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DAOD 9005-1, Sexual Misconduct Response

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1. Introduction

Date of Issue: 2020-11-18

Application: This DAOD is an order that applies to officers and non-commissioned members of the Canadian Armed Forces (CAF).

Supersession:

- DAOD 5019-5, *Sexual Misconduct and Sexual Disorders*
- CANFORGEN 049/19, *Clarification on the Definition of Sexual Misconduct and Appropriate Administrative Actions*
- CANFORGEN 113/19, *Release of Administrative Action Outcomes to Victims of Sexual Misconduct*

Approval Authority: Chief of the Defence Staff (CDS)

Enquiries: Directorate Professional Military Conduct (Operation HONOUR) (DPMC OpH) (for overall policy)

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2. Definitions

sexual misconduct (*inconduite sexuelle*)

Conduct of a sexual nature that causes or could cause harm to others, and that the person knew or ought reasonably to have known could cause harm, including:

- actions or words that devalue others 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 of a sexual nature, including initiation rites of a sexual nature;
- viewing, accessing, distributing or displaying sexually explicit material in the workplace; and

- any *Criminal Code* offence of a sexual nature, including:
 - section 162 (voyeurism, i.e. surreptitiously observing or recording a person in a place where the person exposes or 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);
 - section 162.1 (publication, etc., of an intimate image without consent, i.e. publishing, distributing, transmitting, selling or making available an intimate image of another person without their consent, such as a visual recording in which the person depicted is nude, exposing his or her genital organs or anal region or her breasts, or is engaged in explicit sexual activity); and
 - section 271 (sexual assault, i.e. engaging in any kind of sexual activity with another person without their consent). (Defence Terminology Bank record number 43247)

Note – Brief summaries of sections 162, 162.1 and 271 of the *Criminal Code* are provided above strictly for the convenience of readers. The actual sections in the *Criminal Code* should be consulted for all elements and other provisions of these offences.

workplace (*milieu de travail*)

Any location where work-related functions and other activities take place and work relationships exist, such as:

- on travel status;
- at a conference where the attendance is sanctioned by the DND or the CAF;
- at DND or CAF sanctioned instruction or training activities, or information sessions; or

- at DND or CAF sanctioned events, including social events. (Defence Terminology Bank record number 43176)

Note – The workplace for CAF members can include ships, aircraft, vehicles, office spaces, classrooms, garrisons, hangars, messes, dining halls, quarters, gyms, on-base clubs, online forums and locations for sanctioned events such as holiday gatherings and course parties. CAF members do not simply serve in the CAF, but work, socialize and often live within institutional and social structures established by the CAF.

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3. Abbreviations

Abbreviation	Complete Word or Phrase
AR (<i>EA</i>)	administrative review
CF (<i>FC</i>)	Canadian Forces
CFNIS (<i>SNEFC</i>)	Canadian Forces National Investigation Service
CO (<i>cmdt d'unité</i>)	commanding officer
CoC (<i>C de C</i>)	chain of command
Comd (<i>cmdt</i>)	Commander
CCMS (<i>SGCP</i>)	Conflict and Complaint Management Service

DMCA (<i>DACM</i>)	Director Military Careers Administration
DMP (<i>DPM</i>)	Director of Military Prosecutions
IA (<i>AMO</i>)	initiating authority
MP (<i>PM</i>)	military police

NDHQ (QGDN)	National Defence Headquarters
NOI (AI)	notice of intent
OPHTAS (SSAOPH)	Operation HONOUR Tracking and Analysis System
QR&O (ORFC)	<i>Queen's Regulations and Orders for the Canadian Forces</i>
SIR (RII)	significant incident report
SMRC (CIIS)	Sexual Misconduct Response Centre
TAs (RI)	training authorities

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4. General Principles

Interpretation

4.1 In this DAOD:

"complainant" refers to a person who reports an alleged sexual misconduct incident. A complainant may or may not also be the victim in the incident;

"consent" refers to the voluntary, ongoing and affirmative agreement to engage in the sexual activity in question. Submission or passivity does not constitute consent as a matter of law. For the purposes of the *Criminal Code*, no consent is obtained if:

- the accused induces the victim to engage in the activity by abusing a position of trust, power or authority;
- the victim is unconscious;

- c. the victim is incapable of consenting to the activity for any reason other than being unconscious, including due to intoxication;
- d. the victim submits or does not resist by reason of the application of force or threat of the application of force, or by reason of fraud;
- e. the victim expresses, by words or conduct, a lack of agreement to engage in the activity;
- f. the victim, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity; or
- g. the agreement is expressed by the words or conduct of a person other than the victim.

