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Hateful Conduct and New Policy

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CANADIAN FORCES COLLEGE – COLLÈGE DES FORCES CANADIENNES

JCSP 46 DL – PCEMI 46 AD

2019 – 2021

HATEFUL CONDUCT AND NEW POLICY

By Major Matthew D. Lennox

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HATEFUL CONDUCT AND NEW POLICY

In January 2020, 27-year-old Patrik Mathews was arrested by the FBI in Delaware. Mathews remains in US custody on felony charges concerning his membership in a neo-Nazi extremist group¹. He is also a former member of the CAF, and his case has brought media scrutiny onto “hateful conduct” within the military². In July 2020, the CAF released new policy, defining hateful conduct as any:

Act or conduct, including the display or communication of words, symbols or images, by a CAF member, that they knew or ought reasonably to have known would constitute, encourage, justify or promote violence or hatred against a person or persons of an identifiable group, based on their national or ethnic origin, race, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics or disability.³

While the policy is new, hateful conduct in the CAF is not. Historical examples include purges of LGBTQ servicepeople, systemic discrimination against women, and the Somalia incident of 1993 – all of which demonstrate hateful conduct at an institutional level. More recently, the Mathews case, along with other incidents, have demonstrated a shift in hateful conduct to the individual level – while also revealing that the CAF does not possess comprehensive data on the extent of the problem. By examining historical examples and contemporary cases, this essay will demonstrate that the July 2020 policy – although imperfect – is required to move in the right direction.

¹ Kerri Breen, “FBI Arrests Patrik Mathews, Missing Ex-Reservist from Manitoba Accused of Neo-Nazi Ties,” Global News, accessed 7 April 2021, <https://globalnews.ca/news/6420266/patrik-mathews-neo-nazi-ties-fbi/>.

² Lee Berthiaume, “Canadian Forces Were Already Investigating Alleged Member of Hate Group: Defence Chief,” *The Canadian Press*, accessed 7 April 2021, Canadian Forces were already investigating alleged member of hate group: defence chief | Globalnews.ca.

³ Canadian Forces Military Personnel Instruction, *Hateful Conduct*, issued 10 July 2020, http://cmp-cpm.mil.ca/assets/CMP_Intranet/docs/en/policies/cfmilpersinstr/mil-pers-instruction-01-20-hc-w-crest-final.pdf, 2.

Over an approximately 50-year period (the Cold War to the present), the CAF has faced numerous incidents that fit the July 2020 definition of hateful conduct. The purges of LGBTQ servicepeople were initially part of the anti-Communist blacklisting similar to that in the United States in the 1950s and 1960s⁴. A 1994 retrospective in the *Canadian Historical Review* states: “Government officials maintained that homosexuals ... fearing public exposure were security risks owing to their susceptibility to blackmail by hostile intelligence agencies⁵.” In the CAF in particular, the summary dismissal of LGBTQ servicepeople continued until 1992⁶. This was a clear act against an identifiable group (based on sexual orientation), committed by the institution itself. Numbers of dismissals are difficult to define, but by 2019 there were over 400 letters of apology issued by DND to affected former members⁷.

The CAF has also struggled with systemic discrimination against women and other minorities. A 2019 report from the Standing Committee on National Defence notes that (as of 2016) women represented less than 15% of CAF membership, visible minorities less than 7%, and Indigenous persons less than 3%⁸. These numbers are indicative of a military culture that “has been historically and symbolically linked to models of hegemonic [white] masculinity⁹.” While active measures are underway to reduce these low representations, the exclusion of women and visible minorities is an act against identifiable groups, fitting the 2020 definition of

⁴ Daniel J. Robinson and David Kimmel, “The Queer Career of Homosexual Security Vetting in Cold War Canada,” *Canadian Historical Review* 75 no. 3 (1994), 319.

⁵ *Ibid.*, 320.

⁶ *Ibid.*, 333.

⁷ Olivia Chandler, “A Battle That We’ve Won’: LGBTQ Military Members Get Personal Apologies,” *CBC News*, accessed 26 April 2021, <https://www.cbc.ca/news/canada/ottawa/lgbtq-military-canada-history-trudeau-apology-letter-1.5371444>.

⁸ Canada, House of Commons, Standing Committee on National Defence, *Improving Diversity and Inclusion in the Canadian Armed Forces*, 42nd Parliament, 1st Session, June 2019, 9.

