



EXTERNAL MONITOR REPORT

Second Status Report—November 7, 2023

November 7, 2023

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 second bi-annual report, in both official languages.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Therrien".

Jocelyne Therrien

Enclosure: External Monitor Report—Second Status Report

Contents

Introduction 1

Second Report Findings 3

 Clarifying definitions and related policies.....3

 Military justice: Eliminating concurrent jurisdiction for sexual offences under the Criminal Code..4

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

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

 Grievances regarding sexual harassment and gender-based discrimination.....6

 Duty to report and barriers to reporting7

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

 Victims’ rights.....9

 Defence advisory groups9

 A shorter recruitment process, and assessment and early release of unsuitable candidates10

 Military training and professional education.....11

 Royal military colleges12

 Performance appraisals, promotions and succession planning.....13

 Medical releases16

 Input and oversight.....17

 Public online database18

 Recommendations #47 and #48.....19

Conclusion..... 20

External Monitor Report – Second Status Report

Introduction

1. In 2021, at the request of the Government, former Justice Louise Arbour launched a sweeping review of the problem of sexual misconduct within the Canadian Armed Forces. Her 2022 report is referred to as the Independent External Comprehensive Review (IECR). It contained 48 recommendations which focused on “avenues of reform” in dealing with the “institutional shortcomings and structural impediments” that had allowed the problem to persist.
2. In her report, former Justice Arbour recommended an external monitor who would report twice annually on the progress made by the Department of National Defence and Canadian Armed Forces (DND/CAF). My first status report was published in May 2023, and it contained my observations on approximately half of the IECR recommendations.
3. In the report, I pointed out that the organization was clearly focused on fixing the problem and that many initiatives were underway in response to the IECR recommendations, along with hundreds of recommendations from other external reviewers and stakeholders. One-on-one conversations with many of CAF’s senior leaders clearly demonstrated commitment at the highest level. Former Justice Arbour had noted this in 2022, and I can say that it still holds true today.
4. Notwithstanding a clear commitment to act on the recommendations, I found that the organization lacked a multi-year plan to delineate the prioritization and sequencing of activities in response to the recommendations. Prioritization was seemingly more a function of the availability of resources rather than the result of an institution-wide vision regarding how it would achieve results in year one, year two and so forth. This overall framework would conceivably show how the organization would progress towards its goal of culture change, based on a set of principles that would guide its efforts over time, and withstand the turnover in personnel that can sometimes derail progress.

5. During the summer months, DND/CAF produced such a multi-year plan. The Chief Professional Conduct and Culture (CPCC) was responsible for its development, based on consultations with internal stakeholders. As such, I believe it provides the basis for a shared vision across the organization and it provides the Minister with a more global view of where there is progress. Further, it will provide information to external stakeholders once it is made public.

6. Of critical importance, the plan states that it will measure and report on outcomes as opposed to the completion of activities. The next year will show the impact of this plan and potentially move this organization towards its goal of culture change.

7. This Second Status Report contains my observations on all the IECR recommendations. As in the first report, I include findings related to sexual misconduct from other sources, such as former Justice Fish's 2021 report on the military justice system and the consultation reports stemming from the Heyder-Beattie class action process. My aim is to provide an external view on what has been done to date, particularly in terms of the intent behind the recommendations. The report contains my observations based on a review of documentation and follow-up discussions with individuals responsible for implementation. All IECR recommendations have been actioned to some extent.

Second Report Findings

Clarifying definitions and related policies

8. The definitions and terms related to sexual misconduct in the CAF have been the subject of many comments from external observers.¹ This has led to numerous changes to related policies over the years. The IECR concluded that the use of the term “sexual misconduct” did not sufficiently distinguish between what is a crime versus a form of harassment, and other prohibited activities. It was therefore proposed that the CAF abolish the definition of sexual misconduct and instead focus on sexual assault, sexual harassment, and the interpretation of current policies on personal relationships and fraternization.

9. The CPCC has informed me that the changes required in relation to recommendations **#1** and **#2** will be ready for approval by the end of this calendar year. The CAF will abolish the definition of sexual misconduct, and will reference sexual assault as a standalone item, linking it to the Criminal Code. The CAF’s Spectrum of Sexual Misconduct, a tool used to inform all members of what constitutes unacceptable behaviour, is undergoing changes. It will address a range of concerns that have been raised and clearly identify what constitutes a safe and inclusive workplace, what are inappropriate behaviours, and what are criminal acts. The updated Spectrum of Sexual Misconduct will be finalized by the end of December. However, the Defence Administrative Order and Directive (DAOD) 9005-1 will be updated at a later date as it involves more process.

