

BROKEN DREAMS BROKEN LIVES

The Devastating Effects of Sexual Harassment
On Women in the RCMP

Final Report on the Implementation of the
**MERLO DAVIDSON
SETTLEMENT AGREEMENT**

The Honourable Michel Bastarache, C.C. Q.C.
Independent Assessor



November 11, 2020

Commissioner Brenda Lucki,
Royal Canadian Mounted Police
73 Leikin Drive,
Ottawa, Ontario
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Dear Commissioner,

I am delivering the Report you mandated me to prepare following the assessment of more than 3,000 claims filed further to the Merlo/Davidson Agreement.

The great number of claims itself demonstrates that harassment and gender-based discrimination in the RCMP have been a persistent problem and the cause of tremendous hardship. I have tried to give the claimants a voice by letting them explain their situation as much as possible within my analysis. Their demand is for respect by colleagues and equal treatment in an organization they can again be proud of.

I hope my recommendations will assist you in making the necessary changes.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Michel Bastarache".

Hon. Michel Bastarache, C.C., Q.C.

EXECUTIVE SUMMARY

For more than 30 years there have been calls to fix sexual harassment in the RCMP. Internal and external reports have been delivered both to the RCMP and the Government of Canada outlining a toxic work environment for women and LGBTQ2S+ persons employed by the RCMP. It is well past time for the Government of Canada to take meaningful and radical action to address these issues. Sexual harassment and sexual assault not only harm the victims and their families, but also undermine the reputation of the RCMP as a policing organization.

One of the key findings of this Report is that the culture of the RCMP is toxic and tolerates misogynistic and homophobic attitudes amongst its leaders and members. This culture has resulted in incalculable damage to female members of the RCMP as well as those working for the public service. A change in the culture of the RCMP is essential. This Report concludes that change cannot come from within the RCMP but must be initiated from external sources. As the Hon. Marie Deschamps wrote in 2015 in the context of the Canadian Forces: “It is not enough to simply revise policies or to repeat the mantra of “zero tolerance”. Leaders must acknowledge that sexual misconduct is a real and serious problem for the organization, one that requires their own direct and sustained attention.”

No amount of financial compensation can undo the harm the Assessors witnessed. If real action is not taken, the RCMP will find itself in the same place again in a few years.

SCOPE AND MANDATE OF THE REVIEW

The mandate of the Assessors under the Merlo Davidson Settlement Agreement was to assess claims for compensation made by women who had experienced sexual harassment and gender or sexual orientation based discrimination while working for the RCMP as a regular member, a civilian member or a public service employee. Harassment was defined broadly and encompassed sexual assaults. A nexus to the claimant’s gender or sexual orientation was required before compensation could be awarded. A significant number of claims were not compensated because a claimant did not demonstrate a sufficient connection to her gender or sexual orientation even if, in most of these cases, I believed that the claimants lived through the very difficult events described in their files.

The amount of compensation awarded was determined in accordance with six incremental levels of injury. Claimants whose claims were preliminarily assessed at level 3 or higher were interviewed by one of the Assessors. In all, 3,086 claims were received, 644 interviews were conducted, and 2,304 claimants were awarded compensation. Claims were received from all provinces and territories and across all ranks and ages.

As part of my mandate, I was to prepare a report that set out my observations and Recommendations arising from the claims process and deliver it to the RCMP. This is that report. The two Additional Assessors contributed to this Report, but the conclusions and Recommendations are mine.

Executive Summary

THE CULTURE OF THE RCMP IS TOXIC

The RCMP is a hierarchical para-military police organization with responsibilities in the areas of federal enforcement, forensic support, protective duties and is also responsible for the day-to-day local policing in a number of provinces. The stated values of the RCMP are Honesty, Integrity, Professionalism, Compassion, Accountability and Respect. However, the accounts that were submitted by claimants in the Merlo Davidson claims process demonstrated repeatedly how those values were undermined by the RCMP's toxic culture which tolerates misogyny and homophobia by its members and its leaders.

While acknowledging that the Assessors met only with those who had experienced serious forms of sexual harassment and discrimination based on their gender or sexual orientation, the accounts were consistent from decade to decade. The level of violence and sexual assault that was reported was shocking. Indeed, over 130 claimants disclosed penetrative sexual assaults. Other claimants described a sexualized environment in RCMP workplaces. This was characterized by the frequent use of swear words and highly degrading expressions that reference women's bodies, sexual jokes, innuendos, discriminatory comments with respect to the abilities of women, and unwelcome sexual touching. Of particular concern in the context of policing was the denial, or the threat of the denial, of backup. Similarly, women who identified as LGBTQ2S+ were also subjected to ostracization, pejorative comments, sexual assaults and being outed without their consent.

It is impossible to fully convey the depth of the pain that the Assessors witnessed in the 644 interviews that were conducted and 3,086 claims that were assessed. What the women told the Assessors shocked them to their core. This process has forever tarnished the image of the RCMP as a Canadian icon. Bright, well-educated women said that they joined the RCMP seeking to help others, sometimes because they themselves had needed help as a young person. They told the Assessors of the brutal treatment they experienced which ground them down, broke their confidence, and shattered their trust in their fellow officers. The full tragedy and suffering of what the RCMP's failure to provide a safe workplace has done to these women is overwhelming.

Many women that the Assessors interviewed had been diagnosed with serious psychological injuries including Major Depressive Disorder, Post-Traumatic Stress Disorder, Generalized Anxiety Disorder, panic attacks and substance dependence. Claimants also reported a lack of trust in the RCMP, a lack of trust in men, feelings of isolation, withdrawal from social activities, friendships and sexual relations, humiliation, lack of self-esteem and lack of confidence. Many women experienced eating disorders, alcohol abuse, panic attacks, vomiting on the way to work, inability to maintain a positive relationship with their spouse and children. Some reported intentionally injuring themselves repeatedly. Self-blame is common, even after blatant sexual assaults. We heard stories of women who sat with their service revolvers in their mouths and were only stopped from killing themselves when they thought of their children or their pets. Heartbreaking stories of despair. One claimant committed suicide during the claims process.