Note – The above summary of "consent" is provided strictly for the convenience of readers. The actual sections in the *Criminal Code* and applicable common law should be consulted if required.

"respondent" refers to a person who is the subject of an alleged sexual misconduct incident;

"sexual assault" refers to physical contact of a sexual nature such that the sexual integrity of a victim is violated in circumstances in which the victim has not consented. In simple terms, sexual assault is any touching of a sexual nature without consent. Sexual assault is an offence under section 271 of the *Criminal Code*; and

"victim" refers to a person against whom sexual misconduct has been committed, or is alleged to have been committed, or who has suffered, or is alleged to have suffered, physical or emotional harm as a result of the commission or alleged commission of sexual misconduct. It is recognized that an individual may define their own context and experience differently

and may not wish to be referred to as a victim. The term "affected person" or "those affected" is sometimes used instead of the term "victim" when not being used in a legal or police context.

Context

4.2 Sexual misconduct undermines trust, cohesion, confidence and morale, and thus threatens CAF operational readiness and effectiveness. Sexual misconduct is contrary to the values and ethical principles set out in the DND and CF Code of Values and Ethics. Sexual misconduct must never be minimized, ignored or excused.

Available Courses of Actions

4.3 Sexual misconduct can be addressed through:

- a. the application of administrative action;
- b. the military justice system by charging an individual with a service offence (including charges laid pursuant to the *Criminal Code*); and
- c. the civilian criminal justice system in the case of conduct that is prohibited under the *Criminal Code*.

CAF Commitment

4.4 The CAF is committed to:

- a. preventing sexual misconduct;
- b. ensuring that all reported sexual misconduct incidents are investigated and dealt with as soon as practical; and
- c. fully supporting victims and other CAF members who have been affected by sexual misconduct.

Standard of Conduct

4.5 CAF members are prohibited from engaging in sexual misconduct.

Additional Information

4.6 Additional information for COs and other CAF members is available on the Operation HONOUR website.

4.7 An “adverse personal relationship” refers to a personal relationship that has a negative effect on the security, cohesion, discipline or morale of a unit. In accordance with DAOD 5019-1, *Personal Relationships and Fraternization*, administrative action must be taken to separate CAF members who are involved in an adverse personal relationship.

Restrictions may also be imposed on the duty or posting of CAF members involved in a personal relationship if the circumstances could result in an instructor/student relationship that would have an effect on the security, morale, cohesion and discipline of a unit, or a senior/subordinate or inter-rank personal relationship in the same direct chain of command if there is a difference in rank or authority.

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5. Reporting

Reporting of Sexual Misconduct – All CAF Members

5.1 In accordance with QR&O article 4.02, *General Responsibilities of Officers*, and QR&O article 5.01, *General Responsibilities of Non-Commissioned Members*, all CAF members have a duty to 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.

5.2 It is expected that all CAF members will report to the proper authority any sexual misconduct committed by any person in the workplace or on a defence establishment.

Reporting of Sexual Misconduct – Exceptions

5.3 DND employees and other civilians are not generally required to report sexual misconduct incidents. This includes civilians who work for DND, such as those at the SMRC, CCMS and CF Health Services.

Note – Some professionals have an obligation, in certain circumstances, to report in accordance with their professional code of conduct and certain provincial legislation, for example, if there is an imminent risk of harm or risk to children.

5.4 Officers who can deal adequately with a sexual misconduct incident are not required to report.

Reporting Considerations – Officers

5.5 Upon becoming aware of alleged sexual misconduct, an officer must determine whether they are required to report it to a proper authority or if they can adequately deal with the matter. If an officer determines that a disciplinary investigation is required, including an investigation pursuant to the *Criminal Code*, the matter must be reported by the officer.