10. In recommendation **#3**, the CAF was advised to amend all relevant policies by specifically using the Canada Labour Code definition of harassment. In the update to Parliament last December, the former Minister of National Defence stated that DND/CAF would align its harassment policy and processes with the Canada Labour Code via the Workplace Harassment and Violence Prevention (WHVP) policy and associated regulations, which are used by the rest of the public service. The Minister agreed that these recommendations would more clearly define sexual assault and harassment and ensure the two are not conflated. The work being done in response to this recommendation is ongoing and is expected to be concluded in the fall of 2024.

¹ Dechamps, OAG, Senate Committee on National Security and Defence, Heyder-Beattie Consultation Reports

11. IECR recommendation #4 proposed that the current definition of personal relationships should remain and that the concept of “adverse personal relationship” be abolished. As stipulated in the December 2022 report to Parliament, the CAF determined that it would combine elements from both the IECR and conclusions from former Justice Deschamps in 2015 on this subject. The CAF is refining the existing concept of adverse personal relationship with examples that describe a power imbalance and create an administrative presumption that when a relationship is not properly disclosed, the relationship should be considered adverse.

12. The revised policy is currently in draft form. It provides examples of when CAF members must notify their chain of command and specifies that the onus to rebut the presumption of an adverse personal relationship falls on the more senior rank. It also provides guidance to Commanders on how to handle the various situations that may be presented to them. This policy change requires an amendment to a DAOD which is a lengthy process. It is anticipated that official promulgation will take place in approximately one year.

Military justice: Eliminating concurrent jurisdiction for sexual offences under the Criminal Code

13. The IECR recommends (#5) that sexual offences under the Criminal Code be removed from the jurisdiction of the CAF. These should be investigated and prosecuted exclusively in the civilian justice system.

14. Since December 2021, 275 files of sexual offences under the Criminal Code have been reported to the Military Police (MP)². Of these, 142 were referred/transferred to a civilian police force for investigation and 101 files were accepted. The remaining 41 were declined and therefore investigated by the CAF’s National Investigation Service or a MP Detachment. Of the 133 files that were not referred, the main reasons were that the incidents occurred outside of Canada or that the victims were not interested in proceeding with an investigation or preferred to remain within the military justice system.

15. The DND/CAF has engaged all provinces, territories and other federal stakeholders in this matter and consultations have been held on how best to accommodate Justice Arbour’s

² CAF data as of September 25, 2023.

recommendation. The Minister has been provided with a few options for moving forward. I am of the view that it will be important to set up a feedback mechanism to track outcomes for CAF members whose cases are investigated and prosecuted under civilian jurisdiction and ensure that they are consistently provided with victim services.

Administrative reviews related to release of members for misconduct

16. Recommendation **#6** concerns administrative action related to sexual misconduct. The IECR proposes an external review of the 52 administrative files related to sexual misconduct between 2015 and August 2021 in which the commanding officer recommended release and the Director Military Career Administration (DMCA) decided to retain without any career restrictions. Former Justice Arbour advises the following in her report: “I appreciate the DMCA’s role in ensuring consistent standards are applied throughout the organization. On balance, I encourage the DMCA to place considerable weight on the CO’s [commanding officer’s] position that their member should not continue in service.”

17. The directorate responsible for this recommendation estimates that the review and analysis of the 52 files will be completed by June 2024. Hopefully, the external review will explain the apparent disconnect and why there is such a difference of opinion as to whether or not a member should be released as a result of sexual misconduct.

Complaints about sexual harassment and gender-based discrimination

18. Recommendations **#7** and **#9** relate to the civilianization of the processes for complaints of non-criminal sexual harassment and propose that the Canadian Human Rights Commission (CHRC) handle these cases. The change means that the CAF no longer requires a member to exhaust all internal complaint systems before engaging the services of the CHRC. The new approach has been widely communicated in several ways, including from the Minister’s office, on social media and via a CANFORGEN³ message. The communication plan was developed with the CHRC to inform CAF

³ CANFORGENs are important messages from Canadian Armed Forces leadership and are applicable to all CAF personnel.

members of this change. There have been some training sessions delivered to those who deal with complaints, provided jointly with the CHRC.

19. The IECR further recommended **(#8)** that the Canadian Human Rights Act be amended to allow for the award of legal costs, and to increase the total amount in damages awarded. It was also recommended **(#7)** that the Minister seek the assistance of his colleagues to ensure that the Commission and the Tribunal have the necessary resources to support the timely administration of complaints. These matters have been discussed at the Deputy Minister level of DND and the Department of Justice, as the CHRC is an organization within the Justice portfolio.

