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Lessons Learned: Comparative Analysis of Sexual Misconduct in the Canadian and U.S. Armed Forces

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Lessons Learned: Comparative Analysis of Sexual Misconduct in the Canadian and U.S. Armed Forces

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LESSONS LEARNED: COMPARATIVE ANALYSIS OF SEXUAL MISCONDUCT IN THE CANADIAN AND U.S. ARMED FORCES

INTRODUCTION & THESIS

The inability to address and eradicate sexual misconduct in the armed forces can severely hamper a country's ability to execute national security and defence missions. This is a broad wicked problem, not limited to the military or one sector of society, transcending public, private, and international boundaries. Taking the time to address and mitigate sexual misconduct can divert personnel and financial resources away from the mission. Additionally, this can hinder some oft-targeted groups of individuals, such as women or those in the LBGTQ community, from joining the ranks and thereby flying in the face of Canadian and United States military efforts to diversify their forces. Thus, sexual misconduct in the military continues to gain traction in the media in recent decades and requires further addressing.

Sexual misconduct, as defined by DAOD 9005-1, *Sexual Misconduct Response*, includes any conduct of a sexual nature causing harm to others, including verbiage, jokes, harassment, rape, and assault ¹. This paper will focus on sexual misconduct in the Canadian and U.S. armed forces, beginning the issue's origins, and analysis and comparison of how this is such a wicked problem. Key elements such as programs and policies clarified and measures of performance analyzed, then lessons learned and possible solutions from those lessons can be evaluated and applied to future programs and policies. As with any wicked problem, there is trial and error when looking for the right answer. After which, a "good enough" solution must be chosen and implemented.²

¹ Canada. Defence Administrative Order and Directive 9005-1, Sexual Misconduct Response, 2020.

² Val Morrison, "Wicked Problems and Public Policy," National Collaborating Centre for Healthy Public Policy, June 2013, 2.

The problem of sexual misconduct is greater than the actions themselves and requires a deeper look at not just addressing the acts, but those elements acting as catalysts in the environment. Organizational and command climate and culture are at the core of the sexual misconduct problem in the Canadian and U.S. military forces. Defence department leaders need to shift gears from being passive and become proactive to truly resolve this issue.

This paper will find that though sexual misconduct is a long-standing problem within the military ranks and defense leaders have implemented measures to alleviate it, data and research show that effective confrontation and resolution of sexual misconduct in the Canadian and U.S. armed forces will only come from a larger culture and climate change to include reformed reporting centered around victim support and realigned and unbiased justice processes.

DISCUSSION

Context: Sexual Misconduct's Origins in the Canadian and U.S. Armed Forces and as a Wicked Problem

It is near impossible to say when sexual misconduct began in the Canadian and U.S. armed forces. However, an instance possibly aggravating the issue and making it more apparent was the integration of women into the mainstream military, especially once women were admitted to the military academies and able to fill traditionally male career fields or direct combat. In the U.S., this has likely since 1975 when U.S. President Ford signed into public law allowing women to be admitted to service academies,³ with women becoming further integrated in the mid-1990s into all positions except direct

³ U.S. Government Publishing Office. "45th Anniversary of Women Admitted to West Point." July 2021.

combat and submarines.⁴ In 2015, the U.S. armed forces finalized opening the remaining career fields and combat roles to women.⁵ Similarly, in the Canadian forces, women's roles began to expand in 1980 when women were allowed into the Royal Canadian Military College with full integration of women into even direct combat positions around 1989.⁶ Along the same timeframes, Canadian and U.S. militaries encountered events further bringing sexual misconduct issues into the spotlight. In the CAF, this arose in 1998 when Maclean's publication ran a cover story titled "Rape in the Military." ⁷ In this incident, a Maclean's investigation and subsequent interviews found that at least 13 women had been sexual assault victims in the Canadian military over several years.⁸ Their investigation further found a culture condoning harassment and sexual misconduct. Similarly, in the U.S. armed forces, visual acuity on sexual misconduct came about with the infamous 1991 "Tailhook scandal," which took place over a 3-day period at a naval convention in Las Vegas and in which a U.S. Naval investigation revealed 140 acts of sexual misconduct perpetrated against 80-90 female victims.⁹ These actions combined, spurred the advent of today's sexual misconduct policies.

The problem of sexual misconduct in the military forces is a wicked one for certain. Though not entirely conventional in meeting all criteria for wicked problems (though unclearly defined, it was a known problem *before* solutions were proposed) it

⁴ Emma Moore, "Women in Combat: Five-Year Status Update," *Center for New American Studies,* March 2020.

⁵ Ibid.