⁹ Philip McCristall and Katherine Baggaley, “The Progressions of a Gendered Military: A Theoretical Examination of Gender Inequality in the Canadian Military,” *Journal of Military, Veteran and Family Health* 5 no. 1 (2019), 122.

hateful conduct in the same manner as the LGBTQ purges. Once again, the fault lies with the institution.

Perhaps the worst example of hateful conduct committed by CAF members against an identifiable group is the 1993 Somalia incident. The death of 16-year-old Shidane Arone, as well as other incidents against Somali citizens, “cannot be recounted without describing the ... presence of right-wing extremists and racist incidents and paraphernalia within the CAR [Canadian Airborne Regiment]¹⁰.” In fact, the CAF had no policy of screening out “active racists” prior to 1993¹¹, while the CAR was often used as a dumping ground for problematic soldiers¹². Matters degraded further for the CAR when two videos were released and widely covered by the media: one showing brutal hazing rituals, the other showing CAR members in Somalia making statements such as “[We] ain’t killed enough n----rs yet¹³.”

The Somalia incident and revelations about the CAR are flagrant representations of hateful conduct – more extreme than even the purges of LGBTQ servicepeople and the exclusion of women and visible minorities. Yet each of these examples has prompted (perhaps reluctantly) policy changes. Canadian Forces Administrative Order (CFAO) 19-20 – labelling homosexuality an “abnormality” – was rescinded in 1988, with further restrictions lifted in 1992¹⁴. Policy language was expanded in 2011 and then further in 2019 to prevent discrimination against

¹⁰ Commission of Inquiry into the Deployment of Canadian Forces to Somalia, “Dishonoured Legacy: The Lessons of the Somalia Affair,” vol. 1 (1997), 23.

¹¹ *Ibid.*, 93.

¹² Commission of Inquiry into the Deployment of Canadian Forces to Somalia, “Dishonoured Legacy: The Lessons of the Somalia Affair,” Executive Summary (1997), 24.

¹³ Joe Chidley, “Bonding and Brutality,” *Macleans*, accessed 30 April 2021, <https://archive.macleans.ca/article/1995/1/30/bonding-and-brutality>.

¹⁴ “Timeline of Gay Rights in the Canadian Military,” *CTV News*, accessed 30 April 2021, <https://montreal.ctvnews.ca/timeline-of-gay-rights-in-the-canadian-military-1.3010597>.

transgendered servicepeople¹⁵. Meanwhile, *Strong, Secure, Engaged: Canada's Defence Policy*, published in 2017, has pledged to recruit from Canada's "diverse population", while specifically increasing women in the CAF to 25% by 2026¹⁶. The outcomes of the Somalia incident included the disbandment of the CAR, but also directly contributed to capstone documents such as 2003's *Duty With Honour: The Profession of Arms in Canada*, mandatory law of armed conflict training for all ranks, and a complete overhaul of the professional development curriculum for officers and NCOs¹⁷.

The examples above also demonstrate that the CAF was historically an environment where hateful conduct thrived at an institutional level, necessitating new policies to fix the culture. An examination of the present-day CAF reveals that hateful conduct has shifted to an individual level. Patrik Mathews is not the CAF's only problem of the last decade. A question period brief prepared for the Minister of National Defence (MND) in late 2019, drawing data from internal military police metrics, was specifically written to address the question "Why does the [CAF] continue to allow people with racist and extremist ideologies within its ranks¹⁸?" The brief confirms the involvement of CAF members in organizations such as Iron March (a now-defunct neo-Nazi internet forum linked to weapons trafficking, murder, and assault¹⁹), the Proud

¹⁵ Kathleen Harris, "Canada's Military Issues New Policies to Welcome Transgender Troops as Trump Insists on Ban," *CBC News*, accessed 30 April 2021, <https://www.cbc.ca/news/politics/military-transgender-caf-policy-1.4978669>.

¹⁶ Department of National Defence, *Strong, Secure, Engaged: Canada's Defence Policy* (Copyright Her Majesty the Queen in Right of Canada, as represented by the Minister of National Defence, 2017), 12.

¹⁷ David J. Bercuson, "Up From the Ashes: The Re-Professionalization of the Canadian Forces After the Somalia Affair," *Canadian Military Journal* vol. 9 no. 3 (2009), 37-38.

¹⁸ Government of Canada, DND-2019-QP-00003, "Hateful Conduct in the Canadian Armed Forces," accessed 3 May 2021, <https://search.open.canada.ca/en/qp/id/dnd-mdn,DND-2019-QP-00003>.