5.6 The determination of whether an officer can deal adequately with a matter involves an exercise of discretion. It requires that an officer act in good faith and not abuse their powers or exercise them dishonestly or arbitrarily, or to achieve an improper purpose. An officer must consider only relevant information and not discriminate on any inappropriate basis. An officer can seek advice from their unit legal advisor as to whether or not they can deal adequately with the matter.

5.7 In order to determine whether alleged sexual misconduct can adequately be dealt with, an officer must take into account all relevant factors, including, but not limited to:

- a. the views of the victim;
- b. the mental health and physical safety of the victim;
- c. the interest in ensuring that the victim receives the needed support;
- d. safety concerns about possible reprisals;
- e. the safety of CAF members and the public;
- f. the gravity of the conduct alleged;
- g. the safety of any children or dependants potentially affected by the alleged incident;
- h. the disciplinary interests of the respondent's unit;
- i. the need to ensure the operational readiness and effectiveness of the CAF;
- j. the difference between the ranks of the victim and the respondent;
- k. consistency in the response to sexual misconduct; and
- l. whether the officer has the authority to implement necessary measures.

5.8 The following factors should not be considered when an officer decides if a matter can be adequately dealt with or whether it must be reported to a proper authority:

- a. the possible effect of their decision on the personal or professional circumstances of the respondent or any other DND employee or CAF member, regardless of their rank or position;
- b. any consideration based on a prohibited ground of discrimination under section 3 of the *Canadian Human Rights Act*, including:
 - i. race;
 - ii. national or ethnic origin;
 - iii. colour;
 - iv. religion;
 - v. age;
 - vi. sex (including pregnancy and childbirth);

- vii. sexual orientation;
- viii. gender identity or expression;
- ix. marital status;
- x. family status;
- xi. genetic characteristics;
- xii. disability (mental or physical); and
- xiii. conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered;
- c. personal opinions about any of the parties involved; and
- d. a possible or perceived political advantage or disadvantage to the Government of Canada, the DND, the CAF or any political group or party.

5.9 If an officer has determined that they are not able to deal adequately with the matter, the matter must be reported. If an investigation is required, a unit disciplinary investigation may only be conducted once it is determined that the MP, CFNIS, or civilian police agencies with jurisdiction to investigate the matter have declined to investigate. Before proceeding to investigate, the unit legal advisor should be contacted.

5.10 Generally, the more serious the alleged sexual misconduct, the more likely that the interests of operational effectiveness and public safety will require that the matter be reported to the proper authority. Further, if it is suspected that the victim is a child, the matter must be reported to the MP, CFNIS or civilian police agency, without exception.

Privacy

5.11 The CAF must only collect personal information for which it has a demonstrable need. All parties involved in the handling of personal information related to sexual misconduct incidents must limit the discussion and dissemination of this information to those who have a

need-to-know. If possible, personal information must be collected directly from the individual to whom it relates. All personal information collected, used, disclosed or retained by the CAF must be dealt with in accordance with the *Privacy Act* and the DAOD 1002 series.

Proper Authority

5.12 Privacy and regaining a measure of control over events are key aspects of victim support after sexual misconduct incidents. In order to limit the sharing of personal information to those with a need-to-know, and in keeping with the principle of limited disclosure, the following guidance should be considered when determining the proper authority for reporting. This is not an exhaustive list and does not restrict the right of a victim or others to report to any person or organization they may choose without having to go through their supervisor. Proper authorities who can receive reports of sexual misconduct include:

- a. the MP, CFNIS or civilian police;
- b. a CAF director general or higher at NDHQ;
- c. a CAF superior of a director general at NDHQ in the case of a report of sexual misconduct involving a director general or superior of a director general;
- d. a Comd of a command or formation;
- e. a CAF chief of staff or equivalent officer at a command or formation if designated by the applicable Comd;
- f. a CO of a formation headquarters;
- g. any other CO; or
- h. any other officer who can deal adequately with the matter.

5.13 Comds at all levels must treat information regarding sexual misconduct incidents in a discreet and sensitive manner and in accordance with the proper handling of personal information.