⁶ B. T. Waruszynski, MacEachern, K. H., Raby, S., Straver, M., Ouellet, E., & Makadi, E., "Women serving in the Canadian armed forces: Strengthening military capabilities and operational effectiveness," *Canadian Military Journal* 19. No. 2 (2019): 28.

⁷ Jane O'Hara, Brenda Branswell, John Geddes, Shanda Deziel, Sharon Doyle Driedger and Stephanie Nolen, "Rape in the Military," *Maclean's*, May 1998.

⁸ Ibid.

⁹ Britannica, T. Editors of Encyclopaedia. "Tailhook scandal." *Encyclopedia Britannica*, August 2021.

still fits the parameters and is more than a complex matter. Thus far, there has been no "standard" solution to the issue and the U.S. and Canadian militaries have yet to find a stopping point and may never.¹⁰ The Canadian Forces have gone through a few programs, including Standard for Harassment and Racism Prevention program (SHARP) in 1998 and which only lasted a few years,¹¹ to Operation HONOUR in 2015 which culminated in 2022. Additionally, attempts to resolve the issue has resulted in a chain effect of uncovering other interrelated problems. ¹² Sexual misconduct victims cite multiple reasons for not reporting, including no confidence in the chain of command or fear of being shunned or punished,¹³ leading to a larger issue of unhealthy command climates in organizations. As women became more integrated into all or nearly all military roles over the last couple of decades, and with sexual misconduct perpetrated primarily against women,¹⁴ U.S. and Canadian forces had to figure out a way to educate and train the forces regarding sexual harassment and assault, devise and implement policies in support of victims including reporting processes, and order zero tolerance from the command level for such behaviors to keep the military forces relevant to today's society.

Comparison of Confronting Sexual Misconduct between Canadian and U.S. Armed Forces

Programs and Policies. The Canadian Forces' current management of sexual misconduct is in flux. In 2014, the Chief of Defence Staff directed an external review of harmful and inappropriate sexual behaviors in the CAF with several efforts coming from

¹⁰ Morrison, "Wicked Problems," 2.

¹¹ Marie Deschamps, "External review into sexual misconduct and sexual harassment in the Canadian Armed Forces," (2015), 81.

¹² Morrison, "Wicked Problems," 2.

¹³ Nancy Taber, "The Canadian armed forces: Battling between operation HONOUR and operation Hop on Her," *Critical Military Studies* (2017), 6:1, 29.

¹⁴ Adam Cotter, "Sexual Misconduct in the Canadian Armed Forces Regular Force, 2018," Statistics Canada, May 22, 2019.

the report.¹⁵ One such strategy being Operation HONOUR in 2015, set on eradicating sexual misconduct in the CAF with four lines of effort: "understanding the issue, responding to incidents of harmful and inappropriate sexual behavior, supporting victims, and preventing occurrences."¹⁶ In addition, Operation HONOUR directed the establishment of a response center and strategic response team. ¹⁷ The report also came with ten recommendations including: acknowledgement of the sexual misconduct problem; effecting cultural change; having a unified policy approach; and creating an entity independent of the CAF for reporting, victim support, accountability and research and ensuring full access for victims to such a place.¹⁸

Like the CAF, the U.S. military's approach to addressing and eradicating sexual harmful and inappropriate sexual behaviors continues to evolve. In 2004, the U.S. Secretary of Defense directed a comprehensive review of the Department of Defense's (DoD) process for victim care and treatment, resulting in a Sexual Assault Task Force.¹⁹ This in turn brought about a full policy addressing the issue including permanent regulations establishing processes and procedures for the Sexual Assault Prevention and Response (SAPR) program, training standards, and directing roles and responsibilities within the SAPR program.²⁰ In addition, the review led to the establishment of the DoD Sexual Assault and Prevention Response Office (SAPRO), which still stands today and is

¹⁵ Canada, Canadian Armed Forces: Progress Report Addressing Inappropriate Sexual Behavior, February 1, 2016, 3.

¹⁶ Ibid, 3-4.

¹⁷ Ibid, 4.

¹⁸ Ibid, 7-20.