¹⁹ James Poulter, "The Obscure Neo-Nazi Forum Linked to a Wave of Terror," *Vice*, accessed 3 May 2021, <https://www.vice.com/en/article/437pkd/the-obscure-neo-nazi-forum-linked-to-a-wave-of-terror>.

Boys (designated by the Canadian government as a terrorist group in 2021²⁰), La Muete (a Quebec far-right nationalist group²¹), and of course The Base (the white supremacist paramilitary group to which Mathews is linked²²), among others²³.

The question period brief states that there were (as of late 2019) 51 CAF members, regular force and reserve, under active military police investigation, with a handful of pending or completed remedial measures or releases²⁴. The CAF “acts decisively²⁵” when it receives a complaint, says the brief, on a “case-by-case basis²⁶.” The term “case-by-case” is noteworthy because it implies a need to address only small numbers, rather than by an institutional shift (such as that prompted by the Somalia incident). Indeed, the 51 members referenced in the brief is statistically small – even insignificant – compared to the approximately 95,000 serving members of the CAF. This further reinforces the shift from institutional hateful conduct to individual. At issue, however, is the danger – both perceived and real – should a CAF member *execute* an act of hateful conduct. Mathews was a qualified combat engineer, so in addition to small-arms experience, he was also likely well-versed in the theory of explosives and demolition²⁷. (The inference of Mathews’ explosives training frequently appears in media articles, but we were unable to confirm his actual qualifications). In a lengthy article for the

²⁰ Southern Poverty Law Center, “Proud Boys,” accessed 3 May 2021, <https://www.splcenter.org/fighting-hate/extremist-files/group/proud-boys>.

²¹ Jonathan Montpetit, “Out of the Shadows: Inside La Meute,” *CBC* (video), accessed 3 May 2021, <https://www.cbc.ca/news/canada/montreal/out-of-the-shadows-inside-la-meute-1.4270835>.

²² Southern Poverty Law Center, “The Base,” accessed 3 May 2021, <https://www.splcenter.org/fighting-hate/extremist-files/group/base>.

²³ Government of Canada, “Hateful Conduct in the Canadian Armed Forces.”

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ CASIS Vancouver, “Right-Wing Extremism in the Canadian Armed Forces,” *The Journal of Intelligence, Conflict, and Warfare* vol. 2 no. 2 (2019), 1.

Winnipeg Free Press, investigative journalist Ryan Thorpe has even drawn parallels between Mathews and Oklahoma City bomber Timothy McVeigh²⁸.

If the parallels between Mathews and McVeigh seem like a stretch, consider the case of Corey Hurren, the CAF reservist (now released) who in 2020 attempted to storm Rideau Hall and arrest the prime minister at gunpoint²⁹. There were no serious injuries, and Hurren has since pleaded guilty to weapons-related charges and been sentenced to six years in prison³⁰. The judge presiding over the case remarked that “Hurren committed a politically motivated, armed assault intended to intimidate Canada's elected government³¹.” It is also worth noting that Hurren’s social media profiles have heavily trafficked in far-right conspiracy theories³². Hurren’s case proves that hateful conduct taken by a CAF member to its extremes is a real possibility, even if not as severe as the Oklahoma City bombing.

There is a political element to consider with individual acts of hateful conduct. Hurren, Mathews, and members of groups such as the Proud Boys and La Muerde all fall into the category of “right-wing extremism” (RWE), an ideology:

[A]nimated by a racially, ethnically, and sexually defined nationalism ... grounded in xenophobic and exclusionary understandings of the perceived threats posed by such groups as non-Whites, Jews, immigrants, homosexuals, and feminists³³.

²⁸ Ryan Thorpe, “Homegrown Hate,” *Winnipeg Free Press*, accessed 6 May 2021, <https://www.winnipegfreepress.com/local/homegrown-hate-547510902.html>.

²⁹ Catharine Tunney, “Corey Hurren Sentenced to 6 Years in Prison for Breaching Rideau Hall Gates While Armed,” *CBC News*, accessed 6 May 2021, <https://www.cbc.ca/news/politics/corey-hurren-rideau-hall-sentencing-decision-1.5943612>.

³⁰ *Ibid.*

³¹ *Ibid.*

³² Alex Boutilier and Douglas Quan, “Accused in Rideau Hall Gun Incident Has Long History of Being Drawn to Conspiracy Websites,” *Toronto Star*, accessed 6 May 2021, <https://www.thestar.com/politics/federal/2020/07/11/accused-in-rideau-hall-gun-incident-has-long-history-of-being-drawn-to-conspiracy-websites.html>.