Grievances regarding sexual harassment and gender-based discrimination

20. The current CAF grievance system suffers from an extensive backlog and there is a generalized distrust in how complaints are handled. The time it takes to bring about any resolution can take many months, leading to aggravation and great inefficiency. Former Justice Fish, in his 2021 report on military justice, stated that the CAF grievance system was “broken”. Since then, the CAF has embarked on a course to completely transform the process of handling the many complaints it receives. As stated in a 2022 CANFORGEN message: “The CPCC is committed to lead this fundamental transformation to improve the way complaints are reported, tracked and addressed”. Currently, all member complaints are managed through separate systems that are disjointed. Tracking of outcomes is difficult, resulting in limited accountability for how issues are resolved.

21. With respect to grievances specifically related to sexual misconduct, the IECR stated the following: “These types of grievances are unique and addressing them promptly will go a long way to repairing or at least avoiding the harmful repercussions that flow from incidents of sexual misconduct.” Former Justice Arbour noted that such grievances should bypass the chain of command and instead be addressed by subject matter experts.

22. The IECR therefore further recommended **(#10)** that these grievances be fast-tracked and referred to the Military Grievance External Review Committee (MGERC). Former Justice Arbour notes that one of the benefits of this approach is that it increases the visibility of these grievances to senior leaders, and suggests that the CAF may wish to consider extending such a process to other types of harmful conduct.

23. I have been informed by the CPCC that these grievances are now being expedited and that the new process includes a review by a subject matter expert within the office of the CPCC. In addition, these grievances are already being referred to MGERC, pending regulatory change. A more formal system will be implemented as part of the transformation of the grievance system.

Duty to report and barriers to reporting

24. As discussed in my first report, the regulation referred to as “duty to report” was identified by several reviewers and stakeholders as a barrier to reporting an incident, with many reluctant to go through an official complaints process for a variety of reasons. In 2022, the IECR recommended **(#11)** that the duty to report be repealed and a decision to do so was rendered earlier this year. The repeal will take effect in winter 2023-24. In the interim, related regulations and policies are being reviewed for any necessary amendments. In the coming months, I will track the extent to which all CAF members and the chain of command have been informed of this significant policy change.

The Sexual Misconduct Support and Resource Centre

25. In my first report, I noted significant progress in relation to the recommendations concerning the Sexual Misconduct Support and Resource Centre (SMSRC). Several initiatives have already been completed, such as a name change to more clearly emphasize the SMSRC’s primary role as a resource and support centre for victims, and the removal of the monitoring and education roles from its mandate **(#12, #13, #15 and #16)**. Support programs have been expanded both in terms of geographical availability and in terms of the number of people who are eligible to benefit from them. A first DND/Veterans Affairs Canada (VAC) peer support program was also launched. This type of program was often recommended by survivors. The first offering was an on-line clinically moderated group discussion board. More recently, the SMSRC has launched a face-to-face peer support program. These sessions are co-facilitated by a trained person with lived experience and a mental health practitioner.

26. The SMSRC has also recently provided for the reimbursement of legal costs incurred by those who have been affected by misconduct, retroactive to 2019. This was a first step. The long-term goal is to establish an “independent legal advice program for victims to access legal

information, advice and representation.” The next step is to introduce a new resource: a legal counsel whose role will be to dispense information and advice to those who contact the SMSRC, primarily in relation to the military justice system, and also to act as a liaison with private sector lawyers. The plan is to have this person in place by March 2024. One consideration, in response to IECR #14, was to establish a roster of civilian lawyers to whom individuals could be referred. However, there are now some concerns about the viability of this approach. In the interim, legal fees will continue to be reimbursed.

27. Regarding the SMSRC’s structure, recommendation #18 stated that it should be reviewed “in order to increase its independence, effectiveness, and proper place in the Defence Team.” Former Justice Arbour recommended that the SMSRC would benefit from remaining within the DND structure (#17), but that it was critical to ensure its ability to function autonomously. Much effort has been dedicated to this in recent months, but more work remains to be done to achieve the intent of the recommendation. Various options are being considered. There are costs involved and this creates the need for more discussion. I will report further on this issue in the next Status Report.

28. Recommendation #19 stated that the role, composition, and governance of the External Advisory Committee to the SMSRC should be reviewed to ensure “adequate representation of equity seeking groups and minority groups who are disproportionately affected by sexual misconduct.” This work is nearing completion, and the Terms of Reference are expected to be finalized by the end of this fiscal year.

29. One of the SMSRC’s programs is the Restorative Engagement Initiative, which stems from the Heyder-Beattie final settlement agreement. Class members who wish to participate have various options for engagement, including meeting with DND/CAF leaders to talk about their experiences. The objective for Defence representatives is to acknowledge, listen and learn. I highlight this program because it gives victims a voice and, just as importantly, it has the distinct potential to inform the organization about the root causes of the problem and to inform policy making.