I have concluded, based on everything I was told over the past 3 years, that the culture of the RCMP is toxic and tolerates misogyny and homophobia at all ranks and in all provinces and territories. This culture does not reflect the stated values of the RCMP, and it is found throughout the organization. RCMP members and officers are forced to accept that they must function in the context of this culture to succeed. RCMP employees appear to blame the "bad apples" without recognizing the systemic and internal origins of this conduct.

Executive Summary

THE RCMP HAS HAD YEARS TO FIX THE PROBLEM

Comprehensive cultural change is required. For the last 30 years issues of workplace and sexual harassment and discrimination have been brought to the attention of the Government of Canada and the RCMP through internal reports, external reports and litigation before the Courts. The measures taken in response have not, in my view, succeeded in addressing the underlying issues arising from the RCMP's toxic culture.

Indeed, based on my review of former reports and litigation and conversations with 644 women, I am not convinced that positive cultural change can occur without external pressure.

As such, I conclude that the time has come for an in depth, external and independent review of the organization and future of the RCMP as a federal policing organization.

SPECIFIC RECOMMENDATIONS

A great number of important issues were highlighted by the claims I reviewed and the claimants I spoke with. Each of these issues has contributed, in a way, to the perpetuation of gender or sexual orientation-based harassment and discrimination in the RCMP. I feel it is important to address these issues that were described to me by multiple claimants. These issues are: systemic barriers, recruitment, training at Depot, recruit field training, postings, ongoing training, human resources and staffing, maternity and parental leave, employment flexibility, grievances and discipline, mental health, promotions, leadership, specialized teams and medical examinations abuse.

In the chapter 6 of my Report, I set out my findings, the suggestions of the claimants and my Recommendations in relation to these topics. These are concrete steps that can be implemented by the RCMP immediately to address some of the concerns raised by claimants. In all there are 52 Recommendations. These are not in lieu of the independent external review that I recommend be undertaken, but can be implemented as a stop gap measure.

Systemic Barriers

Throughout the claims process I was made aware of a number of systemic barriers that women faced in succeeding in the RCMP. Some have been addressed and some have not. Not all of the systemic issues that exist have been identified and as such, I am of the opinion that the RCMP should undertake a review of its policies and programmes with a view to identifying and resolving issues that perpetuate systemic barriers to women and LGBTQ2S+ women in the RCMP.

Recruitment

From what I am told the RCMP is not recruiting the right kind of person to serve in a modern policing organization. Low entry requirements and high turnover must be addressed. Applicants should be subjected to an in-depth screening not just of issues of criminality but to determine if they have demonstrated misogynistic, homophobic or racist tendencies in the past. The RCMP should also require at least two years of post-secondary education from its applicants. This is consistent with equivalent policing organizations in other countries.

Executive Summary

Training at Depot

From what I am told, the training at Depot is intended to break a cadet down and rebuild her in the RCMP mould. It is intended to instil an *esprit de corps* based on para-military training. Unfortunately, the *esprit de corps* does not seem to extend to women, particularly on leaving Depot. I was told that a significant amount of sexualized conduct, drinking and abusive relationships between instructors and cadets occurred at Depot. Although I heard that over time, Depot had changed for the better, I still heard recent accounts of similar behaviour being tolerated or perpetrated by Depot instructors and cadets. I am of the view that the nature of the training that cadets receive at Depot contributes to the continuation of a toxic culture in the RCMP. In my view, it is time to revisit the approach of the training given to cadets at Depot and consider whether it is appropriate in a modern policing context.

Recruit Field Training

Recruit field training takes place in the first 6 months after a recruit leaves Depot and is posted to a detachment. Each recruit is assigned a trainer who is responsible for mentoring the recruit. During this period, recruits are on probation and the trainer has significant authority over them. I heard many accounts of this power being abused and resulting sexual assaults. In other cases, I was told that a male trainer did not want to train a female recruit and did not do so effectively or at all. This put systemic barriers in these female recruit's career path as they were not properly trained to perform her policing functions. In my view, recruits should be provided with a mentor who is not their trainer. There should be a counselling programme to assist recruits during this period. Most importantly, I believe that the recruit field training component should be formalized and made part of Depot with effective oversight and a confidential mechanism to report harassment or discriminatory conduct by a trainer.

Postings

Newly graduated women recruits told me that they thought that the conduct at Depot was temporary and it would be different when they were posted to their new detachment. However, many of the postings are in remote locations where the recruit had no social support network and was reliant on her colleagues (often male). Removing young recruits from their support network at the beginning of their career, for instance by assigning a posting on the other end of the country far from family and friends, makes them overly vulnerable, particularly to the hazing, especially if they are the only woman member in the detachment, which is often the case. Housing is also an issue for these members who are either forced to share common housing with male members or forced to commute for long distances and at great expense financially and to the detriment of their ability to learn.

Ongoing Training

Training in the RCMP is essential for members to advance their careers. I was told there is no transparency regarding how courses are allocated. The allocation of training was, and remains, overly discretionary. It can, and often does, serve as a not-so-subtle tool of discrimination or a lever for those seeking to abuse their authority through the dispensing of benefits and rewards. All of the Assessors were told stories of claimants being removed from courses or not allowed to go on courses as a form of reprisal for not agreeing to a sexual relationship with a supervisor, or for making a complaint about harassment. Claimants told stories of asking for a course for years, only to see it given to a much junior male member. By refusing women training, men had a way in which to 'keep them in their place'. In some instances, this was the explicit stated intent, in others it was simply a by-product of unconscious bias and favouritism. In either case, the impact on a woman's career was usually negative.

Training should not be a tool of sexual harassment, discrimination, or retaliation. It should be allocated fairly and transparently based on a member's career plan and merit.

