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ASSISTANT DEPUTY MINISTER (REVIEW SERVICES)



# Review of the Establishment of the Sexual Misconduct Response Centre

September 2017

1259-3-0016 (ADM(RS))

Reviewed by ADM(RS) in accordance with the *Access to Information Act*.

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Canada 



## Acronyms

CAF	Canadian Armed Forces
CDS	Chief of the Defence Staff
CSRT-SM	Canadian Armed Forces Strategic Response Team on Sexual Misconduct
DM	Deputy Minister
DND	Department of National Defence
HISB	Harmful and Inappropriate Sexual Behaviour
OPI	Office of Primary Interest
SMRC	Sexual Misconduct Response Centre



## Statement of Conformance

The review findings and conclusions contained in this report are based on sufficient and appropriate evidence gathered in accordance with procedures that meet the Institute of Internal Auditors' *International Professional Practices Framework* for a review level of assurance. The review thus conforms to the International Standards for the Professional Practice of Internal Auditing as supported by the results of the quality assurance and improvement program. The opinions expressed in this report are based on conditions as they existed at the time of the review and apply only to the entity examined.



# Definitions

Various definitions are provided in directives and orders within the Department of National Defence and the Canadian Armed Forces (DND/CAF) to describe sexual misconduct, sexual harassment, sexual assault, etc. The CAF has collated those terms into a single document for study.<sup>1</sup> The following definitions are provided for the purpose of this review only.

- **Harmful and inappropriate sexual behaviour (HISB):** Overarching term that covers all forms of inappropriate sexual behaviour. It includes, but is not limited to, actions that perpetuate stereotypes and modes of thinking that devalue members on the basis of their sex, sexuality or sexual orientation; unacceptable language or jokes; accessing, distributing or publishing in the workplace material of a sexual nature, offensive sexual remarks; exploitation of power relationships for the purposes of sexual activity; unwelcome requests of a sexual nature or verbal abuse of a sexual nature, publication of an intimate image of a person without their consent, voyeurism, indecent acts, sexual interference, sexual exploitation and sexual assault.
- **Sexual Assault:** Includes sexual attack, unwanted sexual touching and sexual activity where unable to consent.
- **Sexual Harassment:** Although there is no agreement regarding the definition there is a general consensus based on laws, psychological research and general opinion that are quite consistent. The following are examples of some behaviours that could be considered sexual harassment (note that this is not an exhaustive list):
  - unwanted sexual advances which may or may not be accompanied by threats or explicit or implicit promises.
  - displaying sexist pictures, posters, or sending e-mails related to one of the eleven grounds prohibited under the *Canadian Human Rights Act*...
- **Sexual Misconduct:** This term covers conduct found in the broad spectrum from sexual harassment to sexual assault. To fit into the spectrum, the act or behavior usually has a sexual purpose or is of a sexual or indecent nature. Sexual misconduct includes offences such as sexual assault, indecent exposure, voyeurism and acts involving child pornography.

<sup>1</sup> CAF Definitions, Terminology and Lexicon Related to Harmful and Inappropriate Sexual Behaviour.



## Context

- Media has drawn attention to the issue of sexual misconduct that exists within Canadian society and institutions, including the CAF.
- In response, an independent external review was requested by the former Chief of the Defence Staff (CDS). The results were publicly released on April 30, 2015.
- The current CDS, General Jonathan Vance, issued Operation HONOUR in August 2015 with a clear message of zero tolerance: “This is a serious matter.... It stops now. Consider this my first order to all members of the CAF.”<sup>2</sup> He later emphasized, “I hereby direct that all CAF members found guilty of sexual misconduct ... shall be issued with a Notice of Intent to recommend release if the incident occurred after 01 Jan 16.”<sup>3</sup>
- Creating the Sexual Misconduct Response Centre (SMRC) was among the many efforts by the DND/CAF to respond to the call for an independent centre to address issues of HISB.
- The SMRC was initially established in September 2015 as a confidential victim response and support centre. Since that time, the SMRC has evolved and plans to have an updated mandate and associated foundational documentation finalized in 2017.

