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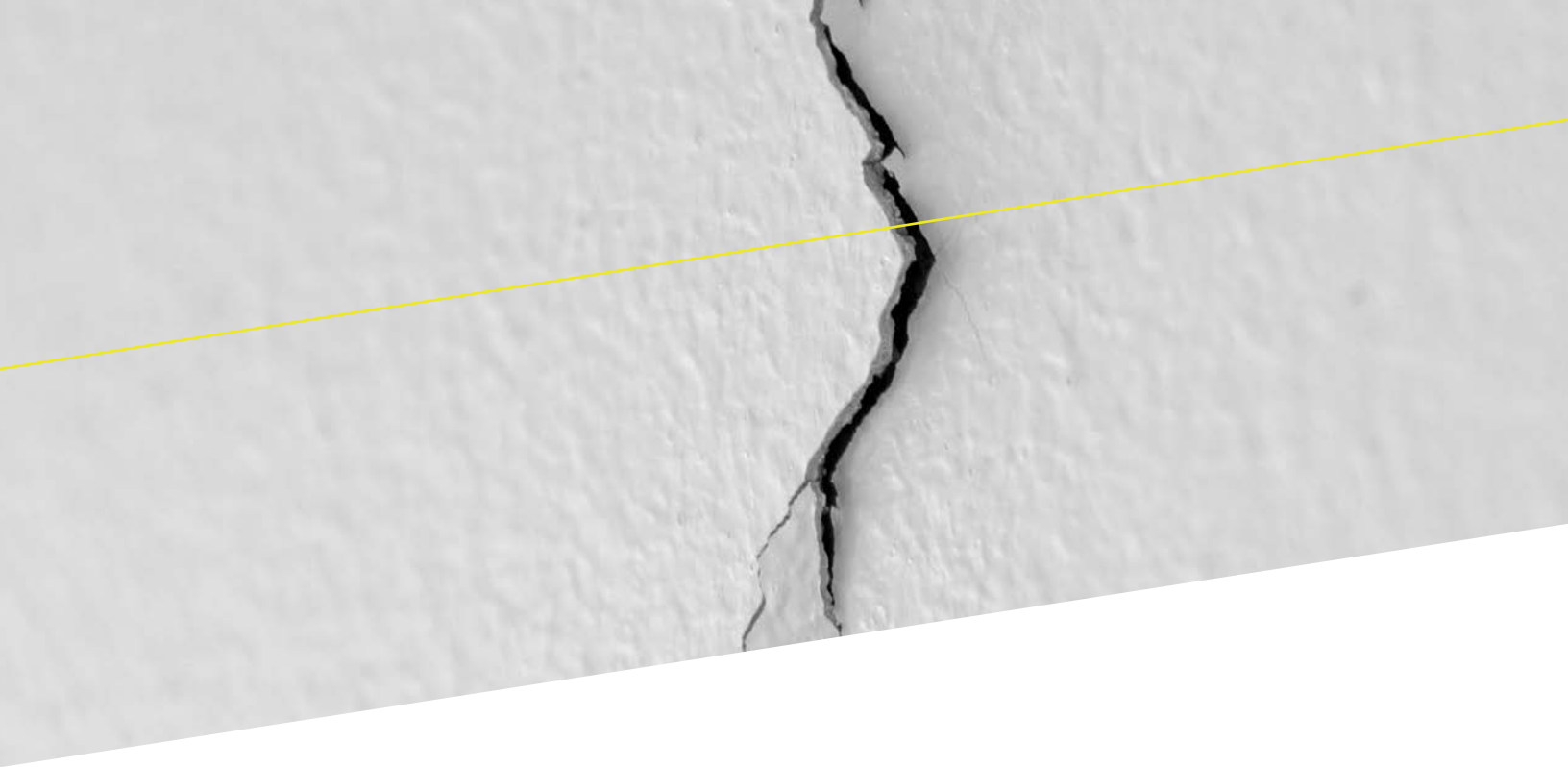


Report into

Workplace Harassment

in the **RCMP**

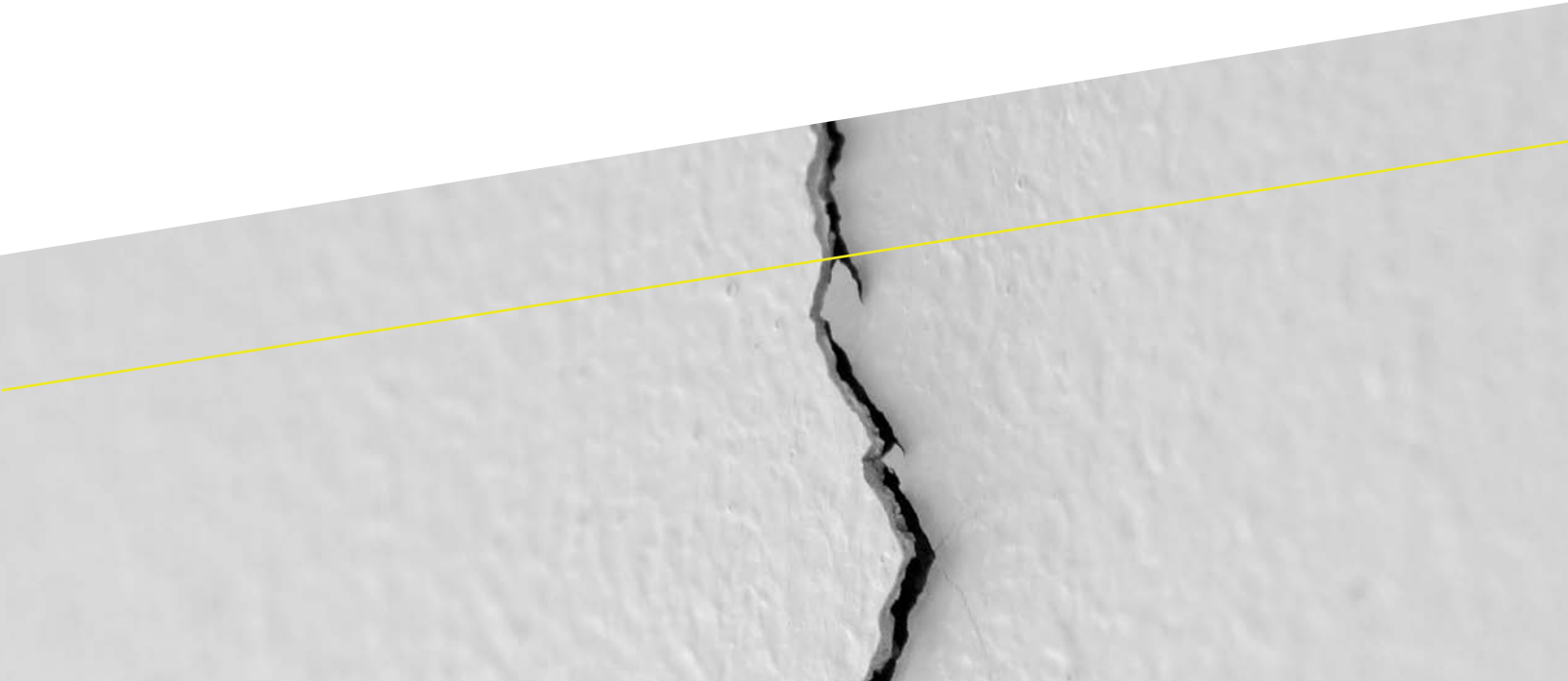
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EXECUTIVE SUMMARY

For decades, the Royal Canadian Mounted Police has struggled with the problem of workplace harassment, bullying, intimidation and sexual harassment. Independent reviews, surveys, media reports and lawsuits have all highlighted the degree to which these significant and pervasive problems infect RCMP workplaces, and the damage that can result. There has also been no shortage of solutions proposed. In the past decade alone, over 15 reviews have been conducted of the RCMP and its organizational culture, identifying a dizzying array of more than 200 recommendations for reform. Unfortunately, few have been implemented.

This review, conducted by the Civilian Review and Complaints Commission (“the Commission”) at the request of the Minister of Public Safety, confirms that workplace harassment continues to be a serious problem in the RCMP. Moreover, the Commission has found that while senior leaders in the RCMP have made efforts to prevent harassment—particularly at the divisional level—these initiatives have been limited and ad hoc, and have not received the necessary support from National Headquarters. In addition,

the RCMP has not adequately implemented the recommendations made in the Commission’s 2013 *Public Interest Investigation Report into Workplace Harassment in the RCMP*, which were aimed at addressing harassment and fostering respectful workplaces.

The senior leadership of the RCMP has therefore demonstrated over the last several decades that it is incapable of making the systemic reforms necessary to effect cultural change on its own. In part, this is because a singular focus on harassment tends to obscure the broader challenges

that exist. While harassment is a real problem in the RCMP, it has also become a catch-all phrase through which RCMP members and employees express a broad array of concerns arising out of a dysfunctional organizational culture. Ultimately, only a change in the governance structure of the RCMP will be effective in bringing about the cultural transformation necessary to address the range of factors that give rise to harassment, bullying, abuse of authority, and sexual harassment in the RCMP. At a minimum, and as recommended in previous reports, this should include appointing civilian experts to key senior administrative roles and restructuring the RCMP to enhance civilian oversight and accountability.

A CULTURE OF DYSFUNCTION

Organizational dysfunction in the RCMP has been well documented, and the Commission’s current investigation confirmed that the problems of workplace bullying and harassment persist. Notably, the vast majority of complaints received by the RCMP under its new harassment policies (2014), and reported by RCMP members and employees to the Commission, involve allegations of abuse of authority and intimidation by supervisors or persons in a management position against a

subordinate. While the harassment complaints revealed few allegations of sexual harassment, the Commission does not conclude that sexual harassment does not exist. Rather, it is likely that such complaints are under-reported and, when they are reported, are channelled into the discipline process through a *Code of Conduct* investigation or criminal charges, and therefore are not reflected in complaints filed under the RCMP's harassment policies.

The Commission is also concerned by reports of reprisal against subordinates. In particular, there appears to be a widespread perception by RCMP members that the 2014 reforms to the *Royal Canadian Mounted Police Act*, and the introduction of a new disciplinary process for breaches of the *Code of Conduct*, have made them even *more* vulnerable to harassment by supervisors. Some members report, for example, that conduct violations are being used to target and intimidate members, particularly if they raise concerns about harassment.

Such instances of retaliation and abuse of authority are not only harmful to the individual who is being targeted, but can also undermine the integrity of ongoing investigations, the efficiency of operations, and the effectiveness of the organization as a whole. For example, harassment can have real impacts on member health, resulting in some members going Off Duty Sick (disability leave). This, in turn, may exacerbate the chronic staffing shortages that affect the RCMP.

RESISTANCE TO CHANGE

In recent years, the RCMP has launched a series of initiatives aimed at minimizing workplace conflict. These have resulted in some positive developments, particularly at the local divisional level, such as early warning systems and specialized harassment prevention units.

However, such initiatives have too often been limited and ad hoc, dependent on the objectives of the particular Divisional Commanding Officer. There has been little effort by RCMP National Headquarters to monitor divisional initiatives, assess their effectiveness, or share best practices. Similarly, while the RCMP initiated a *Gender and Respect Action Plan*, there is no senior leader at National Headquarters responsible for the initiative or accountable to ensure that it is achieving the desired goals.

As a result, while the RCMP often points to a myriad of initiatives as evidence of its efforts to introduce change, in the Commission's view these fall far short of the kind of systemic reforms necessary for real impact.

Rather, the effect of one short-term program after another has been to erode the confidence of RCMP members and employees that real change will ever be realized.

The inability to implement reform is rooted in key features of RCMP organizational culture and structure. The first is a distinct lack of commitment by generations of senior RCMP leaders to undertake the kind of broad-scale, systemic change required. This is not surprising, given that senior leaders are almost entirely uniformed officers who have risen up through the ranks, and who are deeply embedded in the institutional culture of the organization. Unlike other policing organizations, the RCMP primarily appoints uniformed members to senior administrative positions (e.g. human resources and labour relations), rather than civilian experts. Often,

the officers filling such roles lack the specialized expertise that would be viewed as a fundamental prerequisite in most other organizations. As a result, the RCMP is deprived of the skills and fresh perspective that civilian experts can bring.

Second, the RCMP has failed to foster a culture of leadership. While there may be numerous exemplary leaders in the RCMP, the organization does little to promote a culture of leadership among its managers, supervisors and executive officers as a whole. Unlike the Canadian Armed Forces, the RCMP does not have a professional officer corps. Supervisors and managers are offered only very limited leadership development, and such training is not mandatory. This lack of leadership training is likely a significant factor contributing to the problems of abuse of authority already described.

Finally, there is an absence of strong civilian oversight of the RCMP, which is required to ensure sustained reform. Such oversight could take a number of forms. For example, the Minister of Public Safety could implement a bifurcated leadership model, similar to the division between the Department of National Defence (which is responsible for administrative matters and financial oversight) and the Chief of the Defence Staff (who is responsible for all operational matters relating to the military). Alternatively, the Minister could consider dividing responsibility for the RCMP between a civilian Commissioner and a uniformed Chief of Department—similar to the model employed by the New York Police Department. As a further alternative, a civilian board of management would provide general direction to the RCMP and enhance public accountability. All three models enhance accountability for the RCMP by introducing key elements of civilian oversight and subject-matter expertise.

Further, the creation of an RCMP Ombudsman's Office, and/or unionization of uniformed members, may provide additional avenues for the resolution of workplace disputes, as well as professional support for RCMP members, which may mitigate some of the causes of workplace harassment. In the Commission's view, however, these are not stand-alone solutions.

HARASSMENT POLICIES: BARRIERS TO RESOLUTION

In November 2014, the RCMP implemented new policies and procedures to investigate and resolve harassment complaints. While these policies represent an improvement over prior policies, there remain significant problems that may result in too many harassment complaints being resolved as "unfounded." Some of these problems may be attributable to inadequate training, including online training, which can be too easily fabricated.

One key problem is that the definition of harassment is unduly narrow, and likely results in meritorious complaints being dismissed. The policies are also overly complex and difficult to comprehend, and are not always accessible to members who are not actively at work. Further, the policies place inappropriate emphasis on the responsibility of the complainant to confront his or her harasser, and on the duty of supervisors and managers to report harassment.

HARASSMENT INVESTIGATIONS AND DECISION-MAKING

The Commission's careful review of all workplace harassment files received under the new harassment policies raises serious concerns about the quality of the investigation and decisionmaking processes. For example,

the Commission found that the RCMP's practice of investigating all complaints (filed within the timeline established in policy) can exacerbate workplace conflict and cause delays in identifying available investigators. Further, assigning uniformed members to act as investigators may create conflicts of interest, particularly because such members are not independent of the chain of command. Internal administrative harassment investigations also require different skills than criminal investigations.

Moreover, the RCMP's harassment policies require the Divisional Commanding Officers who decide harassment complaints to assess the credibility of the complainant, respondent and any witnesses, without ever having met these individuals—thereby introducing a degree of arbitrariness into the decision-making process.

Decision makers also regularly apply the wrong legal tests when assessing harassment complaints, sometimes creating an artificially high standard for a finding of harassment. This likely results from the fact that Divisional Commanding Officers receive almost no training on decision-making in harassment complaints.

CONCLUSION

Workplace harassment, bullying, intimidation and sexual harassment can cause significant harm to individual RCMP members and employees, in some cases damaging careers and causing serious emotional and physical harm. It can also impact the operational effectiveness of the RCMP, including by exacerbating chronic problems of under-staffing. Increasingly, such problems are also eroding the trust of the Canadian public, who are asking whether the RCMP's internal problems have "filtered outside" and affected the treatment of members of the public.

Despite the large number of external reviews, as well as numerous civil suits, the RCMP has failed to come to grips with the problem of harassment. Indeed, the long list of ad hoc initiatives instituted over the years has, in many cases, only eroded the confidence of RCMP members and employees further. Piecemeal initiatives will never get at the roots of the problem of workplace conflict in the RCMP, which lie in a dysfunctional organizational culture, a lack of effective leadership, and fundamental problems in the structure of the organization.

In the view of the Commission, the RCMP lacks both the will and the capacity to make the changes necessary to address the problems that afflict its workplaces. Responsibility now lies with the federal government to effect substantive change by modernizing and civilianizing key aspects of the RCMP's administrative management and oversight. While RCMP senior leadership is not absolved of the responsibility to make more sustained and meaningful efforts to address workplace harassment going forward, lasting change will only come from fundamental reforms to RCMP governance.

FINDINGS AND RECOMMENDATIONS

(I) FINDINGS

The Commission finds as follows:

FINDING NO. 1: Abuse of authority remains a significant problem within the RCMP. Such behaviours are harmful not only to the individual who is being targeted, but also to the integrity of investigations, the efficiency of operations, and the effectiveness of the organization as a whole.

FINDING NO. 2: The RCMP has failed to introduce the sustained and comprehensive measures necessary to address the problem of harassment in the Force. While some divisional programs have been created, these have been limited and ad hoc. There has been no effort by National Headquarters to monitor their effectiveness, roll out best practices, or institutionalize reform.

FINDING NO. 3: Given the RCMP's poor track record of implementing change, strong civilian oversight and government leadership are required to ensure sustained reform.

FINDING NO. 4: The multiplicity of factors that are outlined in the definition of harassment, combined with the directions set out in the RCMP's Guidebook, create a context in which decision makers are likely to consider irrelevant factors. This could result in the dismissal of an otherwise meritorious complaint.