30. The SMSRC clearly provides critical support services to those affected. It is encouraging to note that the SMSRC is receiving many requests for presentations from various parts of the DND/CAF on its programs and services. In September, the SMSRC provided an overview of its programs at a commanding officers’ townhall session and in recent months it has given presentations to various bases and wings to talk about its mandate.

Victims' rights

31. The Declaration of Victims' Rights (DVR) came into force in June 2022. The provisions of the DVR specify that victims have several rights, including access to information and a right to protection. The DVR also stipulates that the victim has the right to request a victim liaison officer (VLO) and that commanding officers have the duty to provide one. Several individuals have received the required training and are ready to assist. To date, 21 victims of service offences have been assigned a VLO, at their request.

32. Former Justice Fish recommended that military justice actors receive appropriate training on the DVR (#66 and #69), including role-specific training on victim issues such as the impact of trauma and how best to interact with victims.

33. An officer conducting a summary hearing must be qualified under the Military Justice – Unit Level Training (MJUL) certification. One module of this course – Apply the Declaration of Victims' Rights – teaches participants what rights victims have under the DVR, who has responsibilities for ensuring these rights, how victims can exercise their rights, and what the chain of command can do to facilitate the exercise of DVR rights. Successful completion of the final MJUL test is tracked. Military police receive additional training due to their particular involvement in the DVR process. Although the SMSRC did not design the training as recommended in Justice Fish recommendation #66, it did provide input.

Defence advisory groups

34. In her report, former Justice Arbour referred to comments made by the Minister's Advisory Panel on Systemic Racism and Discrimination on the importance of defence advisory groups (DAGs). The Advisory Panel noted: "They [DAGs] have the lived experiences that must inform efforts to eliminate racism and discrimination and achieve the vision of an inclusive culture. As part of the Defence Team family, they are force multipliers." I have had a few conversations with the co-chairs of the Defence Women's Advisory Organization and have been assured that their submissions to senior leadership on changes they recommend are taken seriously. Several policies have been changed or programs added as a result, such as, for example, the reimbursement of costs related to aids specific to women's needs.

35. A fully operational Secretariat has been established to support the work of all DAGs. It is located within the office of the CPCC. During my discussions with the CDS, he stressed the importance of the input of the defence advisory groups. The CDS and the DM meet regularly with the DAG national co-chairs to discuss issues, and also meet with local representatives when they travel to a base or wing.

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

36. Several recommendations focus on a simplified enrolment and basic training process in order to shorten the recruitment phase and create a probationary period during which a more comprehensive assessment can be carried out, and early release effected (#20). The IECR emphasized the importance of outsourcing some functions to reduce the burden on the CAF while increasing the professional competence of its recruiters (#21), and of establishing processes to ensure that “problematic attitudes on culture and gender-based issues are both assessed and appropriately dealt with at an early stage.” (#22)

37. As part of the CAF’s ongoing efforts at reconstitution, much attention has been given to streamlining the recruitment and enrolment processes, with a particular focus on digitalization, making the process more user-friendly for applicants, and increasing staff capacity at certain key stages of the process. The CAF is also working with other organizations to tap into information that has already been collected. The outsourcing so far includes reference and background checks.

38. With a view to improving the screening of recruits, the Military Personnel Command works hand in hand with its defence researchers to build a more robust set of tools. Work is ongoing regarding ways to improve the assessment of cognitive capacity, judgement, and character.

39. In recommendation #25, the IECR reiterates the need for expedited, early release of probationary trainees whose attitudes do not align with the CAF’s expectations. For now, the plan is to use existing measures such as the initial engagement contracts, which typically last between one and three years, as a “defacto” probationary period. I am told that a new recruiting trial initiative will contribute to this, along with the establishment of a working group to standardize Conduct Review Boards across all CAF training establishments.

Military training and professional education

40. In her report, former Justice Arbour stated: “In an organization like the CAF, where hierarchy and leadership are of the utmost importance, early indoctrination and cultural embrace are critical. It is not only the content of ethical training that will contribute to culture change in the CAF, but the method of delivery.” Former Justice Deschamps highlighted the subject of education in her 2015 report, noting that training should include a variety of interactive techniques with concrete examples to help members understand the boundaries of acceptable behaviour. She concluded that unit-led training was not appropriate “given the broad perception that many of those carrying out the training are in fact part of the problem.” As such, IECR recommendation **#27** urges the CAF to fully implement the sexual offences and harassment training described in the Deschamps report.

41. Recommendation **#23** addresses the need to provide all training schools with the best instructors by prioritizing postings to training units, incentivizing and rewarding instructor positions, and addressing the current disincentives to these postings. It also addresses the importance of appropriate screening of instructors, both for competence and character.