5.14 CAF members should be referred to the SMRC to receive confidential support and information. They may request that the SMRC facilitate contact with the SMRC Military Liaison Team or MP liaison officer, or both, for specific questions related to CAF reporting mechanisms. They can also do so anonymously.

5.15 Regardless of whether or not a sexual misconduct incident has been reported, those affected by sexual misconduct may access support and medical treatment as needed. Support can be obtained through the SMRC or the organizations listed on the Operation HONOUR website, or both, with the understanding that personnel in these organizations must comply with their respective professional codes of conduct and ethics.

Reprisal and Other Hurtful Behaviours

5.16 QR&O article 19.15, *Prohibition of Reprisals*, prohibits any CAF member from taking reprisals against a person who has in good faith made a report of sexual misconduct or cooperated in an investigation carried out in respect of such a report. A CO must investigate any report of a reprisal or other threatening, intimidating, ostracizing or discriminatory behaviour taken in response to a report of sexual misconduct. Any CAF member participating in such behaviour may be subject to administrative or disciplinary action or both.

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6. Roles and Responsibilities of Commanding Officers and Other Members of the Chain of Command

Action by COs and Other Members of the CoC

6.1 COs and other members of the CoC must:

- a. be knowledgeable on the actions required upon receipt of a report of alleged sexual misconduct;
- b. consult the *Respect in the CAF* mobile application or the Operation HONOUR website for more details on how to be prepared, particularly with respect to the support of the victim and procedural fairness;
- c. ensure, subject to legal limitations, ongoing communication and transparency with the victim;
- d. enquire with the victim as to immediate care, safety and support needs and ensure these are considered, including encouraging the victim to seek support from individuals close to them, for example, their friends, partners or colleagues;
- e. refer the victim to support services such as the SMRC;
- f. consider how to mitigate and continually monitor the real and ongoing risk of reprisal and immediately address, to the extent possible, any such issues;
- g. consult local CCMS when cases of sexual harassment are suspected; and
- h. consider consulting with the SMRC for guidance on effective response and support to victims.

Note – The SMRC is available to provide advice to COs and other members of the CoC.

Action by a CO

6.2 Upon becoming aware of alleged sexual misconduct, a CO must:

- a. take immediate action, as necessary, to ensure the well-being and safety of the victim;

- b. ensure that the victim and witnesses are informed about the full range of support options that may be available to them;
- c. ensure that the well-being and safety of the respondent are considered and that they are informed about the full range of services that may be available to them and of their right to due process and procedural fairness;
- d. consult the unit legal advisor to obtain advice throughout the process;
- e. consider whether it is appropriate to remove the respondent from a supervisory, instructional or command position, temporarily modify their work location or order no contact or any form of communication, directly or indirectly, with the victim or witnesses;
- f. ensure that the details are captured in OPHTAS through their appointed representative in accordance with the relevant OPHTAS direction;
- g. submit, in accordance with DAOD 2008-3, *Issue and Crisis Management*, and the *Critical Information Requirements* of the CDS, a SIR through their CoC to the Canadian Forces Integrated Command Centre and DPMC OpH, with an information copy to DMCA 2;
- h. ensure that sexual misconduct SIRs do not contain the names, service numbers or personnel record identifiers of a victim or respondent; and
- i. monitor the impact on unit morale and cohesion.

Administrative Action – General

6.3 When the CoC has determined on a balance of probabilities that a CAF member has engaged in sexual misconduct and is considering any administrative action, the IA must consult DMCA 2. DMCA 2 must advise with respect to the appropriate remedial measure, if any, and if an AR is warranted, or on the requirement to issue a NOI to recommend release. There are circumstances that will warrant administrative action even before

any police or disciplinary investigation is contemplated or completed. Before proceeding in this circumstance, the unit legal advisor must be consulted.