FINDING NO. 5: The Office for the Coordination of Harassment Complaints, as currently constructed, is carrying out a useful but limited role.

FINDING NO. 6: That the practice of not screening harassment complaints may exacerbate workplace conflict.

FINDING NO. 7: The division of roles and responsibilities between the investigator and the decision maker in harassment complaints is inappropriate and creates the potential for arbitrariness in harassment decisions.

FINDING NO. 8: Decision makers routinely apply the wrong legal tests and take into account irrelevant and prejudicial considerations. These errors almost invariably operate to the detriment of the complainant and may result in complaints being unfounded.

FINDING NO. 9: Training for decision makers remains inadequate.

(II) RECOMMENDATIONS

6

RECOMMENDATION 1: That the Minister direct the RCMP to professionalize elements of the RCMP organizational structure by recruiting civilian experts for non-operational roles, including at the senior levels in the areas of human resources and labour relations.

RECOMMENDATION 2: That the RCMP foster a leadership culture by introducing promotional criteria that recognize management skills, and by instituting more rigorous, mandatory leadership development programs for all existing and newly appointed supervisors, managers and executive officers, including appropriate university-level courses.

RECOMMENDATION 3: That the Minister of Public Safety take immediate steps to effect cultural change in the RCMP by modernizing its governance structure to introduce civilian governance and/or oversight and to enhance accountability.

RECOMMENDATION 4: That the RCMP adopt a simplified definition of harassment in its harassment policies, consistent with the approach adopted by the Canadian Human Rights Tribunal and other Canadian jurisdictions, to facilitate the investigation and resolution of valid complaints of harassment.

RECOMMENDATION 5: That the RCMP develop clear and streamlined harassment policy documents, in plain language, and that these be available on its external website.

RECOMMENDATION 6: That the RCMP institute in-person harassment training, conducted by trained and qualified experts, on a regular basis. Specialized training should also be mandatory for all existing as well as newly appointed supervisors, managers and executive officers on a continuous basis.

RECOMMENDATION 7: That the RCMP revise its harassment policies and procedures to allow Divisional Commanding Officers the discretion to screen complaints to determine if a *prima facie* case of harassment has been made out, applying an appropriately broad and simplified definition of harassment.

RECOMMENDATION 8: That the RCMP retain skilled, competent, and dedicated administrative investigators (not uniformed members), who are independent of the chain of command, to conduct harassment investigations.

RECOMMENDATION 9: That the RCMP amend its harassment policies and procedures to mandate the investigator to make findings with respect to issues of credibility and whether or not the harassment policies have been breached, and to report these findings to the decision maker; and to mandate the decision maker to decide whether or not to accept the investigator's findings and to make decisions with respect to whether any remedial and/or disciplinary measures should be imposed.

RECOMMENDATION 10: That the RCMP ensure that Divisional Commanding Officers receive ongoing, classroom-based training on decision-making, specifically in relation to the assessment of workplace harassment complaints, including with respect to the appropriate legal tests to be applied, and stereotypes relating to the conduct of victims of harassment.

1.

INTRODUCTION

Over the last several decades, the reputation of the Royal Canadian Mounted Police has been tarnished by a seemingly endless stream of reports of workplace harassment, sexual harassment, bullying and intimidation. These problems have been well documented by external reviews, surveys, media reports and lawsuits. Indeed, the most senior leaders in the organization have themselves acknowledged that bullying and harassment are endemic and that RCMP organizational culture must change.

This review, conducted by the Civilian Review and Complaints Commission for the RCMP ("the Commission") at the request of the Minister of Public Safety, confirms that such problems continue to persist in the RCMP.

Despite the known problems, the RCMP has been slow to change. While senior leaders have developed a host of "action plans" and "initiatives," there has been little real

change in the daytoday experiences of many RCMP members and employees; rather, their trust in the organization has only eroded further.

In the view of the Commission, this is for three reasons. First, the situation has been defined too narrowly. While harassment is a real problem in the RCMP, it has become the catch-all phrase through which RCMP members and employees express a much broader array of

concerns arising out of a dysfunctional organizational culture. These cultural deficiencies are, in turn, integrally tied to certain structural features of the organization. As such, while the RCMP needs to deal with the problem of harassment, this cannot be separated from significant and systemic problems in its organizational structure. A narrow focus on harassment will therefore never be effective at addressing these problems in a meaningful and lasting way.

Second, there is a lack of effective leadership. Senior leaders in the RCMP have, over many years, demonstrated an inability and/or unwillingness to make the organizational changes required to effect the needed cultural change. While some leaders do, in good faith, seek to address workplace harassment, they are often too embedded in the culture of the organization, as well as protected by the hierarchical nature of the chain of command, to be able to meaningfully perceive or address its problems.

While harassment is a real problem in the RCMP, it has become the catch-all phrase through which RCMP members and employees express a much broader array of concerns arising out of a dysfunctional organizational culture.

This Report describes the Commission's findings regarding the adequacy, appropriateness, and sufficiency of RCMP policies and procedures on workplace harassment, and examines whether these policies and procedures are being effectively implemented in the handling of harassment complaints. It also reviews the degree to which the RCMP has implemented the recommendations made in the Commission's 2013 *Public Interest Investigation Report into RCMP Workplace Harassment*, and the extent to which RCMP culture contributes to the problems of harassment and bullying in the workplace.

Moreover, RCMP managers and supervisors have not been given—and are not required to undertake—the kind of leadership training or qualifications required of a professional police force. The result is that many managers and supervisors lack essential management skills and the organization suffers from a failure to foster a culture of leadership. This is particularly apparent from the numerous complaints by RCMP members and employees of abuse of authority, as well as the use of fear and intimidation by managers and supervisors.

Third, and finally, is the governance structure of the RCMP itself. It is now apparent, in the view of the Commission, that the RCMP will not be able to bring about the necessary change required to address its dysfunctional culture on its own. This is because the problems of bullying and harassment are integrally tied to certain features of its organizational structure. A change in governance is required, and such change must come from the outside.

2.

MANDATE AND METHODOLOGY

On February 4, 2016, the Honourable Ralph Goodale, Minister of Public Safety, requested that the Commission undertake a comprehensive review of the RCMP's policies and procedures on workplace harassment, and specifically examine and evaluate the implementation of the recommendations made in its 2013 *Public Interest Investigation Report into RCMP Workplace Harassment*.

In response to the Minister's request, the Commission undertook to review:

- the adequacy, appropriateness, and sufficiency of RCMP policies and procedures on workplace harassment, and the extent to which these policies and procedures are being effectively implemented in the handling of harassment complaints;
- the status of the RCMP's implementation of the *Gender and Respect Action Plan* and the effectiveness of this initiative to address workplace conflict and harassment;
- the extent to which the recommendations set out in the Commission's 2013 *Public Interest Investigation Report into RCMP Workplace Harassment* have been implemented effectively; and

- the degree to which, if any, RCMP culture contributes to harassment in the workplace.

The Commission did not make any determinations in relation to specific harassment complaints.

2.1 THE FACT-FINDING PROCESS

In addition to reviewing relevant legislation, regulations, and policies that govern the handling of harassment complaints in the RCMP, as well as best practices and current jurisprudence, the Commission examined all RCMP workplace harassment files—264 in total—in the period February 13, 2013, to February 4, 2016.¹ Particular attention was paid to the 69 harassment complaints that had been filed since the amendments to the *Royal Canadian Mounted Police Act*² ("the RCMP Act") and adoption of new harassment policies by the RCMP in November 2014.

¹ The timeframe corresponds to the time between the Commission's 2013 *Public Interest Investigation Report into RCMP Workplace Harassment* and the date the Minister requested the current review.

² *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10.

With the cooperation of the RCMP, the Commission interviewed 25 RCMP employees directly involved in the prevention, investigation and resolution of workplace harassment, including divisional harassment advisors and employees working in the Office for the Coordination of Harassment Complaints at National Headquarters, the Informal Conflict Management Program, and the Violence in the Workplace Program. Further, the Commission interviewed six Divisional Commanding Officers³ and the RCMP's Professional Responsibility Officer. The Commission also visited the RCMP "Depot" Division, where it met with members of the chain of command and made itself available for confidential interviews with cadets. Finally, the Commission met with stakeholders, including union representatives⁴ and the External Review Committee for the RCMP.

The Commission further sought input from current and former RCMP members and employees.⁵ In total, 155 confidential interviews were conducted, including in nearly every Division.⁶ The Commission also received written submissions from RCMP members and employees. The Commission does not rely on the views expressed in these interviews and submissions as necessarily representative of the views of RCMP members and employees as a whole. Nevertheless, it was significant that certain concerns were raised repeatedly by numerous individuals. In many cases, these concerns were also identified in harassment complaint files, and are consistent

with factors identified in previous reviews and reports on the RCMP. The interviews thus reinforced the Commission's understanding that workplace harassment persists in the RCMP, and provided important insight into the perceptions of members and employees.

Based on its confidential interviews with RCMP members and employees, as well as interviews with employees and senior officers with administrative responsibility for the handling of harassment complaints, the Commission is confident that it was able to obtain the candid views of a broad range of individuals, which have informed the findings set out in this Report.

In addition, the Commission sought information and documentation from the RCMP and is satisfied that enough material was provided to allow for a comprehensive review.

Finally, the Commission consulted with experts on harassment investigations, human rights and harassment jurisprudence, as well as on policing and military organizational culture and governance.⁷ The Commission further considered the findings and recommendations of the numerous reviews and reports conducted in recent years with respect to harassment and sexual misconduct in the RCMP. Finally, to ensure, to the extent possible, that there was no duplication with the concurrent review by Sheila Fraser of four civil suits against the RCMP alleging harassment, the Commission consulted Ms. Fraser on her review.

3 The Commission interviewed the Commanding Officers of "E" Division (British Columbia), "K" Division (Alberta), "C" Division (Quebec), "B" Division (Newfoundland and Labrador), "H" Division (Nova Scotia), and "Depot" Division. These Divisions were selected in order to ensure both regional diversity and to obtain information about organizational factors in both larger and smaller Divisions.

4 Public Service Alliance of Canada Union of Solicitor General Employees, and the Canadian Association of Professional Employees.

5 Throughout this Report, "members" is used to refer to uniformed or civilian members of the RCMP, and "employees" refers to public service employees.

6 In-person interviews were conducted with members and/or employees in the following Divisions: "E" Division (British Columbia), "K" Division (Alberta), "F" Division (Saskatchewan), "D" Division (Manitoba), "O" Division (Ontario), National Headquarters, "C" Division (Quebec), "H" Division (Nova Scotia), "B" Division (Newfoundland and Labrador), and "Depot" Division.

7 In particular, counsel to the Commission was provided by Emma Phillips, Goldblatt Partners LLP.

3.

A CULTURE OF DYSFUNCTION

Over the past decades there has been no shortage of reports, internal and external reviews, studies and surveys examining the RCMP and making recommendations for organizational reform.

The sheer volume of reports, in the Commission's view, reflects three significant elements. First, the problems in the organizational culture of the RCMP, including and directly related to problems of harassment and workplace bullying, are long-standing and persistent. Second, careful thought and consideration have been given to identify the root causes of this organizational dysfunction, as well as potential solutions. And third, despite the time, energy, and expertise that has been dedicated to resolving these problems, the RCMP and its senior leaders are resistant to meaningful change.

More broadly, the reports highlight the degree to which problems of harassment are symptomatic of a dysfunctional organization and of widespread discontent amongst its members and employees. Harassment has become a catch-all vehicle for members to voice concern not only about pervasive issues such as bullying, intimidation, and abuse of authority, but also in relation to a range of management decisions, such as performance management, promotion, transfer and discipline.

The multitude of prior reports cannot be ignored. Nor is it necessary or helpful for the Commission to

replicate the very thoughtful work that has already been undertaken in previous reviews. Rather, these reports provide an important context to the current review, and require some further examination.

3.1 A DOCUMENTED HISTORY OF ORGANIZATIONAL DYSFUNCTION

Efforts to modernize the RCMP to make it more reflective of the people it serves date back to the late 1960s with the Royal Commission on the Status of Women,⁸ which resulted in the entrance of the first female cadets to Depot in 1974. The 1980s and 1990s brought new discussions and initiatives to change RCMP culture, spurred, in part, by both RCMP and public service surveys that revealed substantial concerns with workplace harassment.⁹

⁸ *Report of the Royal Commission on the Status of Women in Canada* (Ottawa: Information Canada, 1970), online: <http://publications.gc.ca/collections/collection_2014/priv/CP32-96-1970-1-eng.pdf>.

⁹ Commission for Public Complaints Against the Royal Canadian Mounted Police, *Public Interest Investigation Report Into RCMP Workplace Harassment*, (Ottawa: Civilian Review and Complaints Commission for the RCMP, 2013), at 11, online: <<http://www.crcc-ccetp.gc.ca/en/public-interest-investigation-report-issues-workplace-harassment-within-royal-canadian-mounted>>.

A report by the Conference Board of Canada in September 2000 documented the previous decade of change. Entitled *Repositioning for the Future: Case Study on the RCMP Change Experience 1989-2000*, the report highlighted RCMP efforts to adopt a new policing model, while grappling with organizational and cultural change. As that report stated:

The heart of any organization's ability to deliver is its people. Their ability and willingness to deliver in turn depends on the context within which they operate – on the structures and processes, culture and climate, vision and values that together shape their experience on the job. In all this, leadership is key, at the top and throughout the organization.¹⁰

The new millennium brought more reviews and reports on RCMP organizational culture, each making important recommendations for reform. In 2007, the *Report of the Independent Investigator Into Matters Relating to RCMP Pension and Insurance Plans* raised new concerns with respect to the RCMP's culture and governance, famously declaring the organization "horribly broken." A Task Force on Governance and Cultural Change in the RCMP followed that same year. The Task Force's report, entitled *Rebuilding the Trust* (commonly known as the "Brown Report"), identified, among other concerns, problems with the RCMP's governance and accountability frameworks, human resources management, discipline, recruitment, performance evaluation, and the promotional system.

The Brown Report observed that "the culture [of the RCMP] is one of fear and intimidation and that some who are in a position of command use their authority to intimidate others."¹¹

The most notable of the Task Force's 49 recommendations was the creation of an RCMP board of management, responsible for the stewardship of the organization and administration of the RCMP. The Task Force's final recommendation was for the immediate creation of an Implementation Council to advise the government and the RCMP, and to report on the RCMP's progress.

To assist the RCMP with the implementation of the Task Force's recommendations, Professor Linda Duxbury was commissioned to write an independent report relating to the RCMP's work environment and culture. Entitled *The RCMP Yesterday, Today and Tomorrow: An Independent Report concerning Workplace Issues at the Royal Canadian Mounted Police*, Professor Duxbury's report contained 75 recommendations aimed at fundamental change. These recommendations addressed issues such as human resources management, learning and development, performance management, the promotional process, workload, respect and trust, employee

well-being, management and leadership, and organizational culture.¹²

Subsequently, in 2008 the RCMP Reform Implementation Council was appointed to "help ensure that the RCMP implements the reforms necessary to modernize the organization and its operations, and ensure it will be well placed to meet the challenges of the future."¹³ It produced five reports between 2008–2010, providing a detailed account of the RCMP's challenges and successes, as well as the many projects undertaken to respond to the Task Force's findings and recommendations.

Despite these efforts, in 2011 several high-profile cases of sexual harassment in the RCMP emerged, resulting in intense media scrutiny. By November, a new RCMP Commissioner was appointed pledging "...to transform the RCMP culture by focusing on accountability, leadership and addressing claims of harassment and bullying with the organization."¹⁴ At the same time, the Commission initiated a public interest investigation into RCMP workplace harassment. The Commission's Report, *Public Interest Investigation Report into RCMP Workplace Harassment* ("the Commission's 2013 Report"), was released in February 2013 and made 11 recommendations aimed at addressing workplace harassment. The RCMP's efforts to implement the Commission's 2013 recommendations are examined throughout the current Report and are listed in Appendix A.

Meanwhile, in 2012, the RCMP in British Columbia undertook consultations on gender-based harassment. The resulting report,

10 Conference Board of Canada, *Repositioning for the Future: Case Study on the RCMP Change Experience 1989-2000* (September 2000), p. 4.

11 Task Force on Governance and Cultural Change in the RCMP, *Rebuilding the Trust* (Ottawa: Government of Canada, 2007), p. 41, online: <https://www.publicsafety.gc.ca/cnt/cntrng-crm/tsk-frc-rcmp-grc/_fl/archive-tsk-frc-rpt-eng.pdf>.

12 Linda Duxbury, *The RCMP Yesterday, Today and Tomorrow: An Independent Report concerning Workplace Issues at the Royal Canadian Mounted Police*, 2007.

13 RCMP Reform Implementation Council, "From Reform to Continuous Improvement: The Future of the RCMP, The Final Report of the RCMP Reform Implementation Council", Government of Canada, December 2010, p. 1.

14 RCMP, "Results and Respect in the RCMP Workplace", online: <<http://www.rcmp-grc.gc.ca/en/results-and-respect-the-rcmp-workplace>> (accessed June 6, 2016).

Summary Report on Gender Based Harassment and Respectful Workplace Consultations,¹⁵ identified problems with a lack of trust and transparency, as well as poor supervision, as the main impediments to a healthy workplace. The report recommended the implementation of four guiding principles for improving the harassment system, as well as several initiatives to improve training, access to information, and enhancing the independence of the system.