42. As described in my first status report, the importance of well-suited instructors was duly noted by the CAF and several initiatives have been undertaken to promote best-fit postings to the Canadian Forces Leadership and Recruit School (CFLRS). These initiatives are being reviewed by a working group to determine common standards for instructor selection and professional development. The CAF is also reviewing incentives to help attract the best candidates.

43. Recommendation **#24** suggests that the CAF assess the advantages and disadvantages of creating a permanent cadre of professional educators. This will be reviewed by a working group starting in 2024. In the interim, the CAF has created a few programs to professionalize its instructors, some of which will be delivered under contract over the next three to five years. I believe that the CAF is committed to improving the overall quality of instruction and that it sees the value of investing in this objective.

44. Of note is a program that was developed a few years ago to professionalize the cadre of instructors at the CWO Robert Osside Profession of Arms Institute, where non-commissioned members receive some of their leadership training. It consists of selecting up to 10 members from

across the CAF each year to participate in a nine-month higher education program. Graduates are then eligible to facilitate leadership training at Osside or other training establishments. The program is now in its fourth year.

45. In my first status report I reflected on the recent changes to basic military training for recruits at CFLRS, noting that there had been a substantive shift in content and teaching methods. Within the CAF, the Canadian Defence Academy (CDA) is responsible for the professional development system. Last year, the CDA developed its Culture Change Framework after reflecting on recent events regarding the misconduct of some of its senior leaders and the revelations from the Heyder-Beattie class action settlement. After many conversations with CDA leadership, I can confirm that the CDA's new approach is based on an extensive review of the literature and input from several academics with expertise in the field. It is also synchronized with the education continuum that the CPCC developed last year to define the concepts that need to be covered for each of the developmental periods in a CAF member's career, such as conflict management, workplace harassment and violence, diversity, equity and inclusion.

46. In 2021, the CAF adopted the Ivey Business School's Leader Character Framework model for developing its leaders. This model, commonly referred to as character-based leadership (CBL), informs the CAF's revised evaluation and promotion processes. This has led to many changes to professional development curricula. For example, a revised Intermediate Leadership Program has recently been launched at the Osside Institute for non-commissioned members of the CAF who are at approximately 15 years into their military careers. It is a 15-day residential program that uses a variety of interactive methods. It includes access to psychometric tools to assist with self-reflection on leadership style. At its core is the concept of character-based leadership and the development of skills in line with the CAF ethos.

Royal military colleges

47. The IECR raised concerns about the CAF's military colleges. In the December 2022 update to Parliament, then-Minister Anand agreed that "the culture in these institutions must change significantly" and consented to an external review of the colleges (#29), one that would include the IECR's recommendation to remove the Cadet Wing responsibility and authority command structure (#28). The review is about to be launched and the panel will have 12 months to provide its report.

In my opinion, the process has been objective, including the involvement of a reputable executive search firm to provide an initial list of qualified candidates. The review board will consist of five external members, whose names will be released once the contracts have been awarded. Two members internal to DND/CAF will be part of the review board.

48. Recommendation **#29** further suggested that, pending the results of the external review, the CAF should undertake interim steps, such as using an exit survey to capture graduating cadets' experiences with sexual misconduct. This survey was conducted a few months ago and the findings are currently being analyzed. A scientific publication will follow. The response rate for the 2023 survey was 40% at the Royal Military College of Canada (377 respondents out of 947) and 25% at the Royal Military College Saint-Jean (76 respondents out of 300). The CAF will conduct this survey annually for all cadets in each of their four or five years at the colleges.

Performance appraisals, promotions and succession planning

49. 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. Former Justice Arbour points out that the performance evaluation process emphasizes performance, with insufficient information on conduct and ethics. While acknowledging that the CAF has taken concrete steps to improve the selection of its leaders, the IECR recommended that:

- There be an external review of the evaluation tools currently used for General Officer and Flag Officer (GOFO) promotions, that the use of the tools be extended to other ranks, and that external assistance be provided to the Minister in approving GOFO promotions. (recommendations **#32**, **#33** and **#34**)
- Formal and systematic disclosure of past or current misconduct by supervisors and members be required as part of the performance evaluation process. (recommendations **#30** and **#35**)
- All succession boards be provided with an "incident review list" to capture any concerns behavioural concerns, and that the boards for Majors and above and Master Warrant Officers/Chief Petty Officer Second Class include a civilian from outside of the DND/CAF. (recommendations **#38** and **#39**)

50. The promotion process has recently undergone many changes, based on scientific research, to select its leaders in a more objective manner, starting at the GOFO rank. Anyone being considered for a promotion to the ranks of General and Flag Officer now undergoes three separate psychometric tests designed to evaluate leadership skills, cognitive ability, reasoning skills and dimensions of character. Those selected for further consideration undergo another assessment that is based on feedback from multiple evaluators (360 degree). It is designed to measure cognitive leadership skills, interpersonal leadership skills, personal leadership qualities and senior leadership skills.