 ¹⁹ United States, Department of Defense Sexual Assault Prevention and Response Mission & History, n.d.
 ²⁰ United States, Department of Defense Instruction 6495.02, Sexual Assault Prevention and Response: Program Procedures, November 10, 2021.

the Defense Department's focal point for all things related to defense sexual assault policy.²¹

Measures of performance. Metrics and data collected during CAF and U.S. DoD SAPR programs shows some positive impact but still a long road ahead. Measuring the effectiveness and success of programs to combat and address sexual misconduct can be difficult. It is a complex, multi-faceted issue. During Operation HONOUR, the CAF stated their progress through occasional progress reports, and assessed progress as "good,"²² citing such actions as improved victim support with the Response Centre. The second progress report discussed performance measurement, affirming that data collection and reporting would become a part of CAF efforts, to include surveying members on program awareness and tracking the number of incidents reported over time.²³ By the fourth, and last, progress report, CAF tracked incident statistics in the Operation HONOUR Tracking and Analysis System. By the data, it appears the number of incidents occurring and reported went down significantly (444 in 2016 to 123 in 2019) in the 3-year period. Further, in 2019 it was reported that in the 12 months prior to a 2018 survey, "the majority (70%) of Regular Force members witnessed or experienced sexualized or discriminatory behavior in the military workplace or involving military members."²⁴ While this is a large percentage of members affected by sexual misconduct, at least this is down 10% from 2016 reporting.²⁵ Additionally, some progress was made on recommendations stemming from the 2015 Deschamps report. In their last progress

²¹ Department of Defense Sexual Assault Prevention and Response Mission & History.

²² Canada. Canadian Armed Forces: Progress Report Addressing Inappropriate Sexual Behavior, February 1, 2016, 29.

²³ Canada. Canadian Armed Forces: Progress Report Addressing Inappropriate Sexual Behavior, August 30, 2016, A-1.

²⁴ Cotter, "Sexual Misconduct."

²⁵ Ibid.

report for Operation HONOUR, CAF conveyed that out of the 10 recommendations, acknowledgement of the sexual misconduct problem was fully achieved, along with refinement of complaint processes being mostly achieved.²⁶ However, much work is still required on the other seven recommendations, such as better integration of women and creation of an independent center to handle reporting and for victim support.²⁷

For the U.S., statistics tell another story. It is questionable whether current U.S. DoD efforts have had either a positive or negative effect on tackling sexual misconduct. Though not the only incident involving sexual assault of trainees in the U.S, military, one of the most egregious of those cases occurred in 2011. By late 2011, reports began to surface of multiple sexual assaults against trainees at the U.S. Air Force basic military training, occurring over a few years with approximately 62 trainees assaulted by an estimated 32 instructors.²⁸ Since 2007, the DoD SAPRO has published annual reports on sexual assault in the military. It is important to note the 2012 report showed a 6% increase from 2011 reports.²⁹ It is possible some of this can be attributed to the basic training sexual assault reports; however, the remaining may be for other assaults during 2012 or in prior years that only became reported in 2012. The 2018 report noted that 2016 – 2018 remained relatively stable.³⁰ However in the 2019 report, sexual assaults reported increased 3%.³¹ Given current and evolving policies and initiatives, coupled

²⁶ Canada, Canadian Armed Forces: Progress Report Addressing Inappropriate Sexual Behavior, February 26, 2019, 14-15.

²⁷ Ibid, 14-16.

²⁸ James Risen. "Attached at 19 by an Air Force Trainer, and Speaking Out." The New York Times. February 26, 2013.

²⁹ United States. Department of Defense Annual Report on Sexual Assault in the Military: Fiscal Year 2012; Volume I. May 3, 2013, 57.

³⁰ United States. Department of Defense Annual Report on Sexual Assault in the Military: Fiscal Year 2018. April 26, 2019, 1.

³¹ United States. Department of Defense Annual Report on Sexual Assault in the Military: Fiscal Year 2019. April 28, 2020, 1.

with statistical data and feedback from stakeholders, there are plenty of lessons learned that can be applied to further address harmful and inappropriate sexual behaviors in the Canadian and U.S. armed forces.

Lessons Learned: Analysis of Progress, Application to U.S. and Canadian Armed Forces

An overarching and recurring theme found while conducting research for this paper is the persisting need for an overhaul to organizational and command culture and climate to allow victims a safe space in which to report and ensuring fair judgement. Nelson and Jenkins (U.S.) research study found reporting barriers for victims included fear of repercussion from their units or chain of command, or that their commander would not do anything "official" to address the offense.³² Thus, some women "did not think it would do any good" to report.³³ In the years following the Nelson-Jenkins study, U.S. data shows that even though reporting numbers have increased, it is possible this is for the better. The tide may be turning, and an environment being fostered in which victims feel safe to report incidents.³⁴ Despite victims' feelings of overall safe reporting, there is still the element of command bias, whether the victim's or offender's chain of command, which can still be a barrier to reporting. A review found that some servicewomen still hesitate to report sexual misconduct incidents when their superior officer was either the offender or associated with the offender.³⁵ A step in the right direction, the U.S. Secretary of Defense in 2021 directed an independent review

 ³² Terri Spahr Nelson and Carson L. Jenkins. For Love of Country: Confronting Rape and Sexual Harassment in the U.S. Military (Taylor & Francis Group, 2002), 77.
 ³³ Ibid, 77.