6.4 In weighing the evidence surrounding the sexual misconduct incident and before selecting any remedial measure or other administrative action, the following factors must be considered:

- a. all relevant facts, including:
 - i. the degree to which the act was intrusive or violent;
 - ii. the sentence imposed, if any;
 - iii. whether the respondent ignored a request to stop or failed to confirm consent;
 - iv. the victim's circumstances, including the impact on their health and well-being; and
 - v. the respondent's relationship to the victim at the time of the incident, including:
 - position of authority or trust, if any; and
 - difference in rank, if any;
- b. the degree to which the respondent:
 - i. accepted responsibility and demonstrated remorse for the sexual misconduct; and
 - ii. actively took steps to modify their behaviour;
- c. the respondent's entire period of service, taking into account their rank, military occupation, experience, position and leadership role, and any previous conduct deficiencies; and
- d. the impact on the respondent's unit and the CAF.

6.5 If DMCA 2 recommends issuing a CAF member with a NOI to Recommend Release, the CO must issue the NOI to Recommend Release to the CAF member and forward the following to DMCA 2 for AR in accordance

with DAOD 5019-2, *Administrative Review*:

- a. CO's recommendation for administrative action;
- b. all investigation reports;
- c. the CAF member's conduct history;
- d. synopsis of the CAF member's personnel file;
- e. CAF member's representations;
- f. the court transcript, if applicable; and
- g. any other pertinent information.

6.6 In accordance with DND PPE 814 *Administrative Review Case Files*, the outcomes of administrative action taken in response to a sexual misconduct incident can be disclosed to the victim, if it is deemed appropriate to do so. The victim's CO is responsible for informing the victim of their ability to request this information and providing the information as required.

Note – Actions or measures that include highly sensitive personal information such as medical or psycho-social assessments or treatment must not be disclosed.

Administrative Action After a Disciplinary Proceeding

6.7 In order to ensure consistent CAF-wide application of this DAOD, the CO of any CAF member convicted of sexual misconduct, either by summary trial, court martial or civilian court, must consult DMCA 2. DMCA 2 must advise with respect to the appropriate remedial measure, if any, if an AR is warranted, or on the requirement to issue a NOI to recommend release. DMCA 2 must conduct an AR if a NOI to recommend release is issued.

6.8 If a CAF member was found not guilty of a charge, was discharged or charges were not proceeded with, a review of the facts of the case is still required by the CoC to determine whether there is reliable evidence that

establishes on a balance of probabilities that sexual misconduct has occurred. Regardless of the outcome of this review, the CO must forward all related documents to DMCA 2 along with recommendations based on their review. A guilty finding is not required to recommend a release or impose other administrative action.

6.9 If a CAF member is tried for an offence, the CAF member's CO must obtain, upon the conclusion of the service tribunal or civil court proceeding, the documents listed in the following table:

If the CAF member is ...	obtain the following documents ...
convicted	<ul style="list-style-type: none"> • the sentencing order; • the probation order, if any; • the prohibition order, if any; and • the certificate of conviction and conduct sheet (see QR&O article 19.61, <i>Certificate of Conviction</i>, and QR&O article 19.62, <i>Action Following Conviction by Civil Authority</i>).
discharged, found not guilty, or a stay of proceeding is directed	<ul style="list-style-type: none"> • the court transcript; • the decision of the court; and • MP investigation case file.

6.10 After the disciplinary proceeding, the CO must forward to DMCA 2:

- a. all the above applicable documents;
- b. a summary of the evidence;
- c. a recommendation, with explanation, as to administrative action that should be taken in respect of the CAF member; and
- d. any other relevant information to assist the AR.

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7. Support

Guiding Principles

7.1 The CoC should apply the following guiding principles for supporting a victim or other complainant to the extent feasible and preferred by the victim or complainant, regardless of which process is followed, if any:

- a. maintaining regular and open two-way lines of communication, rather than only one-way transmission of information;
- b. facilitating, if the CoC is not the authority responsible for the investigation or the proceeding, contact with the appropriate military or civilian justice system representatives, for example, the MP, DMP or civilian prosecution services;
- c. checking in throughout the process, including during any delays, as long periods without updates and inaction without information can be very difficult;
- d. verifying at regular intervals, including after all proceedings have ended, as to whether access to the appropriate resources and support is available;
- e. determining if there are any barriers or other concerns preventing access to the required support, resources or information; and
- f. appreciating that, regardless of whether or not charges were laid or a guilty verdict rendered, the victim may continue to need support.