51. These tools have now been used for annual promotion cycles in 2022 and 2023, and again for the promotion cycle currently underway. The CDS has directed that a similar process be applied to the ranks of Major/Lieutenant-Commander and Sergeant/Petty Officer Second Class and above (#34). The CAF is working on a contract for an external review as recommended by the IECR (#33). It cannot begin until the CAF has settled on a new set of assessment tools. The current suite expires in March 2024. The bid solicitation package is expected to be released before the end of this calendar year. In the meantime, the CAF will consider other evidence-based tools that it could employ for ranks below GOFO, such as an adaptive personality test being developed by the internal research team.

52. In relation to the recording of conduct deficiencies (#30), the Minister directed the CAF to take account of completed investigations in the performance evaluation process and to take account of ongoing investigations as a factor in determining suitability for promotion. Earlier this year, a directive was issued in relation to the performance evaluation process stating that “comments shall be made on members who, during the reporting period, are subject to administrative or disciplinary action for a conduct deficiency, or conduct deficiencies, or convicted of a civilian offence.”

53. A candidate’s self-certification regarding past conduct issues (#35) will be linked to the promotion and appointment process rather than the performance evaluation process. The CAF has determined that this approach will meet the intent of the recommendation, while maintaining a commitment to due process where allegations have not yet been investigated or closed. The candidate will have two options to choose from: *I wish to proactively disclose....* Or *I attest that I have not been the subject of....* The form must be certified by the recommending authority. I believe that having the member and those recommending the member for promotion “sign off” will bring more accountability to the process. At a minimum, it emphasizes the importance of the member’s conduct

and character as more significant elements in the process. The “Promotion/Appointment Screening” form is currently being drafted and the anticipated promulgation date is summer 2024.

54. Recommendation **#31** suggests that a “misconduct sheet” be prepared for all candidates being considered for promotion to the rank of Lt-Colonel/Commander or above and Chief Warrant Officer/Chief Petty Officer First Class. The form to be used will require commanding officers to certify that they have reviewed the personnel file and conduct sheets to determine the presence or absence of conduct deficiencies. Actual implementation is expected in fall 2024. The IECR further recommended that the relevant policy include provisions for rehabilitation and the removal of criminal convictions for which a suspension has been granted. The CAF has recently developed a framework to provide guidance to leaders at all levels with respect to the reintegration of the accused. It was first conceived in 2022 and updated this year. Further, the policy on record suspension was amended in June 2022.

55. The IECR also recommended (**#32**) that the Minister should be assisted by an external advisor whenever asked to approve GOFO promotions. Various options have been studied and the Minister has decided to formalize changes that were introduced in 2021 to the promotion process. These changes include the participation of two civilians: one, a senior Defence Team voting member who sits on the national selection board and the other, a contracted third-party interviewer who provides written input to the CDS. The contract provides for the Minister to be able to discuss with the contractor anything that arises out of the interview process, if required.

56. In recommendation **#36**, the IECR also recommended that the CAF establish progressive targets for the promotion of women to levels beyond their representation in the CAF workforce. The CAF has completed a comprehensive analysis of the reasons why women are not equally represented at senior levels of the organization and is considering how to address this. In addition, a forecasting tool has been developed to model the outcome of various representation targets. The CDS is personally committed to creating the conditions for increased representation of women at senior ranks and has launched a proactive exercise with his Commanders to manage the talent over a 10-year horizon of those women with the potential to become future leaders of the CAF. There are plans to replicate this process for other minority groups.

57. The IECR also urged (**#26**) the CAF to increase the number of secondment opportunities. Some steps have been taken in this regard, such as updating the secondment

inventory and identifying which GOFO specialist positions within DND/CAF would benefit from exposure to external organizations, either other government departments or the private sector. While current demands on the GOFO cadre make it difficult to substantially address the intent of this recommendation in the short term, the CAF is looking at other options such as offering secondments to less senior officers, earlier in their careers.

58. Recommendation **#40** suggests that the CAF develop a policy on succession planning based on GBA Plus to ensure that women are not directly or indirectly subject to discriminatory practices, and that the policy provides guidance to those involved, including career managers and the succession board member. The CAF has reviewed its career policies and procedures to identify potential barriers for women. A new succession planning policy will be promulgated in late 2024.

59. Regarding the “incident review list” (**#38**), it will most likely be included in the new succession planning policy discussed above.