Executive Summary

Human Resources and Staffing

Many of the claimants told me and the other Assessors that they felt they were treated in a discriminatory manner by the Human Resources / Staffing section of the RCMP because of their gender or sexual orientation. They explained that some members, working in human resources or staffing functions, held inherent biases, notably that a man's career was more important than a woman's career, that same-sex marriage is not the equivalent of a straight marriage, and that women should care for children at the expense of their careers. While I was told that these biases are less explicit today, I was told of recent instances in which these biases impacted women's career aspirations.

Maternity and Parental Leave and Employment Flexibility

The issue of pregnancy and maternity leave came up in numerous claims. Given the lack of support from both the hierarchy and the Human resources department, it is hardly surprising that pregnant women were treated poorly when they announced their pregnancy. Many claimants reported that their male superiors reacted poorly by cursing at them when they shared their happy news. These same supervisors were not supportive during the pregnancy. Some told me of the different reaction that occurred when a man announced that he was going to become a father. Claimants described hiding their pregnancies and remaining on active duty far too long, potentially putting their child at risk to avoid criticism. Some told us stories of engaging in arrests or other dangerous duties as far as seven months into their pregnancies. The refusal or failure to fill a pregnant woman's position while she is on maternity leave makes matters worse as the other members must share a larger workload during her absence. Claimants told us that they returned to work early to avoid letting down the team, leaving young babies with daycares or family members. This issue is not new. It has been raised in several reports since at least 2007.

Grievances and Discipline

There were three key issues brought to my attention in relation to the grievance and discipline process: the perception of bias and unfairness; the likelihood of retaliation for making a complaint; and, the lack of meaningful (or any) consequences for those found to have sexually harassed women or engaged in other gender or sexual orientation based discriminatory conduct. In my view, the changes to the disciplinary regime made by the 2014 *RCMP Accountability Act* have not resolved these concerns. I frequently heard from claimants that they would never use the harassment process as it was a horrific and difficult process which resulted in retaliation and little or any consequences for the perpetrator. Changes must be made to the process to make it more confidential and independent. There should also be spot audits of detachments or units to ensure that issues of harassment and discrimination are identified without the need of an individual complaint.

Mental Health

Policing puts individuals at high risk of operational injuries, both psychological and physical. The added burden of sexual harassment and discrimination made matters worse, while the prevailing culture discouraged women members from seeking psychological support. Many claimants told us that they did not seek psychological support because they were afraid of the impact on their career. They said that there were supervisors obtaining access to confidential medical records that they had no authorization to see, to their detriment.

There is still a stigma attached to mental illness. Employees (male and female) are told that they must "suck it up" or "push through it". Women who have asked for a post-incident debrief have been laughed at and told to take it like a man. Indeed, we heard stories of supervisors, who openly criticize women who resort to psychological assistance because they identify this as a sign of weakness, instead of looking for the cause of the trauma. This type of criticism has a negative impact on an individual's reputation and limits her career advancement.

Executive Summary

Claimants told us that they were prepared for the horrific things that they witnessed as part of their duties as police officers. However, many believed that the constant stress of having to watch their backs or being subjected to harassment and discrimination undermined their natural resilience and left them more susceptible to psychological injuries. This was documented in several psychological assessments provided to us. In my view, based on the medical reports submitted to us, many of the claimants we spoke to would not have suffered as much from the psychological injuries that they did if they had not faced such a hostile workplace.

Promotions

Many claimants told us that they are of the view that the promotional process is fundamentally unfair and flawed. The promotional system was described to me as the “friends and family” plan. Harassment and discrimination are perpetuated by what many women described as the “old boys’ club”, referring to a network that they say exists between men (and now like-minded women) that asserts control over the RCMP and how it approaches change, who it promotes and who it holds back. Those that belong to the Club have a vested interest in the status quo which gives them preferential treatment. This network controls access to training and promotion opportunities.

Even when women were promoted, many were of the view that they were streamed into “soft” or “pink” functions. I was also told that women who are promoted are not always given the same respect or support as their male colleagues. We were told of numerous incidents in which a junior male member questioned and refused to follow the orders of a woman of superior rank. Even when such behaviour was raised with a more senior male officer, it was often disregarded or worse tacitly approved.

The way promotions are awarded also contributes to a reluctance or inability to report incidents of harassment from colleagues or supervisors who are needed to attest to a claimant’s description of her competencies and related examples.

In my view, the promotional process should be reviewed to ensure that it is blind and solely based on merit. There should also be consideration given to the actions taken by those seeking promotions that demonstrate that they support their colleagues and teams.

Leadership

Leadership is key in making effective cultural change and maintaining a respect and professional workplace. We were told that a workplace was positive if a detachment commander demonstrated respect and professionalism; conversely, where a commander tolerated disrespect and unprofessional conduct, the workplace was negative. Who is promoted and what roles they are given is essential to meaningful change. In my view, more must be done to ensure effective leadership at all ranks, but particularly in senior NCO and officer cadre. Accountability and training are key to ensuring that leaders function effectively.

Specialized teams

We hear numerous accounts of sexual assault and gender-based discrimination arising out of specialized teams such as the undercover team, the tactical teams, the canine unit and the iconic Musical Ride. Better oversight of these teams is required in addition to a review of the requirements to identify systemic barriers based on gender.

Executive Summary

Medical Examinations

The stories that I was told about the sexual abuse that female applicants suffered at the hands of RCMP doctors were shocking. What was worse, was that it appears that the behaviour of these doctors was known to others in the RCMP. Some women were compensated for the assaults they experienced because they were otherwise employed by the RCMP at the time of their examination. Others could not be compensated as they did not qualify under the Merlo Davidson definition of primary class member. In my view, it is unjust to compensate some of the victims and not all of them. I therefore recommend that steps be taken by Canada to compensate those who were not eligible under this process.

Civilian Members and Public Service Employees

When speaking with Civilian Members and Public Service Employees it became apparent that these women were doubly stigmatized: they were women, and, they were not Regular Members of the RCMP. Often, these women were unable to move away from negative environments and unaware or unable to access resources to assist them when they experienced sexual harassment or discrimination based on their gender or sexual orientation.