Support for a Victim

7.2 A victim may require different levels of support throughout their experience. The processes associated with proceeding through the military or civilian justice system, the decision to not lay charges or other aspects of

their experiences may be significantly upsetting for those affected. The CoC must ensure that a victim is made aware of the CAF and non-CAF resources available to them throughout the processes, including the availability of the SMRC's support resources. These resources include a confidential 24/7 information and support line, which is available to a victim, those who support the victim and the CoC. A programme is also available to provide a victim with accompaniment services, as well as case coordination, advocacy and assistance with workplace arrangements. The SMRC can also facilitate anonymous contact with their military liaison team or MP liaison officer, who can provide further information on the options available to a victim and the processes that would be involved. The SMRC can support a victim with their submission of reports to the appropriate authorities if this is requested.

7.3 The CoC must ensure that information is not only conveyed to a victim, but that every reasonable effort is made to ensure that it is understood. The CoC must encourage a victim to seek support from persons of their choosing, for example, their family, friends or CAF or non-CAF resources. The victim should be permitted to have a support person with them throughout the process, where appropriate and within the limits of the CoC's authority.

7.4 A victim of sexual misconduct can experience significant emotional and psychological stress. This stress can impair executive functioning, including memory, planning, decision-making and multi-tasking. A victim may therefore need to receive information more than once and may need more time than usual to process their situation. However, whenever possible, requiring a victim to repeatedly recount their experiences should be minimized, as this can also be a significant source of stress.

Victim Workplace Requests

7.5 A victim may experience difficulties in the workplace as a result of a sexual misconduct incident, regardless of the outcomes of disciplinary and administrative actions. Therefore, the CoC must consider requests made by a victim to enable their effective functioning in the workplace if the request is in relation to effects experienced as a result of a sexual misconduct incident.

Information for Victims during Disciplinary Processes

7.6 The CoC must ensure that a victim is aware that they can request information and the proper means of requesting such information. The information desired and available in each case and at each stage may vary, but the CoC should ensure as a minimum that the victim is aware that they may request the following information:

- a. confirmation that the sexual misconduct incident was entered in OPHTAS;
- b. the identification of the unit or other element conducting the investigation;
- c. the status of the investigation;
- d. the outcome of the investigation, including whether or not charges were laid; and
- e. if charges are laid:
 - i. the appropriate military or civilian justice system representative to contact regarding the prosecution of the matter; and
 - ii. applicable policies of the DMP.

7.7 If the matter is to be handled by civilian authorities, the CoC should facilitate contact with the appropriate authorities within the best of their ability.

Victim Concerns during the Summary Trial Process

7.8 If a presiding officer has concerns relating to the particular needs of a victim, for example, the minimizing of re-victimization during the summary trial process, the presiding officer is encouraged to contact their unit legal advisor.

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8. Training and Education

General

8.1 The CAF sexual misconduct policy and related resources must be made known to:

- a. all applicants on enrolment in the CAF;
- b. CAF members during recruit and basic officer training;
- c. CAF members on military occupation qualification training;
- d. CAF members on leadership courses; and
- e. CAF members prior to and after deployment.

8.2 COs or their delegates must provide Operation HONOUR training and education on an annual basis in accordance with their annual training plan. Training resources can be found on the Operation HONOUR website.

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9. Compliance and Consequences

Compliance

9.1 CAF members must comply with this DAOD. Should clarification of the policies or instructions set out in this DAOD be required, CAF members may seek direction through their CoC. Military leaders have the primary

responsibility for, and means of, ensuring the compliance of their CAF members with this DAOD.

Consequences of Non-Compliance

9.2 CAF members are accountable to their respective military leaders for any failure to comply with this DAOD. Non-compliance with this DAOD may have consequences for both the DND and the CAF as institutions, and for CAF members as individuals. Suspected non-compliance may be investigated. Military leaders must take or direct appropriate corrective measures if non-compliance with this DAOD has consequences for the DND or the CAF. The decision of a level one advisor or other senior official to take action or to intervene in a case of non-compliance, other than in respect of a decision under the Code of Service Discipline regarding a CAF member, will depend on the degree of risk based on the impact and likelihood of an adverse outcome resulting from the non-compliance and other circumstances of the case.