60. The IECR also recommended (**#39**) the participation of an external resource from outside the Defence Team for succession boards relating to the ranks of Major and above, and Master Warrant Officer/Chief Petty Officer 2. This is scheduled for implementation in 2025. In the interim, the Acting/Chief Military Personnel (A/CMP) has issued a CANFORGEN which states that succession boards should, as a minimum, include a member from a different environment and that this member should be of equal or higher rank and not in the chain of command of another board member. Further, all succession boards should include a civilian member of the Defence Team who is not a former military member.

Medical releases

61. Recommendation **#37** refers to the request for the CAF to review its Universality of Service policy through a 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. Input in key areas for the GBA Plus assumptions was sought from departmental subject matter experts, including defence scientists, health sciences personnel, the CAF Transition Group, the CMP Gender Advisor, as well as an external expert. A recent two-day policy testing exercise involving numerous stakeholders used scenarios to challenge the policy language and identify any

policy gaps. At least one of the scenarios involved a case of sexual misconduct. Consultations and revisions continue to occur in preparation for policy drafting.

Input and oversight

62. The IECR, in recommendations **#41**, **#42** and **#43**, speaks to the role of the Review Services group in administrative investigations of alleged irregularities in DND/CAF, independent of the chain of command. I understand that it is not very often that these investigations relate to sexual harassment, sexual misconduct and leadership culture in the Defence Team, and when they do, the Assistant Deputy Minister (Review Services) (ADM(RS)) would consult with CPCC as the centre of expertise on these subjects. To address the recommendation that the Minister should be briefed directly on all investigations relating to sexual harassment, sexual misconduct and leadership culture in the Defence Team, CPCC will include in its statistical report(s) to the Minister, all ADM(RS) administrative investigations that contain an element of sexual misconduct.

63. In addition, the ADM(RS) will report annually to the Minister on statistics and activities relating to investigations under DAOD 7026-1, in line with what is required under the Public Sector Disclosure Protection Act (PSDPA). The inaugural annual report on administrative investigations was submitted to the Minister in August 2023 and covered the fiscal year 2022-23. ADM(RS) also provides the DM and CDS with a quarterly dashboard of the same information and is prepared to brief the Minister immediately on any administrative investigations should the decision be made to do so.

64. To address the IECR recommendation that the Chief Operating Officer, SMSRC, should be able to independently direct the ADM(RS) to conduct an administrative investigation into matters relevant to the SMSRC's mandate (**#16** and **#43**), SMSRC and ADM(RS) have worked together to create standard operating procedures that include the types of investigations that can be referred, and the mechanism to be used to facilitate the referral.

65. Recommendation **#44** stated that in the case of Governor in Council (GIC) appointees such as the CDS and the Judge Advocate General (JAG), consideration should be given to removing any legal impediments – such as privacy concerns – that prevent the Privy Council Office (PCO) access to personnel files, including conduct sheets. The DND/CAF mechanism for removing legal

impediments to PCO's review of documents is to have the candidate(s) sign a consent form for the review of their personnel records and police records check. In addition, current CAF candidates have been required to proactively disclose any administrative or disciplinary action (in addition to that already contained in the applicant's service records), or any convictions for civil offences.

Public online database

66. In October of this year, in response to IECR recommendation **#45**, the Minister announced the launch of an online Conduct and Culture Research and Policy Database. As announced, the database lists approximately 70 research papers and provides links to 80 policies and directives on a range of topics including sexual misconduct, diversity and inclusion, and women in the military. The research products include scientific reports and reference documents on these topics. I will continue to monitor the updates to this database.

67. Recommendation **#46** concerns the facilitation of external research and proposes a review of the King's Regulations and Orders (KR&O) listed at article 5.2 of the DAOD 5062-1, which former Justice Arbour believed could have a limiting effect on CAF participation in research projects. I have been advised that the revision and update of the DAOD 5061 (Research involving Human Participants) series and 5062 (Social Science Research) series is ongoing and involves a lengthy consultation process. In the interim, a CANFORGEN is being prepared for release which will provide additional context for CAF members in order to support their full participation in external research.

68. In addition to a survey directed at academic institutions, the military personnel research team recently hosted a half-day session with academics and other researchers to discuss how the process could be improved. As a result, one option being pursued is that the Social Science Research Review Board (SSRRB) would continue to approve the technical portions of proposals, but the need for an ethics review would be waived where this has already been completed and approved by the research organization's own ethics review board.

Recommendations #47 and #48

69. IECR #47 stipulates that the MND should inform Parliament by the end of the year on recommendations that the Government did not intend to implement. As referred to in my update, on December 13, 2022, then-Minister Anand presented a report to Parliament outlining how DND/CAF would implement all of the recommendations. The report was subsequently discussed during a hearing before the Standing Committee on National Defence.

70. IECR #48 proposes that an External Monitor be appointed to oversee the implementation of the recommendations and publish bi-annual reports. I was appointed as External Monitor in October 2022. In May 2023, a first status report was published. This is the second bi-annual report.