In 2013, the Standing Senate Committee on National Security and Defence released a report entitled *Conduct Becoming: Why the Royal Canadian Mounted Police Must Transform its Culture*.¹⁶ This report made 13 recommendations to build a more respectful workplace and address ongoing issues of harassment. Among other recommendations, the report recommended that the RCMP undergo a cultural transformation and fully implement the recommendations in the Commission's 2013 Report, and that the government consider establishing an RCMP Ombudsman.¹⁷

Also in 2013, the RCMP launched the Professional Climate Survey with the aim of strengthening the professional culture of the organization based on employee feedback. The results suggested an alarmingly high level of distrust by RCMP members and employees, and a lack of

confidence in senior management.¹⁸

In 2014, the RCMP Veteran Women's Council released a report entitled *Addressing a Crisis in Leadership*. Notably, it concluded that at the root of the problems plaguing the RCMP was a "... lack of standardized and effective executive leadership training; inconsistent application of internal discipline and sanctions when dealing with harassment; lack of internal trust, born out of decades of organizational indifference to its members [*sic*] concerns and the failure to address unacceptable attrition rates for female members."¹⁹ The report further highlighted critical problems in RCMP leadership, stating:

...the majority of the RCMP leadership has failed to comprehend the magnitude of the damage inflicted by harassment – not only to individuals – but to the organization itself. ...[T]he media storm of November 2011 over sexual harassment charges was an organizational, self-inflicted wound born out of decades of failure on the broader issue of leadership.²⁰

The report contained 4 recommendations, including a call for the Minister of Public Safety to take immediate action to effect cultural change and that an Ombudsperson Office be established.²¹

In December 2014, the Honourable Judy Sgro, Member of Parliament, and the Honourable Grant Mitchell, Senator, released the report *Shattered Dreams: Addressing Harassment and Systemic Discontent within the RCMP*.²² The report contained 13 recommendations and broadly identified issues with respect to: RCMP oversight, culture, member advocacy, leadership, mental health, and human resources.²³ Senator Mitchell and Ms. Sgro also recommended the establishment of an Ombudsman, as well as the creation of a binding problem resolution/grievance process outside and independent of the divisional chain of command.²⁴

The most recent report was released by the RCMP on July 14, 2016, entitled *Report on Allegations of Harassment and Sexual Misconduct at the RCMP's Canadian Police College*.²⁵ This report was a response to revelations in February 2016 of alleged harassment and sexual misconduct in the RCMP's Explosives Training Unit. The report contained 28 recommendations addressing, among other issues, governance, human resource management, accountability, and communication practices in the RCMP.²⁶

15 RCMP, *Summary Report on Gender Based Harassment and Respectful Workplace Consultations: "E" Division, Final Version* (2012), online: <<http://redwalljanehall.com/wp-content/uploads/2013/03/E-Div-Summary-Report-Final-Version-Simmie-Smith.pdf>>.

16 Standing Senate Committee on National Security and Defence, *Conduct Becoming: Why the Royal Canadian Mounted Police Must Transform its Culture*, Final Report by The Honourable Daniel Lang & The Honourable Roméo A. Dallaire (Ottawa: The Senate Committees Directorate, 2013), online: <<https://sencanada.ca/content/sen/Committee/411/secd/rep/rep14jun13-e.pdf>>.

17 *Ibid.*

18 RCMP, "Professional Climate Survey (2013) Results: National".

19 RCMP Veteran Women's Council, *Addressing a Crisis in Leadership*, June 2014, p. 4, online: <<http://redwalljanehall.com/wp-content/uploads/2015/03/RCMP-Veteran-Womens-Council-Report-June-2014-Addressing-a-Crisis-in-Leadership.pdf>>.

20 *Ibid.* p. 2.

21 *Ibid.* p. 13.

22 The Honourable Judy A. Sgro & The Honourable Grant Mitchell, *Shattered Dreams: Addressing Harassment and Systemic Discontent within the RCMP* (2014), online: <http://liberalsenateforum.ca/wp-content/uploads/2014/12/Shattered-Dreams_Final.pdf>.

23 *Ibid.*

24 *Ibid.*

25 Canada, Royal Canadian Mounted Police, *Report on Allegations of Harassment and Sexual Misconduct at the RCMP's Canadian Police College Explosives Training Unit*, (Ottawa: Royal Canadian Mounted Police, 2016), online: <<http://www.rcmp-grc.gc.ca/en/report-allegations-harassment-and-sexual-misconduct-the-rcmps-canadian-police-college-explosives>>.

26 *Ibid.*

Also in July 2016, the Minister of Public Safety appointed Sheila Fraser as a Special Advisor to the Minister to examine the RCMP's handling of four harassment-related civil lawsuits. Ms. Fraser's report is expected in the spring of 2017.

Clearly, organizational dysfunction in the RCMP has been well documented.

Emerging from the findings of these various reports are many commonalities, including:

- a workplace culture characterized by fear and intimidation;
- an organizational structure incapable of engendering trust or of creating a healthy workplace; and
- a senior leadership resistant to, unable to commit to, and unable to effect, real change.

3.2 THE PROBLEM OF HARASSMENT PERSISTS

The Commission's investigation confirmed that the problems of workplace bullying and harassment identified in previous reports and surveys persist within the RCMP. These findings confirm that certain pervasive features of RCMP culture and organizational structures continue, making it particularly conducive to workplace harassment and bullying.

Notably, the vast majority of harassment complaints received by the RCMP under its new harassment policies involved allegations of abuse of authority by supervisors or persons in a management

position against a subordinate. Interviews with members and employees reflected a similar pattern of complaints. This is perhaps unsurprising, given the "culture of misuse of authority" that the RCMP Commissioner has acknowledged taints the RCMP.²⁷ The RCMP Professional Responsibility Officer was similarly candid with the Commission that bullying and abuse of authority are two significant issues that the RCMP must address.

Typical complaints reviewed by the Commission involved allegations that a supervisor or manager targeted a subordinate by:

- using abusive language, such as "you're dirt"; "you're a bullshit member"; "your time isn't worth my time"; "you're a write-off"; "you're useless"; "people here don't like you"; and "nobody wants to work with you";
- refusing the use of resources (such as a police vehicle), which had been provided to others in similar circumstances, in order to target a particular individual;
- transferring a member as a punitive measure or to create a vacancy for another favoured member;
- "ganging up" on a member, or singling a member out;
- denying a member leave when leave was granted to other members for similar purposes;
- berating members in public;
- challenging an individual's actions, even when they were approved by a supervisor;
- adding inappropriate and unprofessional comments to police reports, in some cases to interfere with the member's credibility in subsequent investigations;

- entering a member's residence without authority or legal justification;
- repeatedly coming to a member's home while a member is on sick leave;
- selectively applying the *Code of Conduct*, for example by disciplining a particular member for swearing when swearing is common in the workplace;
- denying a retirement badge or certificate of service to a member;
- denying public recognition to a member when others who had minimal involvement in an investigation received recognition;
- ordering a member to give another member a poor performance assessment when it was not warranted; and
- changing a job description or qualifications to suit a particular applicant, or promising a job to a friend before a competition is held.

The Commission acknowledges that, as the RCMP's harassment policies make clear, it is not harassment for a supervisor to manage the conduct of an employee.²⁸ For example, requiring employees to comply with established workplace policies, disciplining employees where misconduct occurs, or managing an employee's performance will generally be appropriate exercises of a supervisor's authority, and will not constitute harassment so long as the supervisor exercises his or her authority in a reasonable manner. However, without making any specific findings of fact with respect to any particular complaint, the kinds of behaviours described to the Commission by members

²⁷ "RCMP harassment crisis shadows commissioner's 1st year", *CBC News* (November 14, 2012), online: CBC News <<http://www.cbc.ca/beta/news/politics/rcmp-harassment-crisis-shadows-commissioner-s-1st-year-1.1223384>>.

²⁸ *RCMP Administration Manual*, chap XII.8. "Investigation and Resolution of Harassment Complaints", s 5.2.1.1. (amended 2014-11-28).

and employees, or contained in the harassment complaint files reviewed, raise a concern that in many cases supervisors are exercising their managerial authority in an unreasonable manner and for the purpose of intimidation.

FINDING NO. 1: That abuse of authority remains a significant problem within the RCMP. Such behaviours are harmful not only to the individual who is being targeted, but also to the integrity of investigations, the efficiency of operations, and the effectiveness of the organization as a whole.

While only a small number of harassment complaints reviewed by the Commission included allegations of sexual harassment,²⁹ there can be no doubt that sexual harassment is a serious problem within the organization. Indeed, a historic apology to female members and employees of the RCMP on October 6, 2016, by the RCMP Commissioner, as well as the settlement of two class action lawsuits brought by female RCMP members and employees, reflects the significance of the problem. Recent events at the Canadian Police College also indicate that sexual harassment continues to be a problem in at least some pockets of the organization.³⁰

The magnitude of sexual harassment in the RCMP is, however, difficult to assess. Some members

and employees interviewed by the Commission indicated that the organization takes sexual harassment more seriously than it used to; this may have resulted in a diminution of harassment complaints. At the same time, however, it is well established that sexual harassment is grossly under-reported in most workplaces, and given the hierarchical nature of the organization it is likely that under-reporting is a particular problem in the RCMP. Moreover, it appears that such allegations are frequently channelled directly into disciplinary proceedings through *Code of Conduct* investigations or criminal charges, rather than processed under the harassment policies. Further, it is reasonable to infer that some individuals have simply opted to pursue external legal remedies, rather than complaining through the RCMP's own internal policies.

The Commission concludes, that the fact that few RCMP members and employees filed formal complaints of sexual harassment cannot be taken as an indication that sexual harassment does not continue to be a serious problem.

3.3 FEAR OF REPRISAL

Concerns about reprisals have been highlighted in previous reviews. According to a study in "E" Division (British Columbia), for example, "frequent tales of retaliation against those who bring forward harassment complaints can also leave victims and bystanders feeling helpless to try to address the problem [of harassment]."³¹ Indeed, a number of RCMP members and employees who spoke to the Commission were preoccupied about being targeted as a result of raising concerns about the workplace. In some cases, members reported incidents of reprisal that threatened both the safety of the member and the integrity of the investigation:

I did stand up for myself and subsequently found myself not getting back-up by my trainer on several serious weapons calls and further being left at crime scenes...

During my time in..., I learned that it wasn't uncommon for members who were "insubordinate" to be left alone at calls. Another member and I discussed it. I found out that the same thing had happened to her several times. She was also driven out to the middle of nowhere by her OIC and was threatened to "behave"...

²⁹ Five of the 69 files included allegations of sexual harassment.

³⁰ *Supra* note 25.

³¹ Noël A. Kinsella (June 18, 2013), Canada, Parliament, Senate, *Edited Hansard* 148, 41st Parliament, 1st session, at 4335 (Hon. Daniel Lang), online: <https://sencanada.ca/Content/SEN/Chamber/411/Debates/pdf/176db_2013-06-18-e.pdf>; *supra* note 25.

Notably, a senior member interviewed by the Commission observed that complaints of harassment are often met with retaliation, even at the level of senior managers:

As a serving member and in particular a senior manager [rank], I am very glad this [review] is happening. I, along with several other senior managers at the [senior ranks], are very unhappy within the organization. The bullying is rampant and out of control at this level. There is no such thing as transparency or fairness...The fear of threats and repercussions to anyone who speaks up or out is very, very, very, real at this level.

The Commission considers acts of reprisal to be a very serious matter that, if substantiated, represent a clear abuse of authority.

The Commission notes that the RCMP's harassment policies contain procedures to address complaints of retaliation. However, these apply only where an employee

experiences retaliation subsequent to filing a formal harassment complaint; there are currently no procedures to protect members and employees who experience retaliation after informally voicing a concern about workplace conflicts or concerns. This is a significant gap. As such, the Commission finds that its 2013 recommendation that the RCMP should create a procedure to handle complaints of retaliation has only been partially implemented.³²

The fear of retaliation is likely also impeding RCMP members and employees from coming forward to express valid concerns about the functioning of the organization. For example, many of the members and employees who spoke with the Commission stated that they would not report the incidents that occurred to them. As one member explained:

Many people who I have talked to, who were in similar situations of being bullied and intimidated, remained quiet victims and did not try to rectify the situation through informal means or file a harassment grievance. They wait the situation out or try and transfer to another unit, or just make themselves as small a target as possible.

Another individual explained the decision not to report the harassing conduct as follows:

I am afraid that I will be unjustly disciplined by being suspended without pay, of being charged with a Code of Conduct violation, of being disciplined by the Force and losing my employment and my career—all because I came forward with what I have endured.

Finally, the Commission observes with concern the seemingly widespread perception by RCMP members that the 2014 reforms to the RCMP Act have made them even more vulnerable to harassment by supervisors. One of the significant changes introduced in the RCMP Act was to allow immediate supervisors and mid-level managers to be designated as a Conduct Authority and to make determinations in cases where a member is alleged to have contravened the *Code of Conduct*, without having to go through a more formal and lengthy disciplinary process. According to the RCMP:

It is a progressive discipline system that emphasizes remedial, corrective and educative solutions, rather than punitive sanctions. As a result of these legislative changes, meetings between a manager and subject member concerning conduct became the norm, with discipline being set out in private. Only cases where dismissal is being sought are referred to a Conduct Board and resulting hearings made open to the public.³³

Expediency, however, may have come at the expense of transparency. Conduct Authorities are not required to keep a detailed record of the conduct meeting. Indeed, the Conduct Authority training specifically directs that video and audio records should *not* be kept.³⁴ This “secretive” practice has been the subject of criticism.³⁵ For example, the RCMP External Review Committee found that the failure to keep detailed records has created challenges for any subsequent appellate review because

³² *Supra* note 9 at 22, Recommendation No. 3.

³³ *Supra* note 25.

³⁴ RCMP Conduct Authority Online Course (FINAL 2016-05-11), Module 5, at 31.

³⁵ “RCMP Accountability act leads to more secretive proceedings, lawyers say”, *CBC News* (March 14, 2016), online: <http://www.cbc.ca/news/politics/rcmp-discipline-behaviour-accountability-act-1.3490768> (accessed March 14, 2017).

there is no record of the member's submissions or what transpired in the Conduct Meeting.³⁶

Ultimately, while the *Code of Conduct* process appears to have been designed to give supervisors greater discretion to handle minor offences at a lower level, more quickly and in a more informal manner—thereby creating both greater accountability and flexibility to impose remedial measures—the manner in which the *Conduct* process has been implemented by the RCMP has introduced an increased lack of transparency into disciplinary proceedings that is exacerbating feelings of vulnerability among members.

Many members who spoke with the Commission, for example, expressed the view that the revisions to the RCMP Act give those in management positions too much discretion to initiate investigations into alleged *Code of Conduct* violations and that this disciplinary process, or the threat of such a process, is being used to target and intimidate members. Such perceptions are of considerable concern to the Commission. To be clear, the Commission makes no finding as to whether the Conduct process is, in fact, being used for improper purposes. However, there appears to be a widespread perception among some RCMP members that they will be subjected to the arbitrary exercise of authority by their supervisors through *Code of Conduct* investigations if they speak out about harassment or other concerns

about the organization. This creates a significant chilling effect.

This perception may make it even more difficult for supervisors to manage members in circumstances where the initiation of the *Code of Conduct* process is appropriate. The Commission heard from a number of members in supervisory positions who stated that even where they have a valid reason to investigate or discipline a member for misconduct, they are cautious about proceeding because they fear that they will be accused of harassment.

The Commission therefore strongly recommends that the *Code of Conduct* disciplinary process, including record-keeping practices, be subjected to careful review.

3.4 IMPACTS OF HARASSMENT

The negative effects of workplace harassment and bullying on individual employees are well established. These include that the targets of harassment experience “frustration, anger, demoralization, powerlessness, anxiety, exhaustion and irritability, stress, sleep disturbances, self-doubt, loss of self-esteem, depression, post-traumatic stress disorder, inability to concentrate, sleep problems, fear and psychosomatic symptoms.”³⁷

Such experiences can have real impacts on member health. As one police psychologist put it:

Senior executives for decades have been accountable to no one and they've created a toxic work environment, high levels of employee stress and a culture of fear. It's causing a tremendous effect on the morale of the RCMP...What are they going to do? They turn to ODS, off duty sick... the RCMP membership calls it “off duty mad.”³⁸

In the Commission's view, there can be no doubt that the individual harms to RCMP members and employees who experience workplace bullying and harassment are in many cases significant, and in some cases career-ending.

Indeed, a number of members reported to the Commission that harassment and bullying, and the resulting stress, were the primary reasons why they went Off Duty Sick (disability leave). As one member reported:

My first posting was as...in a small town in..., where I witnessed harassment in the workplace and was also a “target” of harassment, as many members were in the detachment, so much so that some members were off on stress leave and those that

36 RCMP External Review Committee, *2015-16 Annual Report*, by Elizabeth M. Walker, (Ottawa: Minister of Public Services and Procurement Canada), online: <<http://www.erc-cee.gc.ca/cnt/rsrscs/rprts/ann/2015-16/index-en.aspx>>.