CONCLUSION

In recent years, there has been an increasing number of complaints about how the traditional, paramilitary, male-dominated culture of the RCMP has given rise to too many incidents of harassment, bullying and an apparent refusal to acknowledge the realities of a diverse society and workforce.

Financial settlements of class-action lawsuits will not change this culture; what is required is a wholesale change of the negative aspects of the culture, starting from the top but engaging employees at all levels – both regular members, and public service employees – in the creation of a more inclusive and respectful workplace.

This is a long-term endeavour that requires vision, leadership and determination over a decade or more. At this point, many of the claimants I spoke to do not see a capacity to make these changes in the RCMP as it is currently structured. Indeed, there are strong reasons to doubt that the RCMP has the capacity or the will to make the changes necessary to address the toxic aspects of its culture.

I believe that true change can only take hold in the RCMP if independent external pressure is brought to bear on it. Trying to solve problems from within has been attempted several times and the result has been that the cultural biases and prejudices that exist within the organization have not been eliminated by the proposed solutions.

It is my view that fixing the RCMP and addressing the negative culture that has taken root in it will take an immense effort and will require the good will of its leaders and members. Most of these individuals are invested in the status quo and will not likely want to make the necessary changes to eradicate this toxic culture.

Executive Summary

There have been calls for fundamental change to the RCMP with respect to its organization and governance to transform it into a modern police force. Some were recently discussed in the media. The possibility of fundamental structural change was also mentioned in the 2007 Brown Task Force report:

“Much has been said and written about the complexity of the RCMP given the organization’s law enforcement responsibilities in Canada and abroad. It would therefore not be unreasonable to argue that some or all of the solution to issues confronting the Force rests in breaking it up. Such a consideration would require a much broader public policy debate as to the policing model which best suits Canada and best serves Canadians.”

Such a fundamental restructuring may be necessary to resolve entrenched issues of misogyny, racism and homophobia but will require an in-depth review which is beyond my mandate. In my view however, it is time to discuss the need to make fundamental changes to the RCMP and federal policing. I am of the view that cultural change is highly unlikely to come from within the RCMP. It has had many years and many reports and Recommendations and yet the unacceptable behaviours continue to occur. Women who supported a fresh start were of the view that they, as women, would be better accepted in a modern, federal policing organization. It is my belief the time has come for the Government of Canada to ask some hard questions about the structure and governance of federal policing.

Executive Summary

RECOMMENDATIONS

A) SYSTEMIC BARRIERS

- Examine, through an independent study, all aspects of the RCMP to identify systemic barriers in place that prevent women from succeeding in the RCMP and specify ways in which those barriers can be removed.

B) RECRUITMENT

- Perform a careful analysis of what will constitute “merit” in the recruitment of RCMP members, considering the need to remove systemic barriers and to allow for specialized roles and functions.
- Require a minimum level of 2 years of post-secondary education or training to apply to the RCMP. I recommend that the RCMP study the recent changes to recruitment recently adopted in the UK which give options for varying ways to meet this requirement.
- Encourage applications from diverse groups including women, LGTQ2S+ people and racialized communities and implement programs to assist them in meeting the entry requirements where necessary.
- Conduct effective and detailed background checks on applicants’ views on diversity and women. Eliminate those who are not able to function with women, Indigenous people, racialized minorities or LGTQ2S+ persons and are unwilling to accept the principles of equality and equal opportunity for all. Screening must consider all incidents of harassment and domestic violence.

C) TRAINING AT DEPOT

- The RCMP should appoint an external expert to review the training program at Depot to ensure that it meets the requirements of a modern police force and promotes a positive police training that addresses issues of harassment and discrimination, and teaches recruits about the Charter value of equality.
- During the time required for the external study, the RCMP should establish and enforce a zero-tolerance policy for harassment and discrimination at Depot with meaningful consequences.
- The RCMP should ensure an effective anti-harassment and discrimination course is taught at Depot that includes role-playing as well as participation by members who have experienced harassing conduct.

Executive Summary**D) RECRUIT FIELD TRAINING**

- Establish a mentorship program for women within the Detachment to address adjustment to the force. The mentor must not be the individual's trainer.
- Establish a mandatory counselling program for all recruits during the 6-month training period.
- Formalize and professionalize the Recruit Field Training program by making it part of Depot with effective oversight and consistent curriculum / targets. This should include a confidential mechanism to report harassment or discriminatory conduct by the trainer.

E) POSTINGS

- Post female recruits to detachments in areas where they have adequate housing and social support unless they request otherwise.

F) ONGOING TRAINING

- There must be transparency in allocating courses.
- The RCMP must implement an early and effective career plan for all members that continues throughout their career with appropriate accountability for ensuring that the member is effectively supported. This plan should determine the allocation of training and postings.
- The RCMP should centralize the allocation of training so that the discretion to grant courses no longer rests with a member's direct supervisor.

G) HUMAN RESOURCES AND STAFFING

- Study the implementation of a model which creates an independent human resource branch.
- Ensure that Human Resources staff are trained professionals.
- Ensure that Human Resources staff understand the need to remove systemic barriers against women and are trained on how to do so.

Executive Summary

H) MATERNITY AND PARENTAL LEAVE

- Women who are on administrative duties because of pregnancy should be given meaningful work that is commensurate with their experience and competencies whenever possible. Managers should be held accountable for the assignments given to women by human resources or some other section outside the detachment.
- The Government must provide sufficient funding to maintain effective human resource levels in all detachments including when women take maternity leave.
- The RCMP must ensure that it has a system to ensure that resource levels required for operational duties are always maintained and, on an organization-wide basis, not on a Division by Division basis over the next 2-3 years.
- Positions should be backfilled so that women are not resented for having children.
- The idea of floaters – members that can be deployed where necessary to ensure appropriate coverage, should be endorsed.
- The transfer of RCMP members who have young children should be reduced

I) EMPLOYMENT FLEXIBILITY

- Establish daycares in all large detachments.
- Ensure that all members (men and women) are aware of and are not penalized for requesting job sharing and/or part-time status.