³³ Barbara Perry and Ryan Scrivens, “Uneasy Alliances: A Look at the Right-Wing Extremist Movement in Canada,” *Studies in Conflict and Terrorism* vol. 39 no. 9 (2016), 822.

Proponents of RWE are “willing to assume both an offensive and defensive stance³⁴” to advance their interests. Conversely, left-wing extremism has not had a demonstrable presence in the military, possibly because the hierarchical nature of the military does not attract members of the far-left in significant numbers³⁵.

For individuals who are already radicalized by RWE, the attraction of the military is clear: weapons training, access to ammunition and explosives, and fellow soldiers who may be recruited³⁶. A separate risk arises with already-serving individuals who become radicalized. A 2009 Department of Homeland Security report attributed a rise in RWE in the US military to economic insecurity, the election of Barack Obama, and the disillusionment of veterans³⁷. Interestingly, the DHS report was rescinded after backlash from conservative pundits who felt that it did not address radical Islam³⁸. However, the causal factors in the DHS report have parallels in Canada and the CAF, especially in Hurren’s case: his small business had been adversely affected by COVID-19 restrictions, and he explicitly loathed the Trudeau government³⁹. RWE was previously identified in the culture of the CAR, and Military Personnel Command (MPC) acknowledges RWE as the predominant form of hateful conduct in the CAF today⁴⁰. Unfortunately, very little data exists on the extent to which hateful conduct and RWE

³⁴ *Ibid.*

³⁵ Daniel Koehler, “A Threat from Within? Exploring the Link between the Extreme Right and the Military,” policy brief prepared for the International Center for Counter-Terrorism, The Hague, accessed 7 April 2021, 4.

³⁶ *Ibid.*, 20.

³⁷ United States, Department of Homeland Security, “Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment,” accessed 11 May 2021, <https://file.wikileaks.org/file/us-dhs-right-wing-extremism-2009.pdf>, 2.

³⁸ Spencer Ackerman, “DHS Crushed This Analyst for Warning about Far-Right Terror,” *Wired*, accessed 11 May 2021, <https://www.wired.com/2012/08/dhs/>.

³⁹ Boutilier and Quan, “Accused in Rideau Hall Gun Incident Has Long History of Being Drawn to Conspiracy Websites,” *Toronto Star*.

⁴⁰ Canadian Armed Forces, Military Personnel Command, “Hateful Conduct,” policy brief dated June 2020, http://cmp-cpm.mil.ca/assets/CMP_Intranet/docs/en/support/military-personnel/hateful-conduct-june-2020-policy-awareness-deck-en.pptx, 4.

exist in the CAF⁴¹. However, as has been demonstrated, even a tiny number of CAF members who possess hateful beliefs and military skillsets can be a dangerous combination in the pursuit of RWE objectives.

Daniel Koehler, radicalization expert and research fellow in the Polarization and Extremism Research and Innovation Lab at the American University in Washington D.C., advises new “military-specific” programs and policy to address the threats we have described⁴². With its July 2020 policy on hateful conduct, the CAF appears to be delivering a military-specific solution. CAF MPC acknowledges that the hateful conduct policy is a “new process beginning, putting into place mechanisms to ensure shared understanding and the instructions on how to act when someone behaves inappropriately⁴³.” Considering that the policy is less than a year old, it is still very much newly beginning, and it will therefore take time to show its efficacy.

In terms of procedure, the new policy dictates that every CAF member now has a duty to report hateful conduct either to their direct chain of command or to the military police⁴⁴. Once the chain of command has been notified of an incident, unit-level leadership must log it into the newly-launched HCITS “Hateful Conduct Incident Tracking System” (HCITS) accessible through the CAF intranet⁴⁵. Throughout this process, the policy dictates that an accused perpetrator may be temporarily relieved from duty⁴⁶. Meanwhile, leadership is to ensure that victims have access to the chaplaincy, mental health services, and advocacy groups, such as the

⁴¹ CASIS Vancouver, “Right-Wing Extremism in the Canadian Armed Forces” ..., 3.

⁴² Koehler, “A Threat from Within? Exploring the Link between the Extreme Right and the Military” ..., 23.

⁴³ Canadian Forces Military Personnel Instruction, *Hateful Conduct*.

⁴⁴ Canadian Army Order 11-82, *Hateful Conduct*, issued 20 September 2020, http://army.forces.gc.ca/assets/ARMY_Internet/docs/en/national/2020-09-hateful-conduct-with-annexes.pdf, 7.

⁴⁵ *Ibid.*, 8.

⁴⁶ *Ibid.*, 9.