37 Ruth B. McKay, “Confronting Workplace Bullying: Agency and Structure in the Royal Canadian Mounted Police” (2014) 46:5 *Administration & Society* at 557; see also Helen Cowie et al., “Measuring workplace bullying” (2002) 7 *Aggression and violent behaviour* 33; Stale Einarsen et al., *Preface in bullying and harassment in the workplace: Development in theory, research and practice* 2d ed (Boca Raton, FL: CRC Press, 2011); Ruth McKay et al., “Workplace bullying in academia: A Canadian study” (2008) 20 *Employee Responsibility and Rights Journal* 77; Gary Namie & Ruth Namie, *The bully at work: What You Can do to Stop the Hurt and Reclaim Your Dignity on the Job* (Naperville, IL: Sourcebooks, 2003).

38 “B.C. Mountie alleges years of sexual harassment”, *CBC News*, (November 7, 2011), online: CBC News <<http://www.cbc.ca/news/canada/british-columbia/b-c-mountie-alleges-years-of-sexual-harassment-1.1034369>>.

continued to work were prescribed anti-depressants to get through the bullying, harassment and the tyranny of the NCO... Things got so bad that I actually considered leaving (quitting) and applying to a municipal police force... I still see and witness harassment and bullying going on with members powerless to do anything about it other than take it, go on stress leave or end up taking anti-depressant medications.

Other members, by contrast, felt that they had been “forced” onto Off Duty Sick as a result of raising a harassment concern and being labelled a “troublemaker.” For example, one member explained that he made a harassment complaint and was subsequently sent for a mental health evaluation in which he was described as being “overwhelmed with the job.”

The Commission requested data from the RCMP with respect to the number of members who have gone Off Duty Sick for reasons of harassment or work-related stress, and was informed that the RCMP does not track such figures. As such, the Commission cannot substantiate the perception that harassment is one of the predominant causes of workplace disability. However, the Commission notes that broader research on workplace harassment confirms that organizations with

workplace bullying “face increasing absenteeism and turnover as well as decreasing employee performance and productivity.”³⁹ It is therefore reasonable to conclude that workplace bullying and harassment, in addition to the known challenges facing the RCMP with respect to recruitment and under-staffing, likely have an impact on the Force’s operational capacity.⁴⁰

Indeed, the RCMP Commissioner recently testified before the Senate regarding the link between workplace conflict, mental health, and disability-related absences, in commenting on progress made to address such issues: “Things like the number of complaints arising from workplace dissatisfaction, sick leave, and absences in the workplace are the garden variety indicators [of progress] we might have. The pension cost [sic] for mental health pensions are going up and the PTSD applications are going up. Those numbers tell a clear story.”⁴¹

The connection between chronic under-staffing in the RCMP and the number of members off duty as a result of workplace harassment therefore merits further examination by the RCMP. To better inform such an examination, the RCMP should track the number of members Off Duty Sick and employees on disability or stress leave as a result of harassment and/or workplace conflict.⁴²

3.5 CONCLUSION

The need for substantial and systemic change to address the ongoing problems of workplace bullying and harassment is evident. As the Commission has already established, both the problems and the possible solutions have been identified by more than fifteen reports in the last decade.

What is evident from the dizzying array of recommendations contained within these reports—over 200 in total—is that the problem lies not in identifying the factors that contribute to workplace harassment, or in identifying strategies for reform. Rather, the problem has been, and continues to be, in implementing and sustaining a long-term, effective strategy for change.

39 Ruth B. McKay, “Confronting Workplace Bullying: Agency and Structure in the Royal Canadian Mounted Police” (2014) 46:5 *Administration & Society* at 557, citing Stale Einarsen et al., “The concept of bullying at work” in Stale Einarsen, Dieter Zapf, Helge Hoel, Cary Cooper, eds, *Bullying and emotional abuse in the workplace: International perspectives in research and practice* (London, England: Taylor & Francis, 2003).

40 See, for example, Brett Ruskin, “\$1B RCMP overtime bill proof of ‘exhausted and depressed’ members, retirees say”, *CBC News* (December 8, 2016), online: CBC News <<http://www.cbc.ca/news/canada/rcmp-overtime-bill-burnout-police-health-retirees-1.3752805>>; Charlotte Helston, “RISK IT OUT: Chronic understaffing a longstanding challenge at Vernon RCMP detachment”, *InfoNews.ca* (December 8, 2016), online: InfoNews.ca <<http://infotel.ca/newsitem/risk-it-out-chronic-understaffing-a-longstanding-challenge-at-vernon-rcmp-detachment/it37647>>; Jules Knox, “Leaked emails between senior RCMP officers show alarming vacancies in Sask”, *Global News* (December 8, 2016), online: Global News <<http://globalnews.ca/news/3116148/leaked-emails-between-senior-rcmp-officers-show-alarming-vacancies/>>; “Mountie advocate: RCMP at risk of imploding if understaffing is not addressed”, *650 CKOM* (September 7, 2016), online: CKOM <<http://ckom.com/article/1036918/mountie-advocate-rcmp-risk-imploding-if-understaffing-not-addressed>>; Veralynn Kubinec, “Manitoba RCMP staff shortages taking toll on officers, warn representatives”, *CBC News* (October 22, 2015), online: CBC News <<http://www.cbc.ca/news/canada/manitoba/manitoba-rcmp-staff-shortages-1.3283057>>.

41 Canada, Parliament, Senate, Standing Senate Committee on National Security and Defence, (2017), Minutes of Proceedings, 42nd Parliament, 1st session, online: <<https://sencanada.ca/en/Content/SEN/Committee/421/sec/53047-e>>.

42 In that regard, the RCMP Commissioner’s recent testimony before the Senate is relevant: “As I’ve said in other areas of resourcing stress on our employees and overworked employees is a failure of management rather than the amount of resources. We have to prioritize our work, let our employees do what they can, make sure they’re properly supervised and managed, and meanwhile argue effectively, thoughtfully and transparently for more resources.” See Canada, Parliament, Senate, Standing Senate Committee on National Security and Defence, (2017), Minutes of Proceedings, 42nd Parliament, 1st session, online: <<https://sencanada.ca/en/Content/SEN/Committee/421/sec/53047-e>>.

4.

RESISTANCE TO CHANGE

As the long list of reports and reviews on the problems affecting RCMP workplaces make clear, there has been no shortage of calls for the RCMP to tackle problems of workplace harassment, sexual harassment, bullying, and—more broadly—its dysfunctional organizational culture. In response, the RCMP has launched a series of operations aimed at minimizing workplace conflict.

The Commission acknowledges that some positive developments have occurred, particularly at the local divisional level. However, these efforts have too often been limited and ad hoc, dependent on the objectives of the particular Divisional Commanding Officer in charge at the time.

These efforts have not been effectively monitored by National Headquarters, and there has been no sustained effort to institutionalize successful initiatives. In the view of the Commission, this failure to adequately monitor and institutionalize programs to address harassment reflects deep-rooted problems with RCMP senior leadership, who have repeatedly failed to show the capacity

or commitment to make the systemic changes required. As a result, the Commission concludes that real change requires a fundamental reconsideration of RCMP governance.

4.1 AN AD HOC APPROACH TO HARASSMENT PREVENTION

In the last five years, senior leadership in the RCMP have implemented a series of shortterm initiatives to address harassment and workplace dysfunction. Unfortunately, as set out below, these have been implemented with little follow-through or accountability. The result is a myriad of studies and strategies that the RCMP

can point to as evidence of their efforts to introduce change, but that fall far short of the kind of systemic reforms necessary for real impact. Rather, the effect of one short-term initiative after another has been to erode the confidence of RCMP members and employees that any real change will ever be realized.

In part, this reactive “operations” approach to workplace change reflects, in the Commission’s view, the fact that senior leadership positions within the organization are almost entirely occupied by uniformed officers who are trained in, and accustomed to functioning through, top-down operations. This may be an effective approach when dealing with urgent or critical public safety needs, where a response must be implemented quickly and without question. However, such an “operations” approach is often incompatible with the sustained commitment necessary to implement cultural change, given the way in which the hierarchical nature of security organizations tends to lead to “quick and parsimonious implementation of reform.”⁴³

43 Christian Leuprecht, “Reforming Security Management: Prospects for the RCMP”, *Policy Options*, September 2007, p. 71.

Based on the information available to the Commission, the Gender and Respect Action Plan appears to have foundered. Yet the RCMP has since moved on to the next initiative, with little regard as to whether the actions previously identified have been implemented, are leading to meaningful change, or, indeed, have further exacerbated the problems they are meant to address.

- exercise new authorities to enforce accountability, enable early and timely resolution of workplace issues;
- use Advisory Committees at the national and provincial levels as key forums for discussion of employee issues; and
- establish Respectful Workplace Programs nationwide.

The RCMP Commissioner committed to report internally on the progress of these actions every 180 days to ensure transparency and accountability. However, to the Commission's knowledge, only one such update appears to have occurred, in the spring of 2014.⁴⁵

Furthermore, while the Commission was informed that the *Gender and Respect Action Plan* remains active, no one at the RCMP's National Headquarters appears to hold responsibility for this initiative.⁴⁶ There appears, therefore, to be no one in a position of senior leadership who is accountable for ensuring either that the 37 actions have been implemented, or that they are achieving the desired goals.

Under the Action Plan, all Divisions are required to establish Advisory Committees as key forums for discussion of employee issues. However, only 8 of the 15 Divisions appear to have functioning committees.⁴⁷ The Action Plan states that Respectful Workplace Programs will be established nationwide, yet the RCMP did not confirm that each Division had established such programs or that they are active. Further, National Headquarters does not provide any guidance to Divisions on how these programs

should be administered. Nor does National Headquarters review programs developed at the initiative of the Divisions to assess their adequacy or effectiveness. The result is a lack of accountability in either the Divisions or National Headquarters for the effective functioning of Respectful Workplace Programs.

Similar problems seem to have affected the RCMP's Professional Ethics Strategic Plan. The plan, a three-year initiative between 2013–2015, was launched in response to the Professional Climate Survey, which found that RCMP employees had little confidence that their senior managers would address ethical breaches appropriately, demonstrate respect, make fair decisions, or be held accountable.⁴⁸ While the Plan requires Divisions to report to National Headquarters on a quarterly basis and to provide detailed accounts of initiatives and programs implemented, there does not appear to be anyone in senior management at National Headquarters who is designated to conduct any analysis of the measures undertaken by the Divisions. Therefore, while some Divisions are, in fact, taking steps to address workplace harassment, there is an absence of oversight by National Headquarters to monitor whether the measures are effective, hold Divisions accountable, or share best practices. In the Commission's view, this absence of national leadership reflects a lack of real will to effect meaningful change across the Force.

The RCMP did create the Office for the Coordination of Harassment Complaints in 2014, which responds in part to the Commission's 2013

The RCMP's *Gender and Respect Action Plan* is a telling example. The Action Plan was launched in 2013, largely in response to widespread allegations of sexual harassment, with the goal of changing the culture and composition of the RCMP: "Our objectives are plain: address the past, modernize today's management, and build for the future."⁴⁴

To achieve these goals, the *Gender and Respect Action Plan* sets out 37 "actions" to effect change, as well as measures and milestones to monitor progress. To address harassment and build respectful workplaces, eight action points were identified, including:

44 RCMP, *Gender and Respect: RCMP Action Plan*, (2013), at 1, online: <<http://www.rcmp-grc.gc.ca/en/gender-and-respect-the-rcmp-action-plan>>.

45 RCMP "Commissioner's Corner: Gender and Respect – RCMP Action Plan, Summary of Action Items and Current Status" (n.d.) (Infoweb).

46 The Commission received contradictory information from the RCMP with respect to the status of the *Gender and Respect Action Plan*. While the RCMP Commissioner testified before Senate that the Plan has been implemented, the RCMP "Gender and Diversity Champion" indicated that the Action Plan is still active. Nevertheless, no one has been responsible for the Plan since 2016.

47 *Supra* note 14.

48 *Supra* note 18.

recommendation.⁴⁹ However, the role of the Office is strictly an administrative one, and it mainly coordinates and tracks decisions on harassment complaints. The Office does not have a mandate to prevent harassment, which is a divisional responsibility, and does not provide any type of leadership in this regard.⁵⁰

The Commission notes that a number of Divisions have developed measures to foster respectful workplaces. “K” Division (Alberta), for example, has developed a respectful workplace video, utilizing “K” Division members and employees to act out typical scenarios of workplace conflict that may arise, and to illustrate what conduct is or is not appropriate in the workplace. The video is used to generate discussion, in most cases facilitated by a respectful workplace advisor. The Divisional Commanding Officer also holds monthly teleconferences with Respectful Workplace Advisors, and has created a full-time Respectful Workplace Coordinator, staffed by a public service employee to ensure continuity.

In “H” Division (Nova Scotia), the Divisional Commanding Officer has added two extra days to the RCMP national conflict management training program, during which managers run through scenarios to better understand how to address workplace conflict before it escalates. “H” Division has also prioritized training on issues relating to mental health, gender bias and First Nations communities. In addition, “H” Division has adopted the “Balance Approach,” whereby a Constable visits detachments and units to hear from

members and employees about issues of concern to them (e.g. skills, functions, leadership or management styles). This allows senior divisional management to be better informed of the realities in the Division.

Yet even where divisional initiatives have been successfully developed, the RCMP has failed to provide the resources for sustained change. In 2012, for example, “E” Division (British Columbia) created a Respectful Workplace Program. The Program is divided into four teams or units: the Respectful Workplace Non-Commissioned Officers and Advisors, the Harassment Unit, the Informal Conflict Management Program, and the National Early Intervention Program. The Respectful Workplace Non-Commissioned Officers and Advisors provide advice and support to employees, supervisors and managers on resolving workplace conflict at the earliest possible stage. In particular, the Respectful Workplace Program team helps to identify available resources, tools and services to resolve incidents of harassment or bullying, and will work with the district or detachment to develop a tailored action plan to address their particular issues. The Program also includes a number of initiatives to flag workplace conflict *before* it devolves into conduct matters. Workplaces that are identified as problematic are subject to more intensive respectful workplace assessments and reviews.

In an interview with the Commission, the Non-Commissioned Officer in Charge of the Respectful Workplace Program indicated that the program has experienced some success. In particular, the Program

had been receiving a growing number of calls from supervisors seeking guidance on how to address workplace conflict before it develops into full-blown harassment.

Increasingly, supervisors and managers in “E” Division appeared to be using the Program as a sounding board on options to address workplace issues and/or performance management. These are, the Commission finds, signs indicative of a program that is working to prevent workplace harassment.

Yet in 2014—despite both the launch of the *Gender and Respect Action Plan* the previous year and the Program’s apparent success—the \$1.3 million in federal funding that supported the initiative was cut. As a result, the Respectful Workplace Program in “E” Division has since had to reduce its team of 23 trained full-time staff to fewer than 10.

In another example, the RCMP recently appointed a new Gender and Diversity Champion to examine RCMP culture, diversity and/or inclusivity, employee engagement,

⁴⁹ *Supra* note 9 at 22, Recommendation No. 2.

⁵⁰ The RCMP also launched the Workplace Reporting System (WRS) in 2013 to provide employees with an additional avenue to report incidents, particularly when established reporting methods are not appropriate. However, the system does not appear to be well utilized. In 2013–2014, the WRS received 153 reports of conflicts of interest, 335 reports of breaches of professional ethics, and 69 reports of complaints under the *Public Servants Disclosure Protection Act*. In 2015–2016, the number of complaints in each category dropped by almost 50% to 79, 201, and 28, respectively. Some members and employees who spoke to the Commission suggest this may be attributed to the fact that individuals are required to provide their names and employee number, and the associated toll-free number requires the caller to leave a voicemail message.

and recruitment and retention of employees. Despite the breadth and complexity of this role, however, the appointed Assistant Commissioner does not appear to have been allocated any staff.⁵¹

Given this pattern of half-hearted, ad hoc and under-resourced initiatives, as well as the lack of follow-through or accountability, the Commission has a serious concern that the RCMP approaches institutional change as a short-term deliverable that can be “checked off” and then forgotten, regardless of whether the initiative has accomplished its stated goals.

As such, the Commission concludes that the RCMP has failed to implement its 2013 recommendation that the RCMP develop a comprehensive method of ongoing monitoring and evaluation to ensure that its initiatives are producing the desired effects.⁵²

Ultimately, as the report of the RCMP Veteran Women’s Council put it, “[d]espite decades of internal RCMP reports – and failed action plans – not much has changed over the past few decades in the RCMP.”⁵³

Many members and employees who spoke to the Commission voiced their belief that the RCMP wants merely to talk about change, and that it is all just *window dressing* and *lip service*. Interviewees commented that there have been too many reviews and studies, with no real action, and that the RCMP is consistently reactive and rarely proactive. As one individual put it, *the RCMP is excellent at “talking the talk”, but failing miserably at “walking the walk.”* In the view of another member, *I am hoping for improvement but feel that the RCMP is just going through the motions to make it appear they are dealing with the issues...*

These reactions, in the Commission’s view, indicate not only that many members and employees have lost faith that the RCMP is capable of effectively addressing harassment, but also that senior management’s pattern of launching short-term initiatives or action plans (particularly in response to an embarrassing headline) is *undermining* the confidence of members and employees that there is a genuine desire for change. As a result, member and employee buy-in to any new initiative is likely to be low, including potentially from those in management positions who are responsible for implementation.

FINDING NO. 2: That the RCMP has failed to introduce the sustained and comprehensive measures necessary to address the problem of harassment in the Force. While some divisional programs have been created, these have been limited and ad hoc. There has been no effort by National Headquarters to monitor their effectiveness, roll out best practices, or institutionalize reform.