<sup>2</sup> CDS Message to Canadian Armed Forces on Harmful Sexual Behaviour, July 23, 2015.

<sup>3</sup> Operation HONOUR Fragmentation Order 003 - CDS Direction on Administrative Action, Up to and Including Release, for CAF Members Found Guilty of Sexual Misconduct, December 2016.



## Context (p.2)

- The SMRC has the considerable task of ensuring it is responsive to the needs of its client base (i.e., the CAF), while also being responsible as it executes its mandate and provides confidential support to CAF members who have been affected by HISB.
  - Some of the challenges facing the SMRC in executing this task include the following:
    - consultation between the SMRC and the CAF so that both are able to share their needs and advice, while maintaining independence in fact and perception;
    - ensuring that it is clear to all stakeholders that the Deputy Minister (DM) is the final approving authority for all SMRC foundational documentation as it pertains to the business of SMRC; and
    - having a documented and understood definition of independence for its operation and governance.



## Objective, Criteria and Scope

The objective of this review was to assess whether effective governance structures and processes are in place for the establishment of the SMRC.

### Criteria

- Effective oversight bodies exist to oversee and support the functions of the SMRC.
- Authorities, roles and responsibilities of the SMRC are clearly defined and communicated.
- Performance measures are in place to enable and support the SMRC.

### Scope

- This was a directed review that focused on the responsibilities of the SMRC in providing victim support as part of the effort to address HISB. A formal risk assessment was not conducted due to the directed nature and short timeframe associated with this review.
- The review considered the independence of SMRC in relation to its mandate.
- The period under review consisted of activities related to SMRC planning considerations as early as April 2015 until the review's conduct end-date in February 2017.

### Out of Scope

- The tasks of Operation HONOUR and the responsibilities of the CAF Strategic Response Team – Sexual Misconduct (CSRT–SM). Many of the tasks to support progress on recommendations stemming from the External Review Report,<sup>4</sup> widely known as the Deschamps Report, are under the responsibility of the CSRT-SM and various CAF organizations. Confirmation of their progress was not the subject of this review.

<sup>4</sup> External Review on Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces, March 2015.



## Background—External Review and Response

- A former Supreme Court of Canada Justice, Madame Marie Deschamps, conducted an external review into sexual harassment and sexual misconduct in the CAF between June 2014 and March 2015.
  - Her mandate was to examine CAF policies, procedures and programs in relation to sexual harassment and sexual assault.
  - The External Review Report resulted in ten recommendations, which focused on creating an independent centre outside of the chain of command that would be the central resource for addressing sexual misconduct.
  - The CDS received the External Review Report on March 27, 2015.
- The CAF CSRT–SM was established in February 2015, proactively, under CDS authority within the chain of command through Chief Military Personnel. This was done prior to the release of the External Review Report to achieve the following:
  - enhance operational readiness by eliminating to the extent possible, incidents and impacts of HISB; and
  - develop an action plan to address the ten recommendations made by Madame Deschamps and oversee the implementation of the tasks of Operation HONOUR.
- An External Advisory Council was also considered to allow external members to offer “high quality, well informed, innovative, dynamic and objective advice and perspectives to the CAF”<sup>5</sup> and the SMRC on sexual misconduct.

<sup>5</sup> Draft Briefing Note for the DM and the CDS: Operation Honour Advisory Council, January 4, 2016.