J) GRIEVANCES AND DISCIPLINE

- Create an effective, external and independent body to which RCMP employees may report sexual harassment or misconduct which has the power to investigate and make binding findings of fact and recommend penalties.
- Mediation or other informal measures should not be used in the context of sexual harassment accompanied by violence.
- The RCMP must address the problem of reprisals for making harassment complaints. The isolation of complainants, refusals to provide them with backup, and other forms of punishment such as the refusal of training or transfers must be eliminated.
- Sanctions for those found to have been harassing in the workplace must be effective and include suspensions without pay for longer periods, demotions, removal of supervisory responsibilities for an extended period; ban applying for promotions with no discretionary override. Dismissal should be the sanction for serious or repeated offences. Victims should not be transferred unless they request it.

Executive Summary

- Those accused of sexual harassment (including assaults) should not be allowed to retire before the conclusion of an investigation and conduct process.
- A system to monitor those who have been found to have harassed members in the workplace should be implemented. A second finding of harassment should result in automatic dismissal.
- Alleged sexual assaults should be disclosed immediately to the appropriate external investigatory body.

K) MENTAL HEALTH

- Invite the Privacy Commissioner to investigate the RCMP's use and disclosure of individuals' medical information on an institution wide basis.
- Integrate Health Services into an independent Human Resource branch to address potential conflict of interest issues.
- Require that Health Services flag retirement or discharge proceedings if a mental health issue is identified. A feasibility of a return to work option should be considered prior to the RCMP approving a request for discharge.
- Require regular mental health assessments for all members.
- Implement an organization-wide alcohol and drug awareness campaign outlining the hazards of using these for the purposes of dealing with trauma.
- Define hazing in the Code of Conduct and make it an offence to participate in it.
- Develop resources to foster a workplace culture in which members can safely debrief following critical or disturbing incidents.

L) PROMOTIONS

- Use a rigorous "blind" process for promotions by assigning a random number to a candidate. No information about the gender, race, or medical or other leave taken by the applicant should be disclosed.
- Gather data on the number of women who are supervisors in operational versus administrative roles and, if there is a significant discrepancy, implement an action plan which would include a mentorship programme to encourage women to apply for promotions in these operational areas.

Executive Summary

M) LEADERSHIP

- Leadership training should begin at Depot and be continually emphasized throughout a member's career.
- Members should be required to recommit upholding the Code of Conduct every time they are promoted.
- Leaders should be held accountable for failing to act when they become aware of harassment or discrimination in their areas of responsibility. Leaders should not be penalized for the existence of harassment and discrimination complaints in their sections if appropriate action is taken in a timely and effective manner. Areas in which there are no complaints or grievances should be audited promptly.
- Ensure that all leadership training is done in-person and involves role-playing exercises which are key adult learning programmes. Online courses or in class non-participatory classes are insufficient.
- Require a complete evaluation of commissioned officers every 3-5 years and in any event before they are promoted again.

N) SPECIALIZED TEAMS

- The RCMP must ensure that there is an effective oversight of specialized teams and in particular of the conduct of its undercover team members.
- The RCMP should establish a confidential, independent mechanism for members of these teams to make complaints concerning harassment or violence in the workplace.

O) MEDICAL EXAMINATION

- The RCMP should compensate women who were abused by the medical officers during the application process and were not eligible for compensation under the Merlo Davidson Settlement Agreement.

P) TEMPORARY CIVILIAN EMPLOYEES, CIVILIAN MEMBERS AND PUBLIC SERVICE EMPLOYEES

- Ensure that Regular Members be better informed of the importance of the role played by CMs and PSEs to address the discrimination described to the Assessors.
- Public Service Employees should have a clear reporting relationship with a public service manager to whom they may seek assistance in relation to a difficult or isolated workplace.

INTRODUCTION	1
<hr/>	
CHAPTER 1 – HISTORICAL DEVELOPMENT OF THE SETTLEMENT AGREEMENT	3
I <i>Merlo v Canada</i>	3
II <i>Davidson v Canada</i>	4
III Settlement discussions in <i>Merlo v Canada</i> and <i>Davidson v Canada</i>	5
IV Setting up the Office of the Independent Assessor	6
a) Certification of a class action by the federal court	6
b) Communicating the certification notice	7
c) Opting out of the class action	8
d) Settlement approval hearing	9
<hr/>	
CHAPTER 2 – THE ROLE AND RESPONSIBILITIES OF THE ASSESSOR UNDER THE SETTLEMENT AGREEMENT	10
I The Independent Assessor	10
II Appointment of Additional Assessors	14
III Confidentiality Underlying the Claims Process	15
<hr/>	
CHAPTER 3 – THE ASSESSMENT OF CLAIMS	17
I Overview	17
II Claims Process	20
a) Information required from claimants	20
b) Confirmation of claimant eligibility	21
c) Evaluating the claims	22
III Levels of Compensation and Assessment Process	27
a) General approach to assessing individual claims	27
b) Claims that were compensated	28
c) Payment of compensation and class counsel fees	33
<hr/>	
CHAPTER 4 – PAST RECORD OF SEXUAL HARASSMENT AND DISCRIMINATION AT THE RCMP	34
I Previous Litigation and Reports	34
a) Past litigation	34
b) Previous reports on sexual harassment and discrimination in the RCMP	36
II Legislative Reform and other Initiatives	39
a) Changes to the grievance process	40
b) Changes to the <i>Code of Conduct</i>	40
c) Reports of mounting litigation costs and an untenable <i>status quo</i>	41
d) Change initiatives following the settlement agreement	43
e) Past reports: What do they tell us about RCMP reform	44