4.2 A FAILURE OF LEADERSHIP

The RCMP’s paramilitary origins, history and structure make it particularly hierarchical and rank-conscious. The result is a culture of obedience to higher command and top-down control by RCMP leaders. As such, leaders play a particularly significant role in the organization—including whether it will adapt to, or reject, cultural change. As now retired Lieutenant General Andrew Leslie testified before the Senate with respect to the challenges of changing organizational culture, “[i]t’s all about leadership all the time.”⁵⁴

In the view of the Commission, there are two significant problems with the culture of leadership in the RCMP that prevent it from effectively addressing the issues of workplace harassment, intimidation and bullying: an absence of senior leadership, and a failure to foster a leadership culture within the organization.

4.2.1 An absence of senior leadership

First, as already described, there has been a distinct lack of willingness on the part of generations of senior RCMP leaders to undertake the kind of broad-scale, systemic change required. Senior leaders in the RCMP are almost entirely uniformed officers who have risen up through the ranks. Not only does this mean that their careers benefited from the very organizational structures that need reform, but also that they are likely to be “thoroughly socialized into the monolithic institutional norms of the organization.”⁵⁵ As one member put it:

51 The Assistant Commissioner informed the Commission in an interview that she did not have any staff. She subsequently testified at the Standing Senate Committee on National Security and Defence that she has a “team”. The RCMP did not respond to the Commission’s request for information with respect to the number of staff on the Assistant Commissioner’s “team”. Testimony at the Standing Senate Committee on National Security and Defence, February 6, 2017.

52 *Supra* note 9 at 34, Recommendation No. 11.

53 *Supra* note 19.

54 Tonda Maccharles, “Vic Toews kills idea for civilian management of RCMP”, *Toronto Star* (June 9, 2013), online: Toronto Star <https://www.thestar.com/news/canada/2013/06/09/rcmp_harassment_bob_paulson_paulson_vic_toews_toews_david_brown_david_mcauslandvic_toews_kills_idea_for_civilian_management_of_rcmp.html>.

55 *Supra* note 42.

The RCMP is fond of sending out middle-management people (whose aspirations are to be top management) to find out where the problems lie – when clearly, the problem lies with them and their leader. If you want to reform an organization and its messed-up culture, you don't leave it up to the people who embraced and thrived in that culture.

As a result, senior leaders are deeply imbued with the institutional culture of the organization,⁵⁶ and may therefore be incapable or unwilling to institute fundamental change.

Moreover, as a result of the strict hierarchical rank structure of the RCMP, senior officers are too often disconnected from the experiences of those on the front lines. As the Task Force on Governance and Cultural Change in the RCMP commented, “[s]enior management is not in a position to address developing problems because they are insulated from them by people who do not want to deliver bad news.”⁵⁷ As a result, even if senior leaders had the will to try to change RCMP culture, they may be too removed from the day-to-day reality of RCMP workplaces to be effective. The chain of command may therefore function to distort the perspective of many senior leaders and impede their efforts to improve RCMP organizational culture.

Further, as a result of the RCMP's promotion system, which privileges uniformed officers, senior leaders are trained in an operational policing mindset and often do not have sufficient expertise in human

resources to handle complex and sensitive labour relations dynamics. Unlike other policing organizations or the Canadian Armed Forces, which hire civilian experts to, among other things, manage human resources, the RCMP continues to assign such positions to senior uniformed members, regardless of their ability to fulfill such functions and duties.

Unfortunately, the officers filling such roles often lack the specialized skills and expertise that would be viewed as a fundamental prerequisite in most other organizations. The Brown Report described the legion of problems that result: “We learned about basic human management systems that haven't worked for years; mandatory unpaid overtime; discipline and grievance systems that don't work; a promotion system with little or no credibility; a sometimes embarrassing record of account to the people they serve.”⁵⁸ As a result, the RCMP is deprived of the significant value, as well as fresh perspective, that civilian experts can bring.

Careful consideration must therefore be given to real organizational and structural change. The Commission finds the recent comments of the Inspector General for the Department of Homeland Security in the United States particularly apposite:

No government agency, no matter how dysfunctional, will change of its own accord.... It is a wrenching process that no agency would undergo voluntarily. Change in a bureaucracy happens as a result of three things: a dramatic intervening

*event, followed by intense scrutiny of agency programs and operations, and a resultant leadership commitment to change.*⁵⁹

RECOMMENDATION 1: That the Minister direct the RCMP to professionalize elements of the RCMP organizational structure by recruiting civilian experts for non-operational roles, including at the senior levels in the areas of human resources and labour relations.

4.2.2. The failure to foster a leadership culture

Of particular concern to the Commission is the presumption, implicit in the RCMP promotional process, that members have the ability to exercise authority with skill and professionalism *because* they occupy a particular rank, and not because they have received specialized leadership or management training that qualify them for a specific set of responsibilities. As one Divisional Commanding Officer reported to the Commission, many managers and supervisors have commented, *I wish I'd had the training before I got promoted.*

Unlike the military, the RCMP does not have a professional officer corps.⁶⁰ Rather, commissioned officers are promoted from the ranks. While there is a leadership course for managers and supervisors, as well as a short senior executive course, neither are actually a prerequisite for promotion or for holding higher rank. Nor is there any educational requirement for promotion; the minimum qualification of a

⁵⁶ *Supra* note 11.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ Testimony of the Inspector General for the Department of Homeland Security (February 1, 2017), online: <<https://oversight.house.gov/wp-content/uploads/2017/02/Roth-DHS-IG-Statement-Empowering-IGs-2-1.pdf>> (accessed March 16, 2017).

⁶⁰ In 2011, the idea of direct entry officers was contemplated by the RCMP Commissioner: “At the Editorial Board: RCMP Commissioner Bob Paulson at the editorial board”, *The Globe and Mail* (December 20, 2011), online: <http://www.theglobeandmail.com/opinion/editorials/rcmp-commissioner-bob-paulson-at-the-editorial-board/article4181595/?page=all>; Alan Okros, email of November 18, 2016.

new cadet—a high school diploma and no criminal record—is sufficient. In the Commission's view, the lack of leadership training is a significant factor contributing to the problems of abuse of authority already described. As detailed in Section 3, the harassment complaints reviewed by the Commission indicate that, in many cases, managers and supervisors lack the basic skills to exercise their supervisory authority in a professional manner. Moreover, a common perception among interviewees is that the promotion process exacerbates the problem of workplace harassment by rewarding self-promotion, rather than leadership aptitude, performance, skills, and knowledge.

By contrast, in the Canadian Armed Forces, every officer is required to undertake an extensive officer professional military education, which includes university-level courses in Canadian civics and society, leadership, history, and psychology. These educational requirements not only help military leaders develop a stronger skill set, but also understand the broader norms and values of the society they serve.⁶¹

Investing early and continuously in the development of leadership and management skills will help ensure that supervisors, managers and executive officers have a clear understanding of the appropriate exercise of supervisory authority, to understand their role and responsibility to maintain a respectful workplace, and to develop necessary skills to deal with workplace conflict before it escalates.

RECOMMENDATION 2: That the RCMP foster a leadership culture by introducing promotional criteria that recognize management skills, and by instituting more rigorous, mandatory leadership development programs for all existing and newly appointed supervisors, managers and executive officers, including appropriate university-level courses.

4.2.3. Conclusion on leadership

Ultimately, measures to improve leadership within the organization will be critical to effect cultural change. Leaders play a central role in transmitting and maintaining organizational culture. Senior leaders establish organizational strategy and by example set the tone and foster acceptance of change in an organization. Mid-level leaders and direct supervisors interpret organizational strategies, policies, and practices, and transmit and reward proper behaviour through promotions and access to training. And finally, immediate supervisors set the tone for acceptable behaviour and can either condemn or perpetuate negative conduct, such as harassment and abuse of authority.⁶²

The Commission has no doubt that there may be numerous exemplary leaders in the RCMP. However, the organization appears to do little to support a culture of leadership among its managers, supervisors and executive officers as a whole. Moreover, without the recognition that leadership skills are distinct from policing skills, this leadership gap will persist.

4.3 A CHANGE IN GOVERNANCE

Military and policing organizations commonly regard themselves as set apart from society for a special purpose. For this reason, they place a high value on self-management and institutional autonomy. But even among policing organizations, the RCMP's accountability framework is an anomaly: at the national level, it does not report to advisory boards, despite being responsible for policing across Canada.

Yet the RCMP is not a state unto itself, and it is required to comply with the same legal obligations to prevent workplace harassment, bullying, and sexual harassment as other federal employers. It has had ample opportunity to take the measures necessary to do so.

Instead, after each new harassment scandal has arisen, highlighting anew the RCMP's dysfunctional organizational culture, the RCMP's reaction has been merely to circle the wagons. If the last ten years, over 15 reports and hundreds of recommendations for reform have produced any lessons, it is that the RCMP is not capable of making the necessary systemic changes of its own accord.

⁶¹ *Supra* note 43, p. 70.

⁶² Yvonne Brunetto et al., "Management, bullying and the work outcomes of Australian paramilitary" (2016) *Australian & New Zealand Journal of Criminology* at 5 (Southern Cross University ePublications@SCU), online: <http://epubs.scu.edu.au/cgi/viewcontent.cgi?article=1681&context=bus_tourism_pubs>; Michele J. Gelfand et al., "Discrimination In Organizations: An Organizational-Level Systems Perspective" (2007) *CAHRS Working Paper Series* (Cornell University ILR School DigitalCommons@ILR) 10, online: <<http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1471&context=cahrswp>>.

Fundamentally, this requires a structural change in the RCMP, imposed from the outside. In particular, a change in the RCMP's governance model is required to introduce civilian leadership and/or meaningful civilian oversight, as well as more rigorous mechanisms for accountability, into key components of the organization. As senior members of the Canadian Armed Forces observed about the work required to effect cultural change in the Armed Forces, "the military could not have recovered without constant, external, independent oversight driven by the government and respected civilians appointed to ensure they didn't fail."⁶³

FINDING NO. 3: Given the RCMP's poor track record of implementing change, the Commission finds that strong civilian oversight and government leadership are required to ensure sustained reform.

The Government of Canada and the RCMP must commit to immediate, concrete and sustained action to reform the RCMP, making it more accountable to its members and employees, and to the communities it serves.

RECOMMENDATION 3: That the Minister of Public Safety take immediate steps to effect cultural change in the RCMP by modernizing its governance structure to introduce civilian governance and/or oversight and to enhance accountability.

The Minister may wish to consider a number of different models, including but not limited to:

A) Bifurcated leadership – The DND/CAF Model

This model is based on the bifurcation between the Department of National Defence and the Canadian Armed Forces. Under this model, the Deputy Minister and the Chief of the Defence Staff have unique responsibilities.

Specifically, the Deputy Minister is responsible for administrative matters and financial oversight, including:⁶⁴

- Policy advice to the Minister
- Departmental management
- Accounting Officer
- Interdepartmental coordination
- International defence relations
- Public service renewal
- Federal/provincial relations
- Portfolio management

The Chief of the Defence Staff, by contrast, is responsible for all operational matters:⁶⁵

- Command, control and administration of the Canadian Armed Forces (CAF)
- Advise the Minister on CAF issues
- Accountable to the Minister for the conduct of all CAF activities, as well as for the readiness and the ability to fulfill military commitments and obligations
- Senior serving military advisor to the Government of Canada

The RCMP is subject to similar requirements and legislation as the Department of National Defence and the Canadian Armed Forces, and could emulate this division of labour between operational and administrative responsibilities.

B) Civilian Commissioner – The New York City Police Department Model

Similar in size to the RCMP, the administrative structure of the New York Police Department differs in that it is led by a civilian Commissioner supported by numerous civilian Deputy Commissioners. In addition, the Chief of Department, the most senior-ranking uniformed member, has primary responsibility for operations.⁶⁶ Significantly, the Commissioner has traditionally had an extensive policing background⁶⁷ but is not a sworn member.

This model would have the benefit of enhancing the public accountability of the RCMP by introducing a civilian Commissioner, supported by expert civilian deputies, reporting to the Minister of Public Safety. At the same time, the RCMP would retain its operational independence as a self-governing force, operationally led by a senior uniformed officer.

C) Civilian Board of Management

A civilian board of management can provide general direction to a police service and enhance public accountability. First recommended in relation to the RCMP in the 2007 Brown Report and reiterated in a number of subsequent reviews of the RCMP, this model has also been strongly recommended by the Canadian Association of Police Boards.⁶⁸

The value of a civilian board was highlighted by Justice John W. Morden in a report on the actions of the Toronto Police Service during the G20 summit:

⁶³ *Supra* note 54.

⁶⁴ National Defence and the Canadian Armed Forces, "Deputy Minister of National Defence: John Forster", online: <<http://www.forces.gc.ca/en/about-org-structure/deputy-minister-national-defence.page>>.

⁶⁵ National Defence and the Canadian Armed Forces, "Chief of the Defence Staff", online: <<http://www.forces.gc.ca/en/about-org-structure/chief-of-defence-staff.page>>.

⁶⁶ See NYPD – Administration, Nyc.gov, online: <<http://www.nyc.gov/html/nypd/html/administration/administration.shtml>> (accessed March 17, 2017).

⁶⁷ See NYPD – Administration, Nyc.gov, online: <http://www.nyc.gov/html/nypd/html/administration/headquarters_co.shtml> (accessed March 17, 2017).

⁶⁸ In 2011 the Canadian Association of Police Boards adopted a resolution to urge the federal government to "establish an independent oversight body for the RCMP, composed of citizens served by the RCMP, with the necessary powers to effectively fulfill its role, including the power to oversee RCMP policy, the RCMP budget and to hire the RCMP Commissioner." Canadian Association of Police Boards, "2011 Resolutions" (2011), online: <http://capb.ca/wp-content/uploads/2013/05/2011_CAPB_Resolutions.pdf>.

Police boards are the intermediary between the police and the public, acting as a conduit to receive and impart information, providing a forum to ensure public sentiment makes its way to the ears of law enforcers, and, ultimately, arbitrating interests in determining what is incorporated into the policies that guide the actions of the police.

Where the police board fulfills these functions, the legitimacy that is so important to policing by consent, rather than coercion, is maintained. An effective governance structure ensures that decisions made and actions taken by the police are reflective of the community's values.⁶⁹

A civilian board would have stewardship over key features of the administration of the RCMP, such as human resource management, as well as budgeting and financial management. However, given the uniqueness of the RCMP's mandate, particularly the policing services it provides under contract to some municipalities and provinces, any such board would need to be mindful of and responsive to the contract partners. Although that may pose some challenges, these are not insurmountable and the governance model should not be dismissed as unworkable as a result.

The Minister can draw on a variety of models to improve the current governance structure of the RCMP. The key, as outlined in previous reports, is to introduce mechanisms for more rigorous public accountability through the civilianization of core areas of the organization.

4.4 ADDITIONAL AVENUES OF SUPPORT

The Commission has previously recommended that the RCMP implement an external mechanism for the review of harassment decisions, outside of the divisional chain of command.⁷⁰ Other reports, such as the report by Ms. Sgro and Senator Mitchell in 2014, the Senate Standing Committee report in 2013, and the RCMP Veteran Women's Council report of 2014, have similarly argued for the creation of an RCMP Ombudsman's Office. The Commission supports this recommendation.

In the course of the review, the Commission heard from many members and employees who articulated the challenges that they faced in trying to navigate the RCMP's complex and cumbersome harassment complaint process. Fear of reprisal, instances of intimidation, and abuse of the discipline process are among the reasons interviewees reported that they did not make a formal workplace harassment complaint. As one member put it, *the RCMP harassment complaint process is not for the faint of heart*.

The RCMP harassment complaint process is not for the faint of heart.

A properly mandated RCMP Ombudsman's Office would be well-equipped to deal with these challenges. Strong consideration should be given, therefore, to the creation of an RCMP Ombudsman's Office to act as a direct source of information, referral and education

for members and employees; to help members and employees navigate the harassment complaint process, as well as associated grievance and appeal processes; and to review and investigate complaints of retaliation or reprisal.

Further, the Commission is aware of the current debates with respect to the unionization of the RCMP, following on the decision of the Supreme Court of Canada in *Mounted Police Association of Ontario v Canada (Attorney General)*.⁷¹ Unionization may provide members with additional avenues for the airing and resolution of workplace grievances, depending on the scope of collective bargaining rights, as well as professional support and legal representation as appropriate.

In the view of the Commission, to the extent that the creation of an Ombudsman's Office and/or unionization may provide members with additional avenues of support and dispute resolution, these changes may mitigate the problems of harassment. They are not, however, stand-alone solutions to the problems of harassment, bullying and intimidation that currently taint the organization.

4.5 CONCLUSION

The Commission is dubious that, if left to its own devices, the RCMP will have the willingness or capacity to implement the necessary changes to address its dysfunctional culture. The result will be the status quo. It is necessary, therefore, for the Minister of Public Safety to take the necessary steps to effect institutional change.

⁶⁹ The Honourable John W. Morden, *Independent Civilian Review into Matters Relating to the G20 Summit* (2012) at 82, online: <<http://www.tpsb.ca/g20/ICRG20Mordenreport.pdf>>.

⁷⁰ *Supra* note 9 at 23, Recommendation No. 4.

⁷¹ *Mounted Police Association of Ontario v Canada (Attorney General)*, 2015 SCC 1, [2015] 1 SCR 3.