## Background—SMRC

- The SMRC was initially established in September 2015 to provide confidential victim support, including empathetic listening and information, and facilitated access to resources for members of the CAF who experienced or had been affected by any facet of HISB.
  - A plan is being developed to implement a 24/7 operating model. At the time of the review, the hours were limited to 0700 to 2000.<sup>6</sup>
  - Clientele is currently limited to CAF members, both Regular and Reserve Force. However, consideration may be given in the future to expanding clientele and services.
  - The External Review Report recommended that an independent centre be created to manage seven key activities: victim support, prevention, coordination and monitoring of training, receipt of reports, monitoring of accountability, research and collection of data.
    - Although the SMRC's interim scope of services has been focused on confidential victim support by telephone or email from a central location, its scope is expected to evolve as the organization matures to potentially include other roles and responsibilities.
- As a result of accelerating the establishment of the SMRC in September 2015, staff and counsellors were initially recruited through short-term staffing options such as internal assignments and casual employment. Bringing stability to its current organizational model was recognized as a pressing priority by the SMRC during the review.
- With the SMRC being a new organization, reporting to the DM, it requires its own administration and support functions. At the time of the review, SMRC was working to complete hiring processes and finalize staffing of these functions.

<sup>6</sup> On July 24, 2017, the SMRC began operating under its 24/7 operating model.



# Background—External Review Report

As summarized in Table 1, of the seven activities identified in the External Review Report, the SMRC is, on an interim basis, mandated to focus solely on confidential victim support. The other activities are delivered by other organizations and have not been assessed as part of this review.

Activity	Description of Activities	OPI
Victim Support	Provide supportive counselling and facilitate victim support offered by other partners to individual callers.	SMRC
	Advocate, provide emotional support and coordinate victim support services offered by other partners.	CSRT-SM / SMRC (under development)
Prevention	Increase awareness of HISB, (e.g., leaders involvement).	CSRT-SM
Coordination and Monitoring of Training	Coordinate mandatory, stand-alone training for CAF members. Monitor the training progress of all members.	CSRT-SM
Report Receiving	Receive formal and informal complaints on sexual assault and sexual harassment.	Various <sup>7</sup>
Monitoring of Accountability	Follow-up on complaints including case status, outcomes and statistics.	Various <sup>7</sup>
Research	Conduct research and studies on education, training, policies and practices by other domestic and international organizations.	Various <sup>7</sup>
Collection of Data	Prepare annual report on the number of reports made, complaints filed and charges laid, the status of investigative procedures, as well as the outcome of complaints by year, unit and environment.	Various <sup>7</sup>

**Table 1. External Review Report Activities.** This table identifies the seven key activities recommended by the External Review Report for a centralized independent centre to oversee, and it lists the OPIs that are currently responsible for the related activities.

<sup>7</sup> Various can include CSRT-SM, SMRC, Military Police, other CAF organizations and other external organizations.



## Background—Other Services Available

Beyond the services offered by the SMRC, there are other resources<sup>8</sup> available for CAF victims of HISB as seen in Table 2. Civilian members use civilian agencies, resources and authorities.

Resource	Service Offered
CAF Health Services Clinics	Access to information about health services including medical care, mental health support, etc.
CAF Member Assistance Program	A voluntary and confidential counselling service that provides short-term counselling services for those in need.
Chaplains	Religious or spiritual advice.
Military Police Victim Assistance Program	A national program committed to increasing the Military Police's focus on victims of crime.
The Integrated Complaints and Conflicts Management Program	Envisioned as being the process of choice for the management of complaints relating to all forms of inappropriate behaviour.
National Defence and Canadian Forces Ombudsman	The office is a direct source of information, referral and education for the men and women of the DND/CAF. Its role is to help individuals access existing channels of assistance or redress when they have a complaint or concern.

**Table 2. Other Services Available.** This table identifies some of the additional resources that are available for CAF members who are victims of HISB.

<sup>8</sup> Military Family Services: You're Not Alone – Connecting Military Families to Mental Health and Social Wellness Programs, 2014; CANFORGEN 185/16 Vice Chief of the Defence Staff 017/16 131921Z OCT 16; and Ombudsman's Office <http://www.ombudsman.forces.gc.ca/en/ombudsman-about-us/mission-mandate.page>. Last consulted on 17 February, 2017.