CHAPTER 5 – FINDINGS	45
I The RCMP's Culture is Toxic and Must be Addressed by the Government	45
a) Offensive language	46
b) Sexual misconduct	46
c) Exclusion from job opportunities	49
d) Other misconduct	49
e) Harmful impact of culpable behaviour on women	50
f) Continuous harassment despite RCMP's updated policies	54
g) RCMP's culture is an obstacle to change	56
CHAPTER 6 – RECOMMENDATIONS	59
I Issues to be Addressed	59
II Recommendations	60
a) Systemic barriers	60
– Recommendation on systemic barriers	60
b) Recruitment	61
– Recommendations on recruitment	65
c) Training at depot	66
– Recommendations on training at depot	69
d) Recruit field training	70
– Recommendations on recruit field training	71
e) Postings	72
– Recommendation on posting	72
f) Ongoing training	73
– Recommendations regarding ongoing training	74
g) Human resources and staffing	74
– Recommendations on human resources and staffing	75
h) Maternity and parental leave	75
– Recommendations on maternity and parental leave	78
i) Employment flexibility	78
– Recommendations on employment flexibility	79
j) Grievances and discipline	80
– Recommendations on grievances and discipline	86
k) Mental health	87
– Recommendations on mental health	91
l) Promotions	92
– Recommendations on promotions	94
m) Leadership	95
– Recommendations on leadership	96
n) Specialized teams	97
– Recommendations on specialized teams	97
o) Medical examination	98
– Recommendation on medical examination	99
p) Civilian members and public service employees	100
– Recommendations on civilian members and public service employees	104
CONCLUSION	105
APPENDIX 1 – THE AGREEMENT	107
APPENDIX 2 – STATEMENT OF APOLOGY TO WOMEN IN THE RCMP AND ANNOUNCEMENT OF SETTLEMENT	137
APPENDIX 3 – CONFIDENTIALITY AND PROTECTION OF CLAIMANTS IS PARAMOUNT	140
APPENDIX 4 – PRIOR LITIGATION AND REPORTS	141
INDEPENDENT ASSESSORS AND THE MERLO/DAVIDSON OFFICE TEAM	156

INTRODUCTION

Janet Merlo and Linda Gillis Davidson are two women who served in the RCMP. During their service, they were subjected to sexual harassment by other RCMP members. They courageously sued Canada for injuries suffered by themselves and other women who had worked for the RCMP since 1974. As a result, the Government of Canada recognized that discrimination and harassment were systemic in the RCMP and agreed to compensate thousands of women who had been subjected to misogynistic and homophobic conduct by members and employees of the RCMP. The Settlement Agreement in the Merlo Davidson class action was approved on May 30, 2017.

This class action was not the first legal proceeding to raise issues of sexual harassment, and gender and sexual orientation-based discrimination in the RCMP. Indeed, these issues have been before the Courts and have been raised in Parliament. They have been the subject of internal and external reports provided to the RCMP and the Government for over 30 years.

Following the settlement of the Merlo Davidson class action, I was appointed to make determinations on the level of compensation to be awarded to the women who have been harmed during their employment in the RCMP. At the end of 2018, as a result of an overwhelming response by women, two other Assessors, the Honourable Lynn Smith and the Honourable Marion Allan, both former judges of the British Columbia Supreme Court, were appointed to assist me. In all, I received 3,086 claims and I and the other Assessors conducted 644 interviews. The claims were made by women who were (or had been) Regular Members, Civilian Members or Public Service Employees of the RCMP. They were received from all 10 provinces and three territories. They spanned a period of over 40 years.

As part of my mandate, I was asked to produce a Report setting out my observations arising from my review of these claims.

This Report outlines the shocking stories told to me and to my fellow Assessors by current and former employees of the RCMP. It also sets out my Recommendations for action on the part of the government and the RCMP.

What I learned in reviewing claims and speaking to claimants has led me to conclude that the RCMP has a toxic culture which has proved intractable to change despite numerous reports and substantial litigation costs. This culture promotes, or at the very least tolerates, misogynistic, racist and homophobic attitudes among many members of the RCMP. Such attitudes cause harm and are inconsistent with the Charter values of equality. They must not be allowed to persist.

Introduction

I base this conclusion on the numerous accounts of sexual assaults, careers destroyed by rumour and discrimination, and the untold harm, both physical and psychological, suffered by over 2,000 women over more than 40 years. I am convinced that only external pressure will result in meaningful reform; a piecemeal approach has proven ineffective. As such, it is my opinion that it is time that an independent, thorough, and external review of the future of the RCMP be conducted. Such a study is beyond my mandate and I am therefore calling on the federal government to consider establishing an independent Commission of Inquiry into the future of the RCMP.

If effective steps are not taken now, I believe that there will be more class actions in the foreseeable future. Paying victims for the harm done to them and believing that this will resolve the issue is not a reasonable approach for the victims or for the Canadian public.

I believe that the implementation of the Merlo Davidson Agreement was a formidable task. I have described in the Report what had to be done to reach our goal, to provide a fair and consistent process for claimants. I had a staff of 21 working for me over a period of three years. I want to recognize their commitment to participate in a very professional way and thank them not only for myself but also for the women affected by the RCMP's culture, and for the people of Canada whom the RCMP is meant to serve and protect.

1

HISTORICAL DEVELOPMENT OF THE SETTLEMENT AGREEMENT

The Settlement Agreement resolved two class actions. The first was started in 2012 in British Columbia; the second in Ontario in 2015. The class actions alleged RCMP employees sexually harassed and discriminated against women in the RCMP based on their gender and sexual orientation.