5.

HARASSMENT POLICIES: BARRIERS TO RESOLUTION

While structural changes and civilian oversight are fundamental to improving RCMP organizational culture, reform is also required of the RCMP's internal harassment policies and procedures.

In November 2014, the RCMP implemented new policies and procedures to investigate and resolve harassment complaints further to legislative changes to the RCMP Act. These are set out in the RCMP's *Investigation and Resolution of Harassment Complaints* policy⁷² (the "Harassment Policy"), and the *National Guidebook – Investigation and Resolution of Harassment Complaints Guidebook*⁷³ (the "Guidebook") (together, referred to as the "harassment policies").

The new harassment policies clearly express the RCMP's "zero tolerance" approach towards harassment in the workplace. However, there remain significant problems with

the adequacy and appropriateness of the harassment policies, as well as with their implementation. This results in a process that is ineffective, and in which too many complaints are being resolved as "unfounded."

The new harassment policies only exacerbate the lack of confidence that RCMP members and employees express in the organization.

5.1 THE LEGAL AND REGULATORY FRAMEWORK

The RCMP has significant legal obligations to prevent workplace harassment and bullying, and to address incidents where they occur. The *Canadian Human Rights Act*, for example, requires the RCMP to provide a workplace free from harassment based on certain prohibited grounds, including sex, race, sexual orientation, and disability.⁷⁴ The *Canada Labour Code* goes further, placing an obligation on the RCMP to provide employees with a safe and healthy work environment free of sexual harassment and workplace violence,⁷⁵ to develop and implement systematic controls to eliminate or minimize workplace violence,⁷⁶ to assist employees who have been exposed to workplace violence,⁷⁷ and to "dedicate sufficient attention, resources and time"

⁷² RCMP *Administration Manual*, chap XII.8. "Investigation and Resolution of Harassment Complaints" (amended 2014-11-28).

⁷³ RCMP, *National Guidebook – Investigation and Resolution of Harassment Complaints Guidebook* (Ottawa: Office for the Coordination of Harassment Complaints, 2014).

⁷⁴ *Canadian Human Rights Act*, RSC 1985, c H-6, s 3.

⁷⁵ Notably, workplace violence is defined broadly as "any action, conduct, threat or gesture of a person towards an employee in their workplace that can reasonably be expected to cause harm, injury or illness to that employee." This includes a range of conduct that may also constitute harassment. See *Canada Labour Code*, RSC 1985, c L-2, s 247.2–247.3; *Canada Occupational Health and Safety Regulations*, SOR/86-304, s 20.2.

⁷⁶ *Canada Occupational Health and Safety Regulations*, SOR/86-304, s 20.6(1).

⁷⁷ *Ibid* s 20.3.

to address conduct that leads to workplace violence, such as bullying, teasing, and abusive and other aggressive behaviour.⁷⁸

The RCMP is also required to abide by applicable Treasury Board of Canada policies and directives on harassment.⁷⁹ The Treasury Board *Policy on Harassment Prevention and Resolution*, for example, requires the RCMP Commissioner to promote a respectful workplace and to address potential situations of harassment.⁸⁰

Finally, a well-established body of case law defines a range of legal tests and practices with respect to the conduct of administrative investigations into workplace harassment and the adjudication of such complaints. These are a further source of rules that are binding on RCMP decision makers.

There are therefore stringent obligations on the RCMP to:

- prevent workplace bullying and harassment;
- provide affected members and employees with a confidential and effective complaint, investigation, and resolution process to address incidents when they occur; and
- provide assistance to members and employees who have been the target of harassment.

These are no small tasks, and they require clear and effective policies. In the Commission's view, the RCMP continues to fall short on these obligations.

5.2 UNDULY NARROW DEFINITION

Under the RCMP harassment policies, "harassment" has the same meaning as defined by the Treasury Board policy on harassment:⁸¹

2.8. Harassment means any improper conduct by an individual that is directed at and is offensive to another individual in the workplace, including at any event or any location related to work, and that the individual knew or ought reasonably to have known, would cause offence or harm. It comprises an objectionable act, comment, or display that demeans, belittles, or causes personal humiliation or embarrassment, and any act of intimidation or threat. It also includes harassment within the meaning of the *Canadian Human Rights Act*, i.e. based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability, and pardoned conviction.

2.8.1. Harassment is normally a series of incidents but can be one severe incident which has a lasting impact on the individual.⁸²

The definition of harassment therefore identifies six elements in order for the conduct to be considered harassment:

1. the conduct must be improper;

2. the conduct must be directed at another individual;
3. the conduct must be offensive or could cause harm to this other individual;
4. the individual knew or ought reasonably to have known that the conduct would cause offence or harm;
5. there have been a series of incidents, or one incident which has had a lasting impact on the individual; and
6. the incidents were at work, including locations related to work.

Notably, the RCMP's Guidebook emphasizes that "[i]n order to make a finding of harassment, each of the above elements must be present. If even one of these elements cannot be proven, there will not likely be a finding of harassment."⁸³

While the Treasury Board definition of harassment has been incorporated into harassment policies across the federal public service, in the context of the RCMP the Commission is concerned that this multi-pronged definition presents barriers to findings of harassment. Taken together, and rigidly applied as prescribed by the RCMP's Guidebook, the six elements create a definition of harassment that is unduly narrow and inconsistent with the broader definition of harassment adopted by most legislatures and human rights adjudicators, including the Canadian Human Rights Tribunal.⁸⁴ That definition has generally described workplace harassment as any words or conduct⁸⁵ that the individual knew or ought reasonably to

78 *Ibid* s 20.3(b); see also Employment and Social Development Canada, *Violence Prevention in the Work Place - 943-1-IPG-081* (Ottawa: ESDC, 2016), online: <<https://www.canada.ca/en/employment-social-development/programs/laws-regulations/labour/interpretations-policies/081.html>>.

79 *Financial Administration Act*, RSC 1985, c F-11, s 11(1), 11.1(1)(i), Schedule IV.

80 Treasury Board of Canada, *Policy on Harassment Prevention and Resolution* (Ottawa: October 1, 2012) s 5.1.

81 *Commissioner's Standing Orders (Investigation and Resolution of Harassment Complaints)*, SOR/2014-290, s 1.

82 *Supra* note 28 at s 2.8.-2.8.1.

83 *Supra* note 73 at p. 26.

84 See, for example, *Human Rights Code*, RSO 1990 c H19, s 10(1); *Occupational Health and Safety Act*, RSO 1990 c O1, s 1(1); *Human Rights Act*, RSNB 2011 c 171, s 10(1); *Human Rights Act*, RSNB 1989 c 214, s 3; *The Saskatchewan Employment Act*, SS 2013, c S-15.1, s 3-1(1)(i); *Occupational Health and Safety Regulations*, NWT Reg 039-2015, s 34(1)-(3); *Occupational Health and Safety Regulations*, Nu Reg 003-2016, s 34(1) - (3).

85 "Conduct" is understood to include acts, gestures, comments, displays of information or imagery.

have known would be unwelcome, and where there is a nexus with the workplace.⁸⁶ As such, this broader approach to workplace harassment only requires that two conditions be met:

1. the individual knew or ought reasonably to have known that the words or conduct would be unwelcome; and
2. there is a nexus with the workplace.

In the Commission's view, the definition of harassment in the RCMP's Harassment Policy creates unnecessary obstacles to a finding of harassment. For example, the RCMP definition requires that the conduct must be found to be both "improper" and "offensive" to another individual, while the broader definition only requires that the conduct be found to be unwelcome (on an objective standard). Considerations as to whether or not the conduct was "improper" are irrelevant to determining whether harassment took place; the only relevant question is whether the conduct would be unwelcome to a reasonable person in the shoes of the complainant.

Similarly, the RCMP definition requires that the conduct be "directed at" another individual. This again may create an unnecessary requirement in the minds of some RCMP decision makers that the conduct must be personally targeted at another individual in order to constitute harassment. Evidence that conduct was personally targeted at a particular individual may, of course, contribute to a finding that harassment took place. However, it should not, in the Commission's view, be transformed into a stand-alone requirement. This

negates the RCMP's responsibility to address the more generalized kinds of harassing conduct that can contribute to a dysfunctional work environment.⁸⁷

Further, the Commission agrees that while harassment will generally involve a pattern of repeated incidents, in some circumstances a single incident may constitute harassment if it is sufficiently egregious. In the Commission's view, however, the single incident need not be shown to have caused "lasting harm" in order to constitute harassment. Such a requirement places an unnecessary additional burden of proof on the complainant. While the harmful effect of the conduct may be *evidence* that the incident was a serious one, it is not a necessary component of the test for harassment.⁸⁸

FINDING NO. 4: That the multiplicity of factors that are outlined in the definition of harassment, combined with the directions set out in the RCMP's Guidebook, create a context in which Divisional Commanding Officers (i.e. "decision makers" under the Harassment Policy), are likely to consider irrelevant factors. This could result in the dismissal of an otherwise meritorious complaint.

Indeed, this concern was borne out by the Commission's review of harassment complaint files. For example, in one instance of alleged sexual harassment, a complainant did not specifically indicate that she was offended or *harmed*, but rather that

she was offended and *annoyed*; as a result the decision maker found that the six elements of harassment were not met and the complaint was unfounded. In another instance, the alleged harassment occurred outside the office at a meal attended only by RCMP members and employees. The decision maker found that the incident did not take place "at work," and the complaint was unfounded.

Such arbitrary interpretations of the elements of harassment, and strict adherence to the requirement that all six criteria be met, reinforce the Commission's concern that the Treasury Board definition of harassment has been interpreted in an unduly narrow and rigid way by RCMP decision makers, leading to the dismissal of potentially valid complaints.

The Treasury Board definition of harassment has been interpreted in an unduly narrow and rigid way by RCMP decision makers, leading to the dismissal of potentially valid complaints.

Notably, a number of Divisional Commanding Officers expressed to the Commission a concern that the definition of harassment is hard to satisfy, and that the harassment process is too prescriptive and inflexible.

⁸⁶ See, for example, *Siddoo v International Longshoremen's and Warehousemen's Union, Local 502*, 2015 CHRT 21 at para 47; *Croteau v Canadian National Railway Company*, 2014 CHRT 16 at para 42; see also *Stadnyk v Canada (Employment and Immigration Commission)*, 2000 CanLII 15796 (FCA) at para 11.

⁸⁷ A similar concern was raised in relation to the definition of sexual harassment utilized in the Canadian Armed Forces; see Hon. Marie Deschamps, *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces* (March 27, 2015), p. 40 online: <[http://www.forces.gc.ca/assets/FORCES_Internet/docs/en/caf-community-support-services-harassment/era-final-report-\(april-20-2015\)-eng.pdf](http://www.forces.gc.ca/assets/FORCES_Internet/docs/en/caf-community-support-services-harassment/era-final-report-(april-20-2015)-eng.pdf)>.

⁸⁸ See, for example, *Opheim v Gagan Gill & Gillco Inc.*, 2016 CHRT 12 at para 25; *Tyee Village Hotel v Hotel, Restaurant & Culinary Employees & Bartenders Union, Local 40 81 LAC* (4th) 365; *Re Leaf Rapids (Town)*, unreported November 8, 1993; *Canada (Human Rights Commission) v Canada (Armed Forces) and Franke*, [1999] 3 FCR 653.

RECOMMENDATION 4: That the RCMP adopt a simplified definition of harassment in its harassment policies and procedures, consistent with the approach adopted by the Canadian Human Rights Tribunal and other Canadian jurisdictions, to facilitate the investigation and resolution of valid complaints of harassment.

5.3 IMPEDIMENTS IN THE HARASSMENT COMPLAINT PROCESS

Interviews with RCMP members and employees, including divisional harassment advisors and the Office for the Coordination of Harassment Complaints, as well as a review of harassment complaint files, reveal significant problems with the process for bringing forward complaints of harassment, which likely impede meritorious complaints from being heard.

First and foremost, the Commission finds that the RCMP harassment policies are overly complex and difficult to comprehend. The vast majority of interviewees reported that they did not have a clear understanding of RCMP harassment complaint policies and procedures. This is not surprising, given the various legal and regulatory instruments that must be read to understand the applicable policies and procedures.⁸⁹ It is highly improbable that a member or employee experiencing stress as a result of

workplace bullying or harassment would be in a position to easily navigate this web of documents.

Also of concern, several interviewees reported that when members are on Off Duty Sick, or under suspension, they cannot access the RCMP harassment policies because these are only available on the RCMP's intranet. Several members further reported that when they requested policies while on leave, their requests were refused. The Commission notes that the Office for the Coordination of Harassment Complaints reports that they make all relevant policies and complaint forms available to complainants, regardless of whether they are off duty, and that the Office is available to assist complainants to navigate the complaint process. Regardless, it is clear that many RCMP members and employees are having difficulty comprehending, and in some cases obtaining, the relevant policies. In the Commission's view, RCMP members and employees must have access to the policy documents that govern their employment, and these should be streamlined, written in plain language, and easily accessible.

RECOMMENDATION 5: That the RCMP develop clear and streamlined harassment policy documents, in plain language, and that these be available on its external website.

5.4 EMPHASIS ON INFORMAL RESOLUTION

The RCMP's Harassment Policy emphasizes the complainant's responsibility to confront the harasser about the unwelcome behaviour as soon as possible after the incident took place.⁹⁰ The Commission agrees that it may not always be appropriate to escalate minor incidents by utilizing a formal complaint process, and informal resolution can be constructive. At the same time, however, it is often inappropriate to put the complainant in a position of having to confront his or her harasser. This is particularly true in the context of a hierarchical and paramilitary organization such as the RCMP. As Justice Marie Deschamps observed in a review of sexual misconduct and sexual harassment in the Canadian Armed Forces, "(p)lacing the responsibility to confront the harasser on the person being harassed does not work well within the rigid power relations and hierarchy of the military."⁹¹ As such, Justice Deschamps found that a policy of early, informal resolution was ineffective and acted as a disincentive for victims to come forward.⁹²

Even where the alleged conduct may not appear particularly serious, complainants may feel intimidated about raising their concerns openly, or fearful that confrontation could aggravate an already difficult work relationship, including by making the complainant a further target.⁹³

⁸⁹ These are: the RCMP's Harassment Policy (RCMP *Administration Manual*, chap XII.8. "Investigation and Resolution of Harassment Complaints" [amended 2014-11-28]), RCMP, *National Guidebook – Investigation and Resolution of Harassment Complaints Guidebook* (Ottawa: Office for the Coordination of Harassment Complaints, 2014), RCMP *Administration Manual*, chap XII.1. "Conduct" (amended 20150710), relevant provisions of the *Royal Canadian Mounted Police Act*, RSC 1985 c R-10 and *Royal Canadian Mounted Police Regulations*, 2014, SOR/2014-281, the *Commissioner's Standing Orders (Investigation and Resolution of Harassment Complaints)*, SOR/2014-290, the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291, and the *Commissioner's Standing Orders (Grievances and Appeals)*, SOR/2014289.

⁹⁰ *Supra* note 28 at s 1.11., 5.1.2., 5.1.2.4., 5.1.2.6.

⁹¹ *Supra* note 87 at p. 62.

⁹² *Ibid* p. 60.

⁹³ This is consistent with the RCMP's report into allegations of harassment and sexual misconduct at the RCMP's Canadian Police College Explosives Unit, which found that "acts of misconduct ...were not immediately reported, nor fully detailed, due to embarrassment and fear of reprisals or being labelled as 'rats.'" See *supra* note 25.

Divisional harassment advisors and the Office for the Coordination of Harassment Complaints interviewed by the Commission also confirmed that the majority of complainants refused to participate in informal resolution on the basis that, by the time a formal complaint is lodged, it is generally too late for mediation and informal resolution.

In sum, the Commission emphasizes that informal resolution should only ever be framed as an “option” available under the policy, and that there should be no specific expectation that a complainant is required to confront the alleged harasser.

5.5 DUTY TO PREVENT VERSUS DUTY TO REPORT

The RCMP’s Harassment Policy establishes a duty on every RCMP member and employee to report behaviour that may constitute harassment.⁹⁴ This “duty to report” was likely intended to make clear to all RCMP members and employees, including those in the chain of command, that incidents of harassment cannot be swept under the rug. This is a laudable and important goal.

The Commission is concerned, however, that many in management or supervisory positions appear to believe that their *only* duty is to report an incident of harassment, or to inform the complainant that he or she must report the incident by lodging a complaint. Such an approach ignores the further obligation on managers and supervisors under the Harassment Policy to proactively address situations that appear to be, or may lead to,

incidents of harassment.⁹⁵ In other words, rather than utilizing their full range of supervisory tools to prevent and address harassment (such as through coaching, mentoring, performance management, or conflict resolution techniques), most managers and supervisors simply encourage and/or pressure a complainant to lodge a complaint. This effectively takes the issue out of the supervisor’s or manager’s hands and shifts responsibility for dealing with the incident onto the hands of the harassment investigator and the decision maker assigned to handle the complaint.

Given these findings, the Commission concludes that its 2013 recommendation that RCMP policy must equally address the precursors of harassment has only been partially implemented.⁹⁶ The RCMP’s Harassment Policy does contain a number of provisions requiring those in management and supervisory positions to address burgeoning workplace conflict and the RCMP also has established an Informal Conflict Management Program to provide information, guidance and resources to employees on how to address workplace conflict, with a view to resolving conflict. However, the Commission heard from a number of divisional harassment advisors and the Office for the Coordination of Harassment Complaints that supervisors and managers do not have the requisite skills to deal with workplace conflict.