Defence Visible Minorities Advisory Group or Defence Team Pride Network⁴⁷. Once an incident has been reported, leadership has the same tools as it does for many other infractions: an investigation potentially followed by administrative and disciplinary measures. (Disciplinary measures are applicable only if there are grounds to justify a charge under the Code of Service Discipline, while administrative measures are meant as a non-punitive correction⁴⁸). If the investigation leads to charges, then a service tribunal will follow. Irrespective of charges, administrative measures may be applied. Updating HCITS and informing the chain of command continues until the incident is concluded⁴⁹.

Investigating hateful incidents must now also be complemented by preventive measures, such as annual briefings and enhanced training opportunities⁵⁰. Overall, this appears to be a comprehensive policy response to hateful conduct, but not everyone is convinced. According to Rory G. Fowler, a retired CAF lieutenant-colonel who works as a lawyer specializing in military cases, the new policy is not actually a new policy – it is “best be described as a new definition inserted into an existing policy⁵¹.” According to Fowler, this is a minimum effort, designed to demonstrate that the CAF is “doing something” in the face of increased media scrutiny⁵². Fowler posits that appropriate policy and procedure to address hateful conduct have existed all along. For instance, disciplinary and administrative measures could be applied to a CAF member who has committed assault (or any criminal offence) based on hateful beliefs⁵³. This implies that new

⁴⁷ *Ibid.*

⁴⁸ Canada, Department of National Defence, *Defence Administrative Orders and Directives 5019-4, Remedial Measures*, accessed 21 May 21, DAOD 5019-4, Remedial Measures - Canada.ca.

⁴⁹ Canadian Army Order 11-82, *Hateful Conduct* ..., 18.

⁵⁰ *Ibid.*, 14.

⁵¹ Rory G. Fowler, “The Canadian Forces and ‘Hateful Conduct’,” *The Law Office of Rory G. Fowler* (blog), accessed 22 May 2021, The Canadian Forces and ‘Hateful Conduct’ – The Law Office of Rory G Fowler (roryfowlerlaw.com).

⁵² *Ibid.*

⁵³ *Ibid.*

policy language is unnecessary for something that was already a crime. The shortfall, Fowler concludes, lies with senior CAF leadership not understanding the tools already at their disposal⁵⁴.

Fowler's criticisms of the procedural tools are accurate, but they do not negate two particular early successes of the policy. First, HCITS, as previously discussed, establishes a database where none existed before, thus offering the CAF the ability to make informed decisions and have a better understanding of the problem (at present, access to HCITS is strictly limited to environmental commands and higher⁵⁵, so the actual number of reported and recorded cases was unavailable for this writing). Second, Fowler is dismissive of the CAF using the hateful conduct policy as a means of "doing something" to address media scrutiny. His dismissiveness is unrealistic. The CAF should be seen "doing something" – not just for the media, but for the Canadian public at large – when members such as Corey Hurren or Patrik Mathews bring negative attention. In *Strong, Secure, Engaged*, CAF leadership pledges to be "open and transparent" on reducing harmful behaviors and discrimination from the military workplace⁵⁶. While this was written more in the context of Operation HONOUR and sexual misconduct, that same transparent approach to reducing harmful behaviors is clearly applicable to hateful conduct, thereby demonstrating that "doing something" is of prime importance.

The CAF is no longer an environment where hateful conduct persists at an institutional level, the way it did when discrimination against LGBTQ servicepeople, women, and visible minorities was the norm, or when organizations such as the CAR were flagrantly racist. Policy revisions helped the military move past those institutional shortcomings. However, the CAF still has problems at an individual level, particularly with right-wing extremism and the potential for

⁵⁴ *Ibid.*

⁵⁵ Canadian Army Order 11-82, *Hateful Conduct* ..., 21.

⁵⁶ DND, *Strong, Secure, Engaged: Canada's Defence Policy* ..., 28.

extreme acts of hateful conduct, such as bombings or shootings. The extent of these beliefs might be statistically small, but – as this paper has demonstrated – comprehensive data is lacking, so CAF leadership cannot accurately speak to the extent of the issue. This is one clear requirement for new policy. The other requirement, in keeping with *Strong, Secure, Engaged*, is a policy that shows the CAF’s willingness to tackle difficult challenges in an overt way. Much of the July 2020 hateful conduct policy will require time to show its worth – for instance, to show if remedial measures are an effective deterrent to deal with a future Patrik Mathews, or if annual briefings can prevent the radicalization of another Corey Hurren. In the meantime, though, the new policy is a promising step in the right direction.

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