I **MERLO V CANADA**

The first class action was filed by Constable Janet Merlo in 2012 after enduring years of sexual harassment. She filed a Notice of Civil Claim under British Columbia's class action legislation, alleging:

[...] discrimination against, bullying of, and harassment of, female Members, Civilian Members, and Public Service Employees, because they are women. The Plaintiff alleges that she and fellow female Members, Civilian Members and Public Service Employees were subject to gender-based discrimination, bullying and harassment. She further alleges that the RCMP failed to exercise the duty to women in the RCMP to ensure that they could work in an environment free of gender-based discrimination, bullying and harassment.¹

This was not the first time that female RCMP members had sued for damages related to sexual harassment and assault, but it was the first time that women had started a class action.²

The RCMP moved to strike Constable Merlo's proposed class action. In June 2013, the Supreme Court of British Columbia ordered that Constable Merlo's motion to certify the class action and the RCMP's motion to strike Constable Merlo's claim would be heard together. Both motions were heard in June and November 2015. However, no decision was rendered on the motions, as the parties reached the settlement that led to the Claims Process being established.

1. *Merlo v Canada et al*, Statement of Claim at para 5 (Supreme Court of British Columbia File No. S122255 (Vancouver Registry)).

2. For an overview of previous claims related to sexual harassment see Chapter 4.

Historical Development of the Settlement Agreement

II DAVIDSON V CANADA

In March 2015, Inspector Linda Davidson filed a Statement of Claim under Ontario's class action legislation. Like Constable Merlo in her proposed class action, Inspector Davidson alleged:

that she and the other class members [...] were subject to gender and sexual-orientation-based discrimination, bullying and harassment by other RCMP employees. The plaintiff further alleges that this occurred because the RCMP failed to fulfill its statutory, common law and contractual duties to provide her and the other class members with a work environment free of gender- and sexual-orientation-based discrimination, bullying and harassment.

The RCMP also moved to strike Inspector Davidson's claim. In December 2015, the Ontario Superior Court concluded that Inspector Davidson had raised a reasonable cause of action and found that the claim could proceed to a certification hearing.³ The certification hearing began in February 2016 and was continued to May 2016. However, the certification hearing was suspended as the parties in both Constable Merlo's and Inspector Davidson's proceedings had reached a tentative settlement.

3. *Davidson v Canada (Attorney General)*, 2015 ONSC 8008.

Historical Development of the Settlement Agreement

III SETTLEMENT DISCUSSIONS IN *MERLO V CANADA* AND *DAVIDSON V CANADA*

Beginning in January 2016, class counsel and lawyers representing the RCMP began meeting in Toronto to discuss the possibility of a settlement.

From January to May 2016, legal counsel met eight times in Toronto and Ottawa. In April 2016, I was retained to assist the parties in reaching a settlement. An Agreement in Principle was signed on May 25, 2016, subject to approval by the Government of Canada and to drawing up the Settlement Agreement. The parties asked me to administer the Claims Process and to evaluate claims as the Independent Assessor.

The Settlement Agreement was drafted from June to October 2016. The Settlement Agreement was announced on October 6, 2016, at a news conference attended by Constable Merlo, Inspector Davidson, the Commissioner of the RCMP, Bob Paulson, myself and the Minister of Public Safety, the Honourable Ralph Goodale. It contained the following important message to all women who had served in the RCMP as regular members, civilian members, and public service employees:⁴

The impact this has had on those who have experienced this shameful conduct cannot – must not – be solely understood as an adverse workplace condition for which they must be compensated. For many of our women this harassment has hurt them mentally and physically. It... has destroyed relationships and marriages, and even whole families have suffered as a result. Their very lives have been affected.

Harassment and the lack of effective systems and processes to have prevented it and eliminated it from our workplace is absolutely at odds with what the RCMP is supposed to be. It is at odds with what we all need the RCMP to be.

[...]

You came to the RCMP wanting to personally contribute to your community and we failed you. We hurt you. For that, I am truly sorry. [...]

Part of the agreement reached by the parties was for Constable Merlo's and Inspector Davidson's proceedings to be discontinued, with the settlement to be approved and implemented via a consolidated Class action in the Federal Court.

The Statement of Claim in *Merlo and Davidson v Canada* was filed with the Federal Court on October 6, 2016, the same day as RCMP Commissioner Paulson's apology. On November 1, 2016, Justice Ann Marie McDonald was assigned as the Case Management Judge for this proceeding.

4. The entire text of the Settlement Agreement and of the apology is attached as Appendix 1 to this Report.

Historical Development of the Settlement Agreement

IV SETTING UP THE OFFICE OF THE INDEPENDENT ASSESSOR

Following the public announcement of the Settlement Agreement made on October 6, 2016, and the signing of a contractual agreement with Public Works regarding the operational budget and management of the Office of the Independent Assessor (hereinafter referred to as “the Office”),⁵ my first priority was ensuring the creation of an effective and secure communication link with the claimants. The parties had agreed that I would be responsible for giving notices to class members throughout the Federal Court proceedings.

Communication with as many eligible class members as possible prior to the implementation of the Settlement Agreement and the beginning of the claims review process was essential.

Office space was secured with option to rent additional space if required. A robust intranet system with reliable IT support and an Outlook account was immediately set up for my staff. An informative and user-friendly website⁶ was operational within the first week of operation with links to an info email account and a 1-888 telephone number which was monitored daily and responded to within 48 hours.

The Office set up was completed before the two actions had been certified as a class action.

A) CERTIFICATION OF A CLASS ACTION BY THE FEDERAL COURT

For the Settlement Agreement to apply broadly, the first procedural step was for the consolidated claim filed by Constable Merlo and Inspector Davidson to be certified as a class action by the Federal Court. When a court “certifies” a Class action, it states that the result in that proceeding will apply to all members of the class who do not opt out. The litigation is directed by one or more “representative plaintiffs”, along with the lawyers for the Class.

The Federal Court certified the following class on January 13, 2017:

Primary class members: All female current and former living Regular Members, Civilian Members and Public Service Employees [...] who worked within the RCMP at any time during the Class Period. The Class Period is September 16, 1974, to the date the Settlement receives court approval. [...];

Secondary class members: All persons who have a derivative Claim in accordance with applicable family law legislation arising from a family relationship with a Primary Class Member.⁷

The Certification Order approved the Notice Plan proposed by the Parties.⁸

5. A Director, a Lead Counsel, staff lawyers and administrative staff were hired under an initial operational budget of \$7.50M that was later increased to \$12.712M (as of October 31, 2020, expenditures amounted to \$8,966,432.