The Commission observes that the RCMP is more focused on *concluding* complaints—by initiating an investigation if necessary, and rendering a decision—than on *resolving* workplace

conflict. This approach is short-sighted and reflects an organization that is often more concerned with checking off boxes than promoting workplace well-being.

As such, the Commission concludes that its 2013 recommendation has only been applied in form, not function. The failure of supervisors and managers to effectively manage workplace conflict only reinforces the Commission’s view that the RCMP faces a serious leadership gap, which requires a significant investment in leadership training and development.

Further, some members and employees reported to the Commission that after they sought informal assistance in relation to a concern about harassment or bullying, they felt pressured into filing a complaint against their will, and became “trapped” in an escalation of events in which they felt they had no say, and which had serious repercussions for them both personally and professionally.

⁹⁴ See, for example, *supra* note 28 at s 5.1.2.2., 5.1.3., 5.2.2.4.

⁹⁵ *Ibid* s 5.2.2.3., 5.2.2.5., 5.2.2.6., 5.2.2.9.

⁹⁶ *Supra* note 9 at 25, Recommendation No. 5.

5.6 INADEQUATE TRAINING

Training on harassment policies is mandatory for all members and employees of the RCMP. However, such training is generally one-time-only, and there is no obligation for refresher training. Further, despite the implementation of the 2014 changes to the harassment policies, many members and employees do not appear to have been required to undertake any updated training. A number of interviewees, for example, reported to the Commission that they had never been given any instruction about the changes to the RCMP Act or to the harassment policies.

Moreover, the new Respectful Workplace training course is conducted online and, in the Commission's view, is largely ineffective. While the RCMP reports a 98% completion rate, it is dubious that all 98% of RCMP members and employees gave the training the attention it required. Interviewees openly commented that they skipped straight to the end of the online module to take the test; that in some detachments the junior member was assigned to take the test for everybody, and that in others the answers were printed out and taped to a workstation for everyone to see. Of those who had taken the training, interviewees described it as "useless," a "waste of time," "dry," "simplistic," "meaningless" and "irrelevant."

The Commission therefore concludes that while the RCMP has implemented its 2013 recommendation to introduce an online

training module to address workplace conflict and harassment,⁹⁷ the manner in which the training has been implemented has serious limitations. To avoid these problems going forward, and to ensure that training is effective, the Commission recommends that all future training be conducted in-class in team-based sessions for all members and employees, including supervisors, managers and executive officers, on a yearly basis.

Similarly, while the RCMP's supervisor, manager, and executive officer development programs do contain modules on workplace conflict and harassment, these programs are not currently mandatory for those in a management position.⁹⁸ As such, the Commission concludes that its 2013 recommendation that all supervisors and managers be required to complete training on workplace conflict and harassment has not been implemented.⁹⁹ This is particularly problematic given the observations by harassment advisors and the Office for the Coordination of Harassment Complaints that supervisors and managers do not have the practical skills required to deal with incivility, workplace conflict, and harassment.

Respectful workplace training is a challenge in many organizations. It tends to be underfunded and poorly conducted, and is often broadly ridiculed by both employees and management. Nevertheless, training continues to be a key ingredient to addressing workplace conflict and to fostering a culture of leadership in the RCMP.

RECOMMENDATION 6: That the RCMP institute in-person harassment training, conducted by trained and qualified experts, on a regular basis. Specialized training should also be mandatory for all existing as well as newly appointed supervisors, managers and executive officers on a continuous basis.

5.7 OFFICE FOR THE COORDINATION OF HARASSMENT COMPLAINTS

In 2014, the RCMP created the Office for the Coordination of Harassment Complaints ("the Office"), which responds in part to the Commission's 2013 recommendation to monitor and coordinate decisions with respect to harassment complaints.¹⁰⁰

While the Office for the Coordination of Harassment Complaints is outside of the divisional chain of command, the Office only monitors timelines for complaints and provides information and advice to divisional harassment advisors. It does not coordinate investigations or monitor the adequacy or quality of harassment investigations and decision-making. Further, it sends all complaints back to the relevant Division for investigation and resolution. The Commission therefore concludes that this recommendation has only been partially implemented.

Moreover, while the Office tracks data on the processing of harassment complaints, it does not track any data with respect to enquiries unless a formal complaint is lodged.

⁹⁷ *Ibid* Recommendation No. 10.

⁹⁸ The Commission was informed that training policies are being updated and are pending approval, and that shortly all newly promoted Corporals and Sergeants, and all Regular Members entering the Officer Candidate Program will be required to take additional training. However, the training is not mandatory for members in existing positions, and civilian members and public service employees are exempt.

⁹⁹ *Supra* note 9 at 25, Recommendation No. 9.

¹⁰⁰ *Ibid* Recommendation No. 2.

As a result, the RCMP is missing an important opportunity to gather information about workplace conflict and harassment, including the nature and frequency of incidents and the circumstances in which they arise, even if a formal complaint is not initiated. RCMP policy also creates a number of reporting requirements, for example in relation to the number and type of harassment complaints, their disposition, measures taken to restore workplace wellness, and appeals. Yet the Office for the Coordination of Harassment Complaints did not provide copies of any such annual reports or any statistical reports. As such, while the RCMP has established a case management system with the capacity to collect relevant data, the absence of analysis and reporting on the data provides little means to evaluate the effectiveness of any measures taken.

The Commission concludes that its 2013 recommendation that the RCMP track and report national data in respect of workplace conflict has only been partially implemented.¹⁰¹

Finally, the Commission notes that the Treasury Board *Directive on the Harassment Complaint Process* requires the RCMP to take steps to restore workplace well-being subsequent to an incident of harassment or workplace conflict.¹⁰² While the RCMP's Harassment Policy reiterates this obligation,¹⁰³ in practice the Office for the Coordination of Harassment Complaints does not systematically collect any such data. Further, no one is responsible for following up with the affected individuals to see if the harassment complaint and/or workplace conflict

has been effectively resolved. While some Divisional Commanding Officers reported that they do follow up with units affected by workplace conflict, these measures are not monitored in any systematic way. There is, therefore, no way for the RCMP to assess the effectiveness of its own measures.

FINDING NO. 5: That the Office for the Coordination of Harassment Complaints, as currently constructed, is carrying out a useful but limited role.

This role should be expanded to include an oversight and review function to ensure that investigations and decisions are adequate, as well as to report publicly on the types of complaints and their resolution in an effort to enhance transparency.

5.8 “DEPOT”

Finally, the Commission notes that because they are not employees, cadets at the RCMP Training Academy, known as “Depot,” are not currently covered by the Harassment Policy. The Commission was informed by senior officers at Depot that the practice is to treat cadets as though the policy applies. However, given the formative role that Depot can play in the socialization of RCMP members, in the Commission's view this is a gap that should be remedied. The Harassment Policy should apply to RCMP cadets, or, alternatively, Depot should adopt a parallel policy.

5.9 CONCLUSION

If the RCMP truly seeks to address harassment, its policies must be clear and easily accessible by members and employees. Training must be conducted in a serious way and with adequate resources. In the view of the Commission, these are fundamental building blocks, necessary to addressing harassment and bullying in the RCMP. Ultimately, however, the RCMP's harassment investigation and resolution policies will only ever be as effective as their implementation.

¹⁰¹ *Ibid* Recommendation No. 1.

¹⁰² Treasury Board of Canada, *Directive on the Harassment Complaint Process* (Ottawa: October 1, 2012), s 6.1.1.

¹⁰³ *Supra* note 28 at s 5.2.2.9., 5.4.1.12., 20.2.

6.

HARASSMENT INVESTIGATIONS AND DECISION-MAKING

The Commission requested and received from the RCMP all workplace harassment files that had been investigated to completion for a three-year period—from February 13, 2013, to February 4, 2016—in order to assess the adequacy, effectiveness and sufficiency with which harassment policies are being implemented.

Of the 69 individual harassment complaints lodged under the new RCMP Harassment Policy, only three complaints were found to constitute harassment (what the RCMP refers to as being “founded”). In the Commission’s view, this is a startling low rate, raising serious concerns about the quality of the investigation and decision-making process, and its impact on the resolution of valid complaints.

6.1 DISPOSITION OF COMPLAINTS

Of the 264 harassment files received by the Commission, 69 were lodged subsequent to the introduction of

the new harassment policies on November 28, 2014. Of these 69 files:

- 12 complaints were dismissed because they were outside of the one-year time limit prescribed under the Harassment Policy;
- 12 complaints were dismissed in exceptional circumstances and on the basis that allegations were frivolous;
- 1 complaint was withdrawn by the complainant before the investigation was initiated;
- 6 complaints were withdrawn by the complainant after the investigation was initiated but prior to a final decision; and

- 38 complaints were investigated and a final decision was rendered; of these, 3 complaints were found to constitute harassment.

The Commission notes that a significant number of harassment complaint files were either withdrawn or dismissed before an investigation was even completed. Given the low rate of reporting of harassment complaints, it is a concern when, of the small minority of employees who have chosen to come forward, a significant number are not resolved. In particular, the fact that six complaints were withdrawn during the course of the investigation raises a red flag that

the investigative process itself may be discouraging some complainants from pursuing potentially meritorious complaints.

In a typical harassment complaint, the complaint is initially directed to the Office for the Coordination of Harassment Complaints. This Office is responsible for undertaking an initial assessment of the complaint to ensure that it is as complete as possible¹⁰⁴ before referring the complaint back to the Division for assessment. The Divisional Commanding Officer, known as the “decision maker” under the Harassment Policy, reviews the complaint and either renders a decision or mandates an investigation of the complaint, at which time the matter is assigned to one, or frequently two, harassment investigators. The harassment investigators review relevant documents and interview witnesses, and prepare a final investigation report for review by the decision maker.¹⁰⁵ The decision maker is then responsible for making a determination as to whether or not harassment occurred and to produce a written Record of Decision articulating the reasons for the decision, including any findings with respect to the credibility of the individuals involved.¹⁰⁶ If a finding of harassment is made against a uniformed member, this is deemed to be a breach of the *Code of Conduct*, and a Conduct process is initiated.¹⁰⁷

6.2 SCREENING COMPLAINTS

The Commission’s 2013 report highlighted that many harassment complaints were being arbitrarily screened out and were never investigated. As a result, the 2014 Harassment Policy removed the initial “screening” step in the harassment complaint process. Unfortunately, the RCMP now appears to have swung to the opposite extreme, adopting a practice whereby *all* complaints that fall within the one-year time limit will be investigated,¹⁰⁸ whether or not they satisfy the definition of harassment.

FINDING 6: That the practice of not screening harassment complaints may exacerbate workplace conflict.

The Office for the Coordination of Harassment Complaints reports that, as a result of the no-screening practice, the number of investigations has increased dramatically, causing delays in identifying available investigators.¹⁰⁹

Of even greater concern, some Divisional Commanding Officers and harassment advisors report that the requirement to investigate all complaints, even those that are clearly not harassment, can have a damaging impact on a workplace. For example, one Divisional Commanding Officer pointed out that a number of complaints he has reviewed clearly did not meet the threshold of harassment, though they may reflect underlying

workplace conflict, and it was predictable from the outset that the complaints would be dismissed. Nevertheless, they were automatically mandated for investigation and by the time the investigations were completed, the situation had degenerated further, resulting in additional conflict and, in some cases, one or other of the parties going on Off Duty Sick.

The Commission agrees with these concerns, noting the consistent problems of stress, delay and stigma reported by RCMP members and employees who participated in harassment complaints as either respondents or complainants.

Harassment complaints should be screened to assess whether or not the complaint discloses a *prima facie* case of harassment, before being referred for investigation.

This does not mean that a complaint that is “screened out” should be ignored; rather, Divisional Commanding Officers should take proactive measures to address burgeoning workplace conflict by following up on complaints that are screened out, as appropriate. The complainant should also be informed of the reasons an investigation has not been ordered and of any alternate complaint process. Further, and as set out below, Divisional Commanding Officers must be given rigorous training with respect to the definition of harassment so that it is not interpreted in an unduly narrow or rigid manner, thereby screening out meritorious complaints.

¹⁰⁴ *Ibid* s 5.6.1.

¹⁰⁵ *Ibid* s 5.9.1.7.

¹⁰⁶ *Ibid* s 16.1.

¹⁰⁷ *Royal Canadian Mounted Police Regulations, 2014*, SOR/2014-281, Schedule Code of Conduct of the Royal Canadian Mounted Police, s 2.1; *Commissioner’s Standing Orders (Investigation and Resolution of Harassment Complaints)*, SOR/2014-290, s 5; *supra* note 28 at s 5.4.1.11.

¹⁰⁸ The Commission was informed of exceptional circumstances in which some complaints were dismissed without investigation, contrary to the established no-screening practice.

¹⁰⁹ Valerie Shaver, “Analysis of Divisional Feedback on Harassment Process and Services of OCHC Since November 28, 2014” (Office for the Coordination of Harassment Complaints, 2016).

RECOMMENDATION 7: That the RCMP revise its harassment policies and procedures to allow Divisional Commanding Officers the discretion to screen complaints to determine if a *prima facie* case of harassment has been made out, applying an appropriately broad and simplified definition of harassment.

6.3 INADEQUACIES IN THE INVESTIGATION PROCESS

The Commission has even greater concern with respect to the appropriateness and adequacy of the investigations themselves.

Indeed, some members reported to the Commission that they were “interrogated” about the veracity of their complaints and treated more like criminals than victims of harassment. Interviews with stakeholders, members and employees also revealed a widespread lack of trust in having RCMP members conduct internal harassment investigations. The Commission is also concerned by the practice of assigning sworn members to act as investigators. Internal workplace harassment investigations are not the same as criminal investigations and require a different approach and skill set. Without adequate training, RCMP members trained in criminal investigations are likely to utilize criminal investigative techniques unsuited to a harassment investigation.

Utilizing sworn members to investigate internal workplace matters also makes it more likely that the investigator may know one or more of the parties involved, creating a perception of conflict of interest. Indeed, a recurring

concern raised by members interviewed by the Commission was that investigators were not impartial.

The Commission’s interviews with members and employees revealed a host of additional problems with respect to the quality of investigations. Typical objections included that the investigator only interviewed witnesses for the respondent, or only witnesses for the complainant; the investigators did not ask probing questions, or asked leading questions; relevant information was deliberately minimized or misrepresented; summaries of statements were not representative of what was actually said; respondents were permitted to discuss their statements with each other prior to giving their responses; and the investigator inappropriately involved additional members and officers who had no role in the process, and who expressed opinions about the allegations. Members and employees repeatedly expressed the view that investigations are ad hoc, poorly conducted, and frequently biased.

A further concern relates to the limited availability of investigators. The Commission acknowledges that timelines for the investigation and resolution of harassment complaints have generally improved under the new Harassment Policy, and that the Commission’s 2013 recommendation that the RCMP implement timelines for the treatment of harassment complaints has been effectively implemented.¹¹⁰ However, several harassment advisors interviewed by the Commission commented that the fact that investigators are part-time and conduct investigations “off the side of their desks” causes considerable problems. In particular, the fact that harassment investigators must balance the investigation against

their ordinary duties leads to unnecessary delays. Similarly, the routine practice of assigning two investigators to any given investigation often causes delays, as the investigators are required to coordinate already overloaded work schedules.

The numerous and consistent problems reported to the Commission raise serious concerns that harassment investigations are perceived as seriously flawed, falling well below appropriate standards of investigation.

The Commission therefore concludes that the RCMP has not adequately implemented its 2013 recommendation that the RCMP develop clearly defined investigative standards in respect of harassment investigations.¹¹¹ While investigation standards articulated in the *Investigation and Resolution of Harassment Complaints Guidebook* represent a significant improvement, this review has identified procedural problems with the quality of investigations and decision-making.

Furthermore the Commission’s 2013 recommendation that harassment investigators receive mandatory specialized training has also not been adequately implemented.¹¹² While the RCMP confirmed that training

¹¹⁰ *Supra* note 9 at 28, Recommendation No. 8.

¹¹¹ *Ibid* Recommendation No. 7.

¹¹² *Ibid* Recommendation No. 6.

is mandatory, refresher training is not, and the review revealed that many investigators had not received revised or updated training since the implementation of the new Harassment Policy.¹¹³ This is particularly problematic, given that harassment investigators may not conduct a harassment investigation until many months or years after receiving their training.¹¹⁴ The Office for the Coordination of Harassment Complaints further reports that several Divisions have experienced challenges in identifying, attracting and retaining harassment investigators and/or that several Divisions were unclear on what training was required.¹¹⁵ Many of the problems described by interviewees with respect to the quality of investigations are likely attributable to the failure to conduct adequate training.

Such problems undermine the confidence of RCMP members and employees in the integrity of the harassment complaint process, creating the perception that the RCMP is not committed to addressing harassment in a meaningful way. As one member commented, *Investigation is the bread and butter of the RCMP. Why do we do it so poorly with our own?*

RECOMMENDATION 8:

That the RCMP retain skilled, competent, and dedicated administrative investigators (not uniformed members), who are independent of the chain of command, to conduct harassment investigations.