9.3 The nature and severity of the consequences resulting from non-compliance should be commensurate with the circumstances of the non-compliance and other relevant circumstances. Consequences of non-compliance may include one or more of the following:

- a. the ordering of the completion of appropriate learning, training or professional development;
- b. the entering of observations in individual performance evaluations;
- c. increased reporting and performance monitoring;
- d. the withdrawal of any authority provided under this DAOD to a CAF member;
- e. the reporting of suspected offences to the MP, CFNIS or civilian police agency;

- f. the application of specific consequences as set out in applicable laws, codes of conduct, and DND and CAF policies and instructions;
- g. other administrative or disciplinary action, or both, for a CAF member; and
- h. the imposition of liability on the part of Her Majesty in right of Canada and CAF members.

Failure by CO

9.4 A CO must act in good faith in addressing any alleged sexual misconduct. Should a CO fail to do so, administrative or disciplinary action, or both, may be initiated.

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10. Responsibilities

Responsibility Table

10.1 The following table identifies responsibilities associated with this DAOD:

The ...	is or are responsible for ...
Vice Chief of the Defence Staff	<ul style="list-style-type: none">managing policy, training and education development related to sexual misconduct incidents;coordinating research and analysis of sexual misconduct incidents in the CAF; andproviding OPHTAS direction.
Director General Morale and Welfare Services	<ul style="list-style-type: none">delivering health promotion programs that include education on a respectful and harassment-free workplace.

Director General Health Services	<ul style="list-style-type: none"> • programming appropriate health care resources for the assessment, diagnosis and treatment of patients affected by, and respondents in, sexual misconduct incidents.
Judge Advocate General and unit legal advisors	<ul style="list-style-type: none"> • providing legal advice to the CAF CoC, the MP and the CFNIS.
Surgeon General	<ul style="list-style-type: none"> • establishing policies and setting standards for the assessment, diagnosis and treatment of patients affected by, and respondents in, sexual misconduct incidents.
DMCA	<ul style="list-style-type: none"> • conducting ARs; and • informing COs and respondents through the chain of command of AR decisions and reasons thereof in accordance with DAOD 5019-2.

TAs and designated TAs	<ul style="list-style-type: none"> • ensuring that Operation HONOUR training and education is included during all levels of military occupation qualification training.
Comd Canadian Forces Recruiting Group and Comds responsible for Reserve Force recruiting	<ul style="list-style-type: none"> • ensuring applicants for enrolment in the CAF are informed of the CAF policy on sexual misconduct.
Comd Canadian Defence Academy	<ul style="list-style-type: none"> • ensuring that Operation HONOUR training and education is included at all levels of

	recruit and leadership training.
Comd Canadian Forces Health Services Group	<ul style="list-style-type: none"> • delivering health care following reports of sexual misconduct incidents.
Comd CF MP Group	<ul style="list-style-type: none"> • conducting an independent preliminary assessment to determine if a police investigation is warranted when a unit CO believes a sexual misconduct incident is of a disciplinary nature; and • providing DMCA with information as appropriate pertaining to MP investigations.

CAF health care providers	<ul style="list-style-type: none"> • assessing, treating and referring CAF members who are sexual misconduct victims, witnesses or respondents, with acknowledgment and sensitivity to gender differences and gender-specific issues; • completing the medical portion of form DND 4006-E, <i>Medical Referral and Certification</i>; and • assigning medical employment limitations and granting sick leave as required.
COs	<ul style="list-style-type: none"> • implementing action as set out in this DAOD; and • implementing any decision directed by an

	approving authority after an AR.
CoC	<ul style="list-style-type: none">• implementing action as set out in this DAOD.

CAF members	<ul style="list-style-type: none">• exercising leadership in their response to sexual misconduct incidents;• being sensitive to needs of victims when receiving reports of sexual misconduct incidents;• providing continued support to victims;• responding to and reporting sexual misconduct incidents;• responding to and reporting acts of reprisal;• maintaining confidentiality of information;• reinforcing and modeling respectful and appropriate professional behaviours;• enforcing standards of conduct;
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- promoting a culture in which bystander intervention is widely accepted, expected and supported;
- attending training, education and professional development activities in support of Operation HONOUR;
- being familiar with the *Spectrum of Sexual Misconduct*;
- becoming educated on the meaning of consent; and
- ensuring professional relationships are based on trust and respect, aligned with CAF ethics and values.

