sup>11</sup> <http://www.forces.gc.ca/en/caf-community-legal-services/cmpps-information-for-victims.page>

## Victim Information Assistance

Director of Military Prosecutions (DMP): DMP has launched a pilot initiative to provide victims of sexual misconduct (SM) with information about the case where the matter has been previously been referred to the DMP. Victims of SM whose matter has been referred to the DMP and have questions or wish to have further information about the court martial process can contact DMP. DMP's aim is to respond to all requests within 48 hours. The information to be provided by the Canadian Military Prosecution Service (CMPS) includes, but is not limited to:

- The decision of the prosecutor on whether to prefer a charge against the accused;
- Any release conditions placed on the accused prior to trial or any amendments thereto;
- Information regarding the court martial process;
- Publication bans or other available methods to protect victims' identities;
- Information regarding testifying at court martial;
- Any decision by the prosecutor to enter into plea negotiations with defence counsel;
- Any decision by the prosecutor to withdraw charges against the accused; and
- The ability of the victim to provide a victim impact statement at court martial.

## Military Police Victim Assistance Program

The Victim Services Program is designed to assist victims, especially those of violent crimes, in dealing with the trauma and after-effects that can result from crime. Every Military Police unit involved in the provision of law enforcement operations has the following:

- a full-time victim services coordinator;
- an up-to-date listing of local organizations and support groups; and
- protocols with local agencies or services to ensure the victim receives the required support.

One of the key principles of Victim Services Program is as follows:

- Every victim shall be provided with regular and continuous contact from the investigating Military Police unit in order to discuss any assistance requirements and to update him/her on the status of the case.

This contact shall be maintained throughout the investigative process and during any judicial processes that arise from the investigation.



**Beyond the bullets, it is important to discuss their actual “services”.**

Not to be confused with the DPMC-OpH, a CAF organization where the DG reports to the VCDS.

The SMRC is independent from the CAF (reports to DMND) – its creation stems from the Mme Deschamps report – an independent organization, outside the chain of command, where members can seek help without triggering the duty to report.

### **Services:**

- **Provide supportive counselling** in both official languages  
 → non-therapeutic approach that is person-centered which includes doing the following: **active and empathic listening**; verifying immediate safety; crisis intervention; assisting with identifying and communicating needs; **validating emotions**; acknowledging barriers, recognizing strengths and respecting coping strategies; **providing information on available resources, formal reporting options and complaint mechanisms; and facilitating access to internal resources**
  - Are accessible by phone 24/7, 365 days a year
  - Reply to emails between 7 a.m. and 5 p.m.
  - Ensure confidentiality within limits prescribed by law
  - Present and discuss available options to meet individual needs - for affected persons but also CoC, perpetrators, or anyone affected by HISB
  - Provide information on an extensive network of local / regional / national resources
  - Upon request, initiate contact and facilitate access to our Military Liaison Team, CF Health Services, Chaplaincy and, external partners
  - Provide subject matter expertise and advice to CAF to inform initiatives specifically related to sexual misconduct



## Contact Information

### **Sexual Misconduct Response Centre (SMRC)**- Hours: 24/7/365

- 1-844-750-1648 (North America), 613-996-3900 (collect calls)
- [DND.SMRC-CIIS.MDN@forces.gc.ca](mailto:DND.SMRC-CIIS.MDN@forces.gc.ca)
- [Canada.ca/defence-sexual-misconduct-response-centre](http://Canada.ca/defence-sexual-misconduct-response-centre)

### **Directorate Professional Military Conduct - Operation HONOUR (DPMC-OpH)**

- 613-996-3096
- ++DPMC-OpH – [DCMP-OpH@VCDS@Ottawa-Hull](mailto:DCMP-OpH@VCDS@Ottawa-Hull)

### **Integrated Conflict and Complaint Management (ICCM)** (Contact one of 16 Conflict and Complaint Management Services across Canada or):

- Toll Free: 1-866-GRIEVOR (1-866-474-3867)
- ++CF Grievance Inquiries - [Demandes de requête des griefs FC@VCDS DCFGA@Ottawa-Hull](mailto:Demandes de requête des griefs FC@VCDS DCFGA@Ottawa-Hull)

### **DMCA**

- 613-901-8292
- ++DMCA 2 - 2 [DACM@CMP DMCA@Ottawa-Hull](mailto:DACM@CMP DMCA@Ottawa-Hull)

And... Your **Unit Legal Advisor**

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**Operation HONOUR and the efforts to eliminate sexual misconduct from the CAF continue to be the CDS' number one priority.**



National Defence  
Défense nationale

RESPECT IN THE CAF

Reporting

Tools

Get Support

Give Support

Get Informed

Operation HONOUR

## Respect in the CAF – Mobile App

- Design is intuitive to use, which is critical to a victim in crisis.
- Bilingual app (toggle between English and French).
- Provides tailored solutions depending on a user's needs.
- Content is based on latest research and consultations with experts and victims.
- Provides considerable depth on a broad range of topics in one place.
- Geo-referenced support resources.

For more information on Operation HONOUR  
see [canada.ca/caf-operation-honour](http://canada.ca/caf-operation-honour)

This free downloadable app will assist and enable CAF members to deal more confidently and knowledgeably with an incident of sexual misconduct.

Includes **downloadable tools**, **educational information**, and **resources** to support anyone who is dealing with an incident.

App provides:

- Guidance and support for victims/survivors, leaders, commanders, bystanders, friends and family
- Access to geo-referenced support resources world-wide direct from device (police stations, medical facilities, rape crisis centres, etc.)
- A search function that is intelligent and predictive
- A software architecture that allows for easy update and expansion
- A deliberate design that keeps its use private and confidential

The app is routinely updated to ensure it contains the latest information and to add additional functionality or resources.

If you allow it, the app can use your location to find services nearest you... even when deployed.

These geo-referenced support resources include:

- Police, hospital, SMRC, crisis centers, etc.
- There are 227 resources (domestic and overseas) in the database.
- Call or get driving directions direct from device.
- Info includes: name of resource, location, phone(s), email address, language(s) of service, civilian/military, and links to websites.
- Entire list can also be accessed offline or downloaded for sharing.



# Questions?

++DPMC-OpH – DCMP-OpH@VCDS@Ottawa-Hull



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