6.4 DIVISION OF ROLES BETWEEN INVESTIGATORS AND DECISION MAKERS

The RCMP's Harassment Policy explicitly prohibits harassment investigators from: analyzing the information they collect through investigation; assessing the credibility of the complainant; respondent or any witnesses they interview; or making any findings of fact as to whether harassment occurred.¹¹⁶ Instead, investigators are required to provide their final investigative report, without any analysis, to the decision maker (the Divisional Commanding Officer), who makes a decision based on the completed investigation file.

In the view of the Commission, this creates an untenable situation in which the decision maker is required to make a credibility assessment without ever having spoken to or observed the individuals involved. Canadian courts have repeatedly held that the assessment of credibility requires the decision maker to see and hear the witnesses. As the Supreme Court of Canada has observed, "[a]ssessing credibility is not a science. It is very difficult...to articulate with precision the complex intermingling of impressions that emerge after watching and listening to witnesses and attempting to reconcile the various versions of events."¹¹⁷

Under the Harassment Policy, the role of the decision maker is to assess the credibility and reliability of the parties and to assess conflicting evidence.¹¹⁸ Such assessments are critical to the outcome of the decision.

By requiring decision makers to assess credibility without meeting the parties face-to-face, or having the benefit of the analysis of the investigator who conducted the interviews, the Harassment Policy introduces an element of arbitrariness into the decisionmaking process.

Notably, a number of Divisional Commanding Officers reported to the Commission their frustration that they were unable to speak directly with the individuals involved, describing the decision-making as essentially a "paper-based" exercise. One Commanding Officer stated that despite the limitations in the Policy, he routinely speaks with the complainant and respondent, as well as meeting with the harassment investigator to obtain additional information, before making a decision.

¹¹³ Overall, the RCMP reports that 566 employees had received harassment investigation training, including 391 Regular Members, 121 public service employees, 39 civilian members, 8 reservists and 7 municipal employees. However, only 84 had received training since the coming into force of the new Harassment Policy.

¹¹⁴ Some divisional harassment advisors observed that some harassment investigators have not received training or refresher training in many years.

¹¹⁵ *Supra* note 109.

¹¹⁶ *Supra* note 28 at s 5.9.1.7.

¹¹⁷ *R v Gagnon*, 2006 SCC 17 (CanLII) at para 20.

¹¹⁸ *Zaltar v Ajax (Town)*, 2014 HRTO 1105 (CanLII) at para 40. Notably, in a case where an adjudicator failed to make a finding of credibility as between two divergent stories of events, the Ontario Divisional Court held that the adjudicator erred in law and had failed to exercise his jurisdiction: *Boise Cascade Canada Limited v United Paperworkers International Union, Local 92* (September 17, 1987), 405/86 (Div Ct); *Thomas Valley District School Board v Elementary Teachers' Federation of Ontario, Thames Valley Local*, 2011 ONSC 1021 at para 14.

FINDING NO. 7: That the division of roles and responsibilities between the investigator and the decision maker in harassment complaints is inappropriate and creates the potential for arbitrariness in harassment decisions.

RECOMMENDATION 9: That the RCMP amend its harassment policies and procedures to mandate the investigator to make findings with respect to issues of credibility and whether or not the harassment policies have been breached, and to report these findings to the decision maker; and to mandate the decision maker to decide whether or not to accept the investigator's findings and to make decisions with respect to whether any remedial and/or disciplinary measures should be imposed.

6.5 INADEQUACIES IN DECISION-MAKING

The Commission identified a number of serious problems in the reasoning applied by decision makers when deciding harassment complaints. As previously noted, for example, decision makers routinely applied the six criteria contained in the definition of harassment in a manner that was overly rigid and that took into account irrelevant factors.

In addition, the Commission's review of the harassment files revealed that decision makers consistently misapplied the relevant legal tests in their analysis, almost invariably to the detriment of complainants. The result is decisions that are in many cases legally incoherent.

For example, most Records of Decision begin with the assertion that the complainant bears the burden of proof on the basis that "he who alleges must prove," and that the complainant must demonstrate *prima facie* that harassment has occurred on a balance of probabilities. In an internal workplace harassment investigation, however, the complainant does not have an obligation to substantiate his or her complaint; rather, the *employer* has an obligation to undertake an impartial and thorough investigation and to make a determination, on a balance of probabilities, about whether workplace harassment occurred.¹¹⁹ Unlike in a formal adjudicative setting (such as a human rights tribunal), where the complainant has the onus to demonstrate that harassment occurred, in an internal workplace harassment investigation neither the complainant nor the respondent bears a burden of proof.¹²⁰ This is because the employer's responsibility to ensure a harassment-free workplace places a duty on the *employer* to investigate complaints of harassment, not on the employee to prove the harassment.¹²¹

By conflating the legal test for an adversarial, adjudicative proceeding with an internal harassment investigation, RCMP decision makers inappropriately shift the burden onto complainants to demonstrate that harassment took place. The result is an arbitrarily high standard for a finding of harassment. This, in turn, likely means that some meritorious complaints may be dismissed as unfounded.

Further, notwithstanding that the Records of Decision invariably stated that a balance of probabilities standard had been applied, the Commission found in the vast majority of files that there was no evidence to indicate that any such analysis had actually been undertaken by the decision maker. Despite the requirement under the Harassment Policy that decision makers articulate the reasoning for their decision,¹²² there was almost no identifiable path of

119 *Harriott v National Money Mart*, 2010 HRTO 353 at paras 106, 114, 118; *Yousufi v Toronto Police Services Board*, 2009 HRTO 351 at paras 69, 87–89; *Laskowska v Marineland of Canada*, 2005 HRTO 30 at paras 51–57, 59 [*Laskowska*]; *Canada Labour Code*, RSC 1985, c L-2, s 247.3, 247.4.

120 In an adversarial, adjudicative process, the complainant bears the burden of proof to show the elements of discrimination on a *prima facie* basis; that is, the complainant has the onus to show, on a balance of probabilities, that the essential elements of discrimination occurred. If the complainant is able to demonstrate a *prima facie* case of discrimination, then the legal onus shifts to the respondent to show that the respondent has a legal defence which, as a result, means that discrimination did not occur.

121 *Laskowska*, *supra* note 119 at para 51; see also *Scaduto v Insurance Search Bureau*, 2014 HRTO 250 at para 77.

122 *Supra* note 28 at s 16.1.

reasoning that could explain how the decision maker reached his or her conclusion. This violates both the RCMP's own Harassment Policy and is also likely a breach of natural justice. As the RCMP External Review Committee found in relation to a *Code of Conduct* matter, a decision maker's "declaration" that the allegations were established did not, in fact, constitute "reasons," because the declaration was "devoid of any supporting rationale or explanation." The External Review Committee concluded that the failure to provide reasons not only contravened RCMP policy, but also "breached the principles of procedural fairness and rendered the decisions clearly unreasonable," as well as preventing the Commissioner from being able to properly review the appeal.¹²³ The Commission echoes the External Review Committee's comments in the context of decision-making in harassment complaints.

Similarly, in cases where the respondent was a uniformed member, the RCMP decision makers frequently merged the legal analysis to determine whether harassment took place with the analysis required to determine if a *Code of Conduct* breach was made out. Under RCMP policy, however, these two processes are separate and distinct.¹²⁴ In a number of files reviewed by the Commission, the decision maker did not make any finding with respect to whether or not workplace harassment had occurred, but instead entered directly into an assessment of whether the *Code of Conduct* had been contravened. This practice not only violates the Harassment Policy, but also results in a conflation of

the *prima facie* threshold that must be met for a finding that the *Code of Conduct* was contravened, with the balance of probabilities test that should be applied in the assessment of harassment. In such cases, the Commission found that the legal analysis applied by decision makers was unclear and incoherent.

Decision makers also routinely failed to correctly apply the reasonable person test built into the definition of harassment,¹²⁵ and wrongly concluded that if the respondent did not "intend" to offend or harm the complainant, harassment did not occur. Equally problematic, decision makers routinely considered the subjective response of the complainant to determine whether or not the complainant appeared to have been offended or harmed. This reliance on the subjective reaction of the complainant is inconsistent with harassment jurisprudence and relies on stereotypes with respect to how individuals "should" or "should not" respond to harassment.

Finally, decision makers repeatedly failed to apply the correct test to the credibility of the complainant, respondent or witness.¹²⁶ As already noted, this is particularly problematic given that many workplace harassment cases hang on the credibility of the various individuals involved.

The Commission identified numerous and substantial problems with the decision-making process employed by the RCMP.

FINDING NO. 8: That decision makers routinely apply the wrong legal tests and take into account irrelevant and prejudicial considerations. These errors almost invariably operate to the detriment of the complainant and may result in complaints being unfounded.

6.6 TRAINING FOR DECISION MAKERS

The Commission's interviews with Divisional Commanding Officers and harassment advisors reveal a genuine desire to appropriately address complaints of workplace harassment. The Commission concluded that the problem lies not with individual decision makers, or their advisors; rather, the problems point to structural problems in the Harassment Policy and procedures and are due to inadequate training.

While Divisional Commanding Officers receive training in relation to the *Code of Conduct* process, they do not receive any specialized training in relation to adjudicating harassment complaints.¹²⁷ In particular, the training included only two slides on harassment, focusing solely on how harassment intersects with the Conduct process.¹²⁸ Further, while the RCMP is in the process of developing new training, this training also only peripherally referred to the Conduct Authority's roles and responsibilities with respect to the harassment complaint process and did little to assist decision makers on how to make a determination as to whether or not an allegation of harassment is substantiated.

¹²³ *Supra* note 36.

¹²⁴ *Supra* note 28 at s 5.4.1.11.1.

¹²⁵ A decision maker in a harassment complaint is required to determine whether a "reasonable person" in the shoes of the complainant would have found the conduct offensive, not whether the complainant him or herself did. See *Stanyk v Canada (Employment and Immigration Commission)*, 2000 CanLII 15796 (FCA) at para 11; *Campbell v Canada (Attorney General)*, 2009 FC 1252, 183 ACWS (3d) 509 at para 56.

¹²⁶ *Faryna v Chorny*, [1952] 2 DLR 354 at 357.

¹²⁷ After the implementation of the new RCMP Act, Commanding Officers received training that included, for example, information on the importance of providing reasons for the decision and the basic elements of a decision. However, Divisional Commanders were not trained on how to make a decision with respect to a harassment complaint.

¹²⁸ RCMP, *Strong Ethics, Strong Organization: Orientation to the Conduct Process – Legislative Reform Initiative*, Power Point Slides (RCMP, 2014) at 17–18.

FINDING 9: The Commission therefore finds that the training for decision makers remains inadequate.

RECOMMENDATION 10: That the RCMP ensure that Divisional Commanding Officers receive ongoing, classroom-based training on decision-making, specifically in relation to the assessment of workplace harassment complaints, including with respect to the appropriate legal tests to be applied, and stereotypes relating to the conduct of victims of harassment.

6.7 INADEQUATE APPEALS POLICY

While the Commission acknowledges that the RCMP has created a new appeal process for harassment complaints to the RCMP External Review Committee, the final decision remains with the RCMP Commissioner. As such, unlike public service employees who have the right to grieve the outcome of a harassment complaint in accordance with the procedures set out in their collective agreement (including arbitration before an independent third party), RCMP members still do not have access to an impartial third party appeals body. Moreover, RCMP members do not receive the professional assistance or support that a union might provide. Indeed, a number of members interviewed by the Commission reported that they had had to pay substantial legal fees to retain their own counsel in grievance proceedings. As a result, the Commission concludes that its 2013 recommendation that the RCMP establish an external mechanism

for review of harassment complaints decisions has only partially been implemented.¹²⁹

In the Commission's view, the right to appeal should be clearly stated, along with the relevant timelines for filing an appeal and other relevant information, in every Record of Decision as a routine matter.

6.8 CONCLUSION

The Commission concludes that there are serious deficiencies in the harassment investigation and decision-making processes. Moreover, the RCMP's current model for the investigation of harassment complaints requires serious reconsideration, including increased discretion to screen harassment complaints, an expanded role for experienced and independent harassment investigators, and more rigorous training for decision makers. Such reforms are fundamental to restoring the confidence of RCMP employees and members that their complaints are taken seriously, while limiting the possibility of further damage in the workplace.

¹²⁹ *Supra* note 9 at 23, Recommendation No. 4.

7.

CONCLUSION

There are many reasons to be concerned about the problems of workplace harassment, sexual harassment, bullying and intimidation in the RCMP.

First and foremost, such conduct can cause significant damage to individual RCMP members and employees. Incidents of harassment—sometimes extending over months or years—can have serious professional consequences and can cause real emotional and physical harm. In turn, this may impact the operational effectiveness of the RCMP. Not only have members indicated to the Commission that criminal investigations have been undermined by the harassing and abusive conduct of supervisors, but it also appears likely that workplace harassment is aggravating chronic problems of under-staffing within the RCMP.

Moreover, the egregious nature of this conduct is also eroding the trust of the Canadian public in the RCMP. As one First Nations group recently highlighted, the magnitude of internal

sexual misconduct within the RCMP raises real concerns that such conduct may have “filtered outside” the ranks of the RCMP and affected the treatment of members of the public.¹³⁰ Workplace harassment is therefore exacting a high cost on the RCMP, its members and employees, and the public at large. Yet despite these serious and persistent problems, the RCMP has failed to take the necessary steps to effect real and systemic change. In part, this is because a narrow focus on harassment is a misreading of what actually ails the RCMP: harassment has simply become the vehicle through which members and employees are able to voice their broader concerns about RCMP institutional culture.

Successive RCMP leaders have, over many years, taken steps to tackle workplace harassment. In particular, a number of Divisions have

implemented programs to address workplace conflict at the early stages, before it develops into full-blown harassment. While these efforts are laudable, they have not resulted in systemic change. In part, this is the result of a lack of leadership at National Headquarters, which has failed to monitor divisional initiatives, evaluate their effectiveness, or share best practices.

Efforts to change RCMP culture through ad hoc programs or action plans are therefore insufficient. Nor will further promises to “crack down” on harassers achieve significant results. As the Commission held in its 2013 report:

A simple pledge to root out moral turpitude in all its forms cannot adequately address the many dimensions of this complex issue, the most important of which is changing the perception of many employees and segments of the public that the organization is complicit in the problem and as a result incapable of adequately addressing it.

¹³⁰ First Nations Summit, “News Release: RCMP Conduct must be included in the National Inquiry into Murdered and Missing Indigenous Women and Girls” (October 11, 2016), online: <<http://www.fns.bc.ca/pdf/FNS-PR-re-RCMP-and-MMIW-Inquiry-October-11-2016-FINAL.pdf>>.

Rather, the Commission has concluded—echoing the recommendations of the expert reviews that have come before it—that only governance reform will have any real or lasting impact.

The time has come for the federal government to take responsibility to effect substantive changes to the organization by modernizing and civilianizing key aspects of the RCMP's administrative management and oversight. The RCMP is not, however, absolved of its responsibility to change its course going forward. The Commission has outlined in this Report important changes that RCMP senior leadership must make to improve the problems of harassment and bullying.

The cultural transformation of the RCMP will not be brought about in a piecemeal fashion. Underlying all the Commission's recommendations is the fundamental view that meaningful change will require sustained commitment from both the Minister of Public Safety and RCMP senior leadership, including instituting any necessary changes to the governance of the RCMP.



Ian McPhail, Q.C.

Chairperson

APPENDIX A

THE COMMISSION'S 2013 RECOMMENDATIONS

Recommendation No. 1: That the RCMP implement a systematically compiled and nationally comparable system of data collection and reporting in respect of workplace conflict.

The Commission finds that this recommendation has only been partially implemented.

Recommendation No. 2: That the RCMP institute centralized monitoring and coordination of the harassment complaint process, located at RCMP headquarters and reported directly to a senior executive outside the divisional chains of command.

The Commission finds that this recommendation has only been partially implemented.

Recommendation No. 3: That the centralized coordination function also be responsible for receiving complaints of retaliation, the procedure for which should be clearly delineated in the applicable policy.

The Commission finds that this recommendation has only been partially implemented.

Recommendation No. 4: That an external mechanism for review of harassment decisions be implemented.

The Commission finds that this recommendation has only been partially implemented.

Recommendation No. 5: That the RCMP's policy regarding fostering a respectful workplace be defined as equally applicable to precursors of harassment, such as workplace conflict, in order that its dispute resolution mechanisms may be accessed at an early stage.

The Commission finds that this recommendation has only been partially implemented.

Recommendation No. 6: That harassment investigators receive mandatory specialized training in respect of conducting investigations into workplace conflict and/or harassment prior to being tasked with such investigations.

The Commission finds that this recommendation has not been adequately implemented.

Recommendation No. 7: That the RCMP develop clearly defined investigative standards specifically in respect of investigations into harassment and workplace conflict.

The Commission finds that this recommendation has not been adequately implemented.

Recommendation No. 8: That the RCMP implement timelines for the treatment of harassment complaints, including for efforts at early resolution.

The Commission finds that this recommendation has not been adequately implemented.

Recommendation No. 9: That all supervisors and managers, upon appointment, be required to complete a relevant training program addressing workplace conflict and harassment within a set time of assuming their responsibilities.

The Commission finds that this recommendation has not been implemented.

Recommendation No. 10: That the online training well, which should address workplace conflict including harassment, be delivered on a regular basis.

The Commission finds that this recommendation has been implemented albeit with serious limitations.

Recommendation No. 11: That the RCMP develop a comprehensive method of evaluation to ensure that changes are producing the desired effects, and that the results of such evaluation be regularly and publicly reported.

The Commission finds that this recommendation has not been implemented.