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11. References

Acts, Regulations, Central Agency Policies and Policy DAOD

- *Canadian Charter of Rights and Freedoms*
- *Canadian Human Rights Act*
- *Criminal Code*
- *National Defence Act*
- *Privacy Act*
- QR&O article 1.23, *Authority of the Chief of the Defence Staff to Issue Orders and Instructions*
- QR&O article 4.02, *General Responsibilities of Officers*
- QR&O article 5.01, *General Responsibilities of Non-Commissioned Members*
- QR&O article 19.15, *Prohibition of Reprisals*

- QR&O article 19.56, *Report of Arrest by Civil Authority*
- QR&O article 19.61, *Certificate of Conviction*
- QR&O article 19.62, *Action Following Conviction by Civil Authority*
- QR&O Chapter 21, *Summary Investigations and Boards of Inquiry*
- QR&O Chapter 34, *Medical Services*
- QR&O article 106.02, *Investigation Before Charge Laid*
- DAOD 5019-0, *Conduct and Performance Deficiencies*

Other References

- DAOD 1002-0, *Administration of the Privacy Act*
- DAOD 1002-1, *Privacy Act Requests and Correction of Personal Information*
- DAOD 1002-6, *Disclosure of Personal Information*
- DAOD 2006-0, *Defence Security*
- DAOD 2008-3, *Issue and Crisis Management*
- DAOD 5012-0, *Harassment Prevention and Resolution*
- DAOD 5017-0, *Mental Health*
- DAOD 5019-1, *Personal Relationships and Fraternization*
- DAOD 5019-2, *Administrative Review*
- DAOD 5019-4, *Remedial Measures*
- DAOD 5044-4, *Family Violence*
- DAOD 5516-0, *Human Rights*
- DAOD 6002-2, *Acceptable Use of the Internet, Defence Intranet, Computers and Other Information Technology Systems*
- DAOD 7002-0, *Boards of Inquiry and Summary Investigations*
- DAOD 7002-2, *Summary Investigations*
- DAOD 7002-3, *Subjects of Investigation and References*
- DAOD 7024-0, *Disclosure of Wrongdoings in the Workplace*
- DAOD 7024-1, *Internal Procedures for Disclosure of Wrongdoings in the Workplace*
- CFAO 34-56, *Mental Disorders*

- CANFORGEN 134/12, Decentralization of Authorities Related to Remedial Measures and Administrative Actions
- CANFORGEN 112/14, Amendment - Decentralization of Authorities Related to Remedial Measures and Administrative Actions
- Chief of the Defence Staff Guidance to Commanding Officers and Their Leadership Teams
- Chief of the Defence Staff Critical Information Requirements (available on Consolidated Secret Network Infrastructure (CSNI))
- Duty with Honour: the Profession of Arms in Canada
- Department of National Defence and Canadian Forces Code of Values and Ethics
- National Defence Security Orders and Directives
- ADM(HR-Mil) Instruction 03/04, The Canadian Forces Spectrum of Care
- ADM(HR-Mil) Instruction 07/04, Canadian Forces Member Assistance Program
- CF Mil Pers Instruction 03/09, Enhanced Access Health Care Services
- CFHS Instruction 4000-25, Medical Management of Sexual Misconduct
- CFHS Instruction 4030-06, Providing Medical Advice in Support of Administrative or Disciplinary Proceedings
- CFHS Instruction 4030-72, Patients Right to Privacy Protection and Choice of Physician
- Directive for the Institutionalization of the Operation HONOUR Tracking and Analysis System (OPHTAS)
- Sexual Misconduct Incident Management Decision Tree
- Canadian Forces Member Assistance Program (CFMAP)
- Info Source – Sources of Federal Government and Employee Information
- Sexual Misconduct Response Centre
- Spectrum of Sexual Misconduct
- Form DND 4006-E, Medical Referral and Certification

- Operation HONOUR website

Date modified:

2021-11-02