## Observation: Independence and Responsiveness

The SMRC reports directly to the DM and operates outside of the chain of command. In addition, measures are in place to protect the confidentiality of victims. While it is essential that the SMRC be independent in fact and perception to victims and stakeholders, it is also necessary to be responsive to the needs of the CAF. To accomplish this, the SMRC will need to establish appropriate mechanisms and parameters to engage the CAF and other stakeholders.

- It is important to note that victim confidentiality is a key element of SMRC operations.
  - Counsellors are physically separated from other SMRC offices to protect victim privacy; and
  - Standard operating procedures were drafted on confidentiality and disclosures to provide guidance to counsellors.
    - SMRC staff are responsible for protecting personal information disclosed by individuals who contact the centre in accordance with the applicable federal legislation, Treasury Board policies and DND directives; and
    - SMRC staff are provided with guidelines for protecting personal information.
- It is critical for the SMRC to be responsive to the needs of the CAF and to be responsible in how it executes its mandate, maintains victim confidentiality and provides information and advice on issues and trends. While the SMRC is set up to operate independently, there is a risk that CAF members could perceive some of the collaboration between SMRC and the CAF as limiting its independence.
  - In order to increase CAF members' understanding of the difference between the roles of CSRT-SM and SMRC, CSRT-SM requested to be in attendance when SMRC provides briefing sessions to base staff. Without proper alignment and coordination of both the SMRC and CSRT-SM's communication and other strategies, there is a risk that this could be perceived as limiting the independence of the SMRC.



## Observation: Governance

SMRC governance ensures independence from the chain of command through a direct reporting relationship to the DM. The DM is the final approval authority for all SMRC business. The plans to finalize SMRC's foundational documentation are largely on track. A review of the draft documentation identified areas that could be improved, such as the definition of roles and responsibilities and the performance measurement strategy.

- At the time of the review, CAF stakeholders were reviewing and requesting changes to foundational documentation.
  - The draft SMRC Charter, which is deemed to be a key foundational document, has been reviewed by CSRT-SM, who requested changes and additional content, such as service agreement elements. However, the review noted that the final approval of this and other documents remains under the authority of the DM.
  - It has also been proposed that SMRC use existing governance bodies such as the Canadian Forces Personnel Management Council and the Armed Forces Council. However, the review observed that the use of such CAF-led governance bodies would not fully support the independence of the SMRC or its perception thereof, and it would not be aligned with the SMRC's current accountability to the DM. Engagement with these bodies may be useful in order to be responsive to CAF needs and to provide feedback to and obtain feedback from the CAF. However, the review acknowledges that the final authority rests with the DM.



## Observation: Governance (p.2)

- Foundational documentation to define SMRC’s accountabilities, responsibilities and authorities and to guide its business strategy had been drafted at the time of the review but required some improvement. Effective planning will assist the SMRC to demonstrate how it can achieve its organizational strategic goals.
  - The draft SMRC document that defines its role would benefit from including key elements such as roles and responsibilities, accountability, authority and a definition of independence.
  - The draft Accountabilities, Responsibilities and Authorities Framework for the SMRC executive director should include the expected key deliverables and defined functional authorities.
  - Other foundational documentation that was in development during the review would also benefit from additional information (i.e., the Integrated Business Plan and the Performance Measurement Strategy).
    - For example, based on the performance measurement documentation assessed at the time of review, inconsistencies between documents were noted, and details on how the SMRC would measure its indicators were incomplete.
- An External Advisory Council will be established to “advise the DM and the CDS in leveraging Canadian expertise, experience and lessons learned from the private and public sector in support of Operation HONOUR activities to address and eliminate HISB.”<sup>9</sup> The supporting documentation for the concept of the External Advisory Council was initially drafted in December 2015 and is in the process of being finalized.

<sup>9</sup> Annex A to briefing note to CDS on Operation HONOUR External Advisory Council, October 2016.