³⁵ Ibid, 77.

³⁴ Laura L. Miller, Coreen Farris & Kayla M. Williams (2018) Challenges to evaluating US military policy on sexual assault and sexual harassment, Military Psychology, 30:3, 200.

³⁵ Anne G. Sadler, Douglas R. Lindsay, Samuel T. Hunter & David V. Day (2018) The impact of leadership on sexual harassment and sexual assault in the military, Military Psychology, 30:3, 256.

commission to investigate sexual assault in the military and upon the commission's finding, has directed that prosecution of sexual assaults and similar offences will instead go through independent offices within each military service.³⁶

Conversely, these barriers to reporting still hold true in recent years as it applies to the CAF. The Deschamps' report noted that "a large percentage of incidents of sexual harassment and sexual assault are not reported"³⁷ thus indicating that under-reporting of such incidents was widespread. Further, the Deschamps report noted that overwhelming feedback from victims was that "the only way to increase the frequency of reporting is to create a reporting mechanism outside of the chain of command."³⁸ Therefore, despite CAF data showing a decrease in numbers in recent years, it could be due to victims still feeling unsafe to report, thus a need especially within the CAF to transfer incident reporting away from the victim's chain of command to an independent entity to guarantee a safe reporting space, whether reporting is formal or not, and equity in prosecution. Deschamps also noted in her report disparity in punishment of sexual harassment versus assault.³⁹ Some interviewees commented that even substantiated sexual harassment claims were punished with essentially a "slap on the wrist" by reporting officers and oftentimes not conducted in a timely manner.⁴⁰

Though the stand-up of the Sexual Misconduct Response Centre during Operation HONOUR was a significant milestone in supporting victims, as the last progress report states, it is an *option* for victims and does not drive any reporting process.⁴¹ Therefore,

³⁶ Todd Lopez, ""Sexual Assaults Will No Longer Be Prosecuted by Commanders." Department of Defense News. July 2021.

³⁷ Deschamps, External Review, iii.

³⁸ Ibid, iii.

³⁹ Deschamps, External Review, 55.

⁴⁰ Ibid, 62-63.

⁴¹ Canadian Armed Forces Progress Report, February 26, 2019, 6.

the formal reporting process still lies within the chain of command,⁴² which can preclude victims or lower-ranking individuals from feeling comfortable to come forward. Despite continued barriers and recent events, there is a glimmer of hope. Perhaps the CAF is catching up to the U.S. as far as finally having an independent reporting chain. In April 2021, the Defence Department announced another external review of sexual misconduct and harassment in the CAF, conducted independently by former Supreme Court Justice Arbour, specifically looking at why these issues still occur, reporting barriers, and recommendations to mitigate.⁴³ The findings from that report, expected to be released around spring or summer 2022, is said to focus on implementation of an independent reporting system.

CONCLUSION

Until the chain of command is taken out of the reporting process and justice rendered is fair and equitable, reporting will be hindered, and sexual misconduct allowed to continue unchecked. A 2021 RAND report backs this assertion, stating, "Higher rates of reporting and consistent consequences could have a deterrent effect because service members and commanders would know that they would be held accountable for sexual assault and sexual harassment behavior." ⁴⁴ Organizational command is an art requiring the ability to balance mission requirements while caring for the military's greatest asset: people. Issues like sexual misconduct found within civilian society are also present in the military and aggravated in certain environments considering the oft-noted

⁴² Ibid, 6.

⁴³ Canada, "Independent Comprehensive External Review," Department of National Defence Conduct and Culture, November 15, 2021.

⁴⁴ Joie D. Acosta, Matthew Chinman, and Amy L. Shearer, Countering Sexual Assault and Sexual Harassment in the U.S. Military: Lessons from RAND Research. Santa Monica, CA: RAND Corporation, 2021, 6.

hypermasculine military culture. Organizational leaders must take this into consideration constantly and perpetuate a climate free of harassment and violence. This problem can be amplified when carrying out an operation. If a team is cohesive and functions in a climate free of fear of harassment and retaliation, nor condoning inappropriate sexual behaviors, operations are successful. Conversely, the opposite holds true. An organization's climate steeped in allowing such acts will lead to a degraded ability to execute its mission. Unit climate and culture permeate from the top. Leadership must lead by example and ensure they fully and consistently support victims and address any allegations of sexual misconduct. Equally, CAF and U.S. military leaders at the very top should listen to and consider inputs and points of views from victims and bystanders to shape programs and policies more effectively. While harmful and inappropriate sexual behaviors are very much a wicked problem in the military forces, with stronger action to reform reporting processes for victims and realignment of the justice processes against offenders, it is possible to better alleviate the issue.

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