Conclusion

71. More than a year has passed since the publication of the Independent External Comprehensive Review (IECR) conducted by former Justice Louise Arbour. It recommended many changes to address the “institutional shortcomings and structural impediments” that had allowed the problem of sexual misconduct to persist.

72. In this Second Status Report, I aim to provide the reader a picture of where things stand regarding implementation. Some of the IECR recommendations have been completed. Others are in progress and at various stages of implementation. And still others constitute continuous improvement. One example is the referral of complaints regarding sexual harassment or discrimination on the basis of sex to the Canadian Human Rights Commission. The policy change has been made and the CHRC is already receiving these complaints. However, as a learning organization, the CAF will need to reflect on the findings of the CHRC and may need to adjust its programs and policies in response. This will be an ongoing process.

Accountability

73. In the past, the CAF was criticized for publicly stating that it had successfully implemented all of the recommendations of the 2015 Deschamps report, when in fact it had not. This time, the “closure” of recommendations is being done with more accountability. The process now entails an initial review by a group within CPCC that centrally tracks all recommendations. It is then forwarded to the Deputy Minister and the Chief of Defence Staff for final sign-off. When a recommendation is deemed to be concluded, it is formally approved by the two most senior leaders of the organization.

74. The multi-year plan that was developed over the summer will assist with this accountability. It sets out the hundreds of recommendations received from external sources and assigns them to be completed within year one, year two, etc. Senior leaders of the CAF and the Minister will be able to monitor progress more easily. Up to this point, the approach has been more piecemeal, leading to a less systematic review of progress overall.

Selection of leaders

75. Leaders can potentially make or break any attempt to eradicate misconduct in any organization. The CAF has markedly changed its leadership selection process in the last several years, emphasizing the character of the individual rather than relying solely on merit or technical competence. The new process, based on years of external and internal research, was viewed positively by the IECR. Suggestions were made for other improvements, such as formal attestation by candidates regarding the existence of any past conduct issues.

76. The emphasis on character and the importance of inclusive behaviour are consistent throughout the organization. The message that is regularly broadcast is that the CAF is striving to create a better work environment for all members. There are no guarantees that this will eliminate harassment and other types of misconduct, but it is abundantly clear that there may be consequences in terms of progressing to the next level.

Education

77. In 2021, following revelations about the misconduct of several senior leaders, the CAF's Canadian Defence Academy studied how it could change its approach. Research was conducted and advice was sought from external experts.

78. In my first report, I noted that the CAF had made substantive changes to the curriculum and training approach used for basic military training at the CFLRS. And, more recently, during my visit to the Osside Institute where non-commissioned members undertake their leadership training, I was briefed on all the changes that are being made to the leadership development course for middle managers. As with the performance evaluation and promotion process now in place, the emphasis is on character-based leadership.

79. The recent changes made to the training and education program for CAF members have been significant. In my view, the CDA's new philosophy, paired with CPCC's continuum of education on conduct and culture, is potentially foundational, similar to the introduction of new wiring throughout a house.

80. These are some of the areas where I believe the CAF has improved its chances of making progress in the fight against sexual misconduct: greater accountability in terms of prioritizing and implementing recommendations, increased reliance on evidence-based approaches to instilling

values and ethics through education, together with clarity in terms of the type of leaders that are being sought. But much work remains to be done. For example, the revamp of the leadership development program for Officers is not yet complete. The CAF recognizes that this is a fundamental piece and the CDA is focused on making the necessary changes as soon as possible.

Monitoring effectiveness

81. The CAF has stipulated in its implementation plan that it will focus on outcomes rather than activities in measuring its performance. This is also emphasized in the CAF's Culture Evolution Strategy. This will not be an easy exercise, but it is crucial. At issue is the plethora of data sets that currently exist within the CAF to register incidents of misconduct. As pointed out in the IECR: "the lack of a consolidated system for tracking incidents across the Defence Team is therefore problematic." There is a concerted effort to rectify this situation, but it is a massive undertaking. Until this consolidation is achieved, it will be difficult to have a complete picture at any one time, making it difficult to measure progress over time.

82. Finally, at a broader level, I have observed that the process of amending any policy is very labour intensive. The CAF operates under an impressive quantity of rules and regulations, with a broad range of policy instruments. I am told that they can sometimes contradict one another. Coherence is obviously important, but the more policy instruments you have, the harder it is to achieve. As a result, even relatively simple policy changes can take many months of work by many individuals. To some extent, the process is made even more weighty by virtue of the breadth of views that are sought throughout the process as a way of managing risk. This is understandable as CAF members have been trained to consider every conceivable risk when planning a mission. But it is not necessarily a sustainable approach when it comes to change management.