## ADM(RS) Recommendations

In order for the SMRC to more effectively deliver its mandate, it is recommended that it do the following:

1. Finalize and obtain DM approval, with any necessary or required input from the CAF and other stakeholders, for its foundational documentation. While finalizing this documentation, the SMRC should do the following:

- refine its scope in light of intentions to further evolve its services;
- establish appropriate mechanisms and parameters to engage the CAF and other stakeholders to provide information and advice on issues and trends and to enable the SMRC to operate effectively and independently, while recognizing the final approval authority of the DM;
- clarify its roles and responsibilities and provide a definition of independence;
- enhance its business planning documentation and finalize a performance measurement framework;
- promulgate its mandate; and
- align with other stakeholders.

**OPI:** SMRC

2. Finalize the establishment of the External Advisory Council with clearly defined and agreed upon terms of reference to ensure maximum benefit to both the SMRC and the CAF.

**OPI:** SMRC



## Conclusion

SMRC governance ensures independence from the chain of command through a direct reporting relationship to the DM. The DM is the final approval authority for all SMRC business. In addition, mechanisms are in place to protect victim confidentiality.

A documented governance framework will clarify SMRC's evolving mandate and allow for mechanisms and parameters for SMRC to provide expertise and advice to the CAF, as well as obtain feedback from the CAF. Finalizing and obtaining DM approval of the fundamental SMRC documentation will also provide for more effective governance structures and processes by providing effective oversight and a supportive performance measurement framework. Finally, by ensuring proper alignment and clear understanding of CAF and SMRC roles and responsibilities, it will support SMRC's evolution and independence while it continues to mature and address sexual misconduct issues within the organization.





# Annex A—Management Action Plan

## ADM(RS) Recommendation

1. It is recommended that the SMRC finalize and obtain DM approval, with any necessary or required input from the CAF and other stakeholders, for its foundational documentation. While finalizing this documentation, the SMRC should do the following:

- refine its scope in light of intentions to further evolve its services;
- establish appropriate mechanisms and parameters to engage the CAF and other stakeholders to provide information and advice on issues and trends and to enable the SMRC to operate effectively and independently, while recognizing the final approval authority of the DM;
- clarify its roles and responsibilities and provide a definition of independence;
- enhance its business planning documentation and finalize a performance measurement framework;
- promulgate its mandate; and
- align with other stakeholders.

Management Action Plan	Target Completion Date
<p>The SMRC accepts this recommendation and will finalize its foundational documents, consult with the CDS on content, and obtain approval from the DM for the following:</p> <ul style="list-style-type: none"> <li>• A newly developed document entitled, “The Commitment to Members,” that describes what CAF members can expect when they contact the SMRC.</li> <li>• An updated Mandate document that will define independence as it pertains to the operation and governance of the Centre, outline roles and responsibilities and specify the mechanisms through which the SMRC will both provide information to and obtain input from the CAF. The Mandate will include a revised scope of functions and duties consistent with intentions to evolve its services. It will also explain the relationship of the SMRC with other stakeholders. The updated Mandate and the Commitment to Members will be promulgated across the DND/CAF. An interim date of completion for the updated Mandate and Commitment to Members documents is September 2017.</li> <li>• A Performance Measurement Framework will be developed, and business planning documentation will be enhanced by November 2017.</li> </ul>	<p>Nov 2017</p>



## Annex A—Management Action Plan (p.2)

### ADM(RS) Recommendation

2. It is recommended that the SMRC finalize the establishment of the External Advisory Council with clearly defined and agreed upon terms of reference to ensure maximum benefit to both SMRC and the CAF.

Management Action Plan	Target Completion Date
<p>The SMRC accepts this recommendation and, in consultation with CSRT-SM, is finalizing the following documents for the DM and CDS:</p> <ul style="list-style-type: none"> <li>• Terms of Reference</li> <li>• Volunteer Agreement</li> <li>• List of proposed members, with proposed chairperson(s)</li> </ul> <p>Target Completion Dates: Documentation – August 2017                      Appointment of members – September 2017                      First Council meeting – October 2017</p>	<p>October 2017</p>