6. <https://merlodavidson.ca/en/>

7. May 7, 2007 *Merlo and Davidson v Canada*, 2017 FC 533

8. The Notice Plan is reproduced in Appendix F of the Settlement Agreement.

Historical Development of the Settlement Agreement

B) COMMUNICATING THE CERTIFICATION NOTICE

The primary task assigned to my Office following the certification of the Class action was the management and implementation of the Notice Plan. This was an important initiative for me, as it was my first opportunity to contact those who would be seeking compensation under the Settlement Agreement and to attempt to gain their confidence and trust.⁹

The first step in the Notice Plan was to advise claimants of three important facts:

1. That the Federal Court had certified the class action.
2. That potential class members could opt out of the class action; and
3. The date of the Settlement Approval Hearing.

The Notice Plan relied on four main means of communicating with potential class members: mass mail outs, publication in newspapers, a social media campaign, and posting in RCMP detachments.

I should note here that the mass mail outs provided for in the Notice Plan encountered serious setbacks for the reasons outlined below.

The RCMP provided the Office with mailing addresses for approximately 31,000 women who had worked for the RCMP between 1974 and 2017. In January 2017, using the addresses provided by the RCMP, a mail out from the Office of the Independent Assessor was sent to each of these women containing the Notice of Certification and Settlement Approval Hearing, a letter from the Independent Assessor advising the recipient that she had been identified as a possible class member and providing information regarding the next steps in the settlement approval process.

This direct mail outs to all class members was a challenge. Within 3 weeks of the mail out, more than 3,000 envelopes had been returned to the office because of wrong addresses and the returns continued for months. Records were kept of all returned envelopes and the RCMP provided a more accurate list of 22,272 names for the second mail out in August 2017. The cost of the first mail out was \$32,670 and \$26,840 for the second.

The Notice of Certification and Settlement Approval Hearing was also published in 32 newspapers, in January 2017. Saturday publication was selected in order to maximize the readership.¹⁰ To reach both the younger and the older demographics, as well as to reduce the prohibitive costs of newspaper advertising, Facebook advertising was also used. The total cost of print and Facebook advertising, including both the January and August campaigns was \$430,033.

9. Versailles Communication was retained to design the Notice Plan and to implement its internet and advertising components.

10. Public Notices in the Canadian newspapers were less effective than hoped for due to the rise in popularity of on-line access to news media.

Historical Development of the Settlement Agreement

The Notice was posted on the Office of the Independent Assessor's website, on RCMP internal and external websites, and on class counsel's websites. The Office of the Independent Assessor took measures to direct traffic to its website in October–November 2016 and before Federal Court hearings through Google AdWords campaigns.

Finally, paper copies of the Notices were posted in all RCMP detachments and other RCMP premises in locations considered to be visible and accessible to potential class members.

C) OPTING OUT OF THE CLASS ACTION

The next procedural step in the class action was to provide primary class members with an opportunity to opt out of the Class action. "Opting out" is meant to provide class members a chance not to be bound by the result of the class action. The Settlement Agreement specified that the Opt-Out Deadline would be 60 days following the publication of the Notice of Certification and Settlement Approval Hearing. Given that the Notice of Certification and Settlement Approval Hearing was published on January 28, 2017, the Opt-Out Deadline was March 27, 2017.

In addition to providing class members with the opportunity to decide for themselves whether they wanted to participate in the Settlement, the Opt-Out Deadline was also important as the Settlement Agreement set a threshold of fifty Opt-Outs, such that if there were more than fifty Opt-Outs the Settlement Agreement would, at the discretion of the Defendant, be voidable.

While the Office administered the Notice Plan, potential class members were directed to send their opt out forms to class counsel Klein Lawyers LLP and Kim Spencer McPhee P.C..

In the end, 1,580 claimants opted out of the class action.

Based on the Office's communications with many potential class members,¹¹ the purpose of the Opt-Out process was not clear to all claimants. It appeared from these communications that most potential class members who provided Opt-Out forms did not see this process as an opportunity to preserve their rights to pursue independent claims against the RCMP. Instead, they used the Opt-Out process as an opportunity to indicate that they did not want to pursue a claim, to state that they had not experienced harassment, or to provide a directive that they not be further contacted regarding the class action.

On April 27, 2017, the Government of Canada waived the fifty-claimant Opt-Out threshold. As such, the settlement approval process was able to proceed.

11. Via the general information line and the info email account.

Historical Development of the Settlement Agreement

D) SETTLEMENT APPROVAL HEARING

The Settlement Approval Hearing was scheduled for May 24, 2017. Given that the Settlement Agreement would be binding on all class members who had not opted out, the *Federal Courts Rules* provide that the Court must approve the settlement.¹² The consent of the representative plaintiffs and the RCMP was not enough. The Court had to consider whether the Settlement Agreement was fair and reasonable and in the best interests of the members of the class.

The Settlement Agreement set out the parties' agreement with respect to:

- Definitions to guide the settlement process.
- Procedural details regarding the timing and implementation of the settlement.
- The process for giving notice to claimants.
- The Opt-Out Threshold.
- The Independent Assessor's duties and role.
- The structure and objective of the claims process.
- Details governing the mechanics of paying compensation to claimants.
- Releases for the federal and provincial governments.
- Class counsel fees.
- Implementation of change initiatives within the RCMP.
- The apology by the Commissioner of the RCMP.
- An anti-retaliation directive.
- The establishment of a scholarship fund; and
- Confidentiality

The Settlement Agreement was approved on May 30, 2017.¹³ The Federal Court, at the request of all parties, appointed me to be the Assessor in this Settlement Approval Order.

The Settlement Agreement approval order became final on August 1, 2017. A second mass mailout took place in August 2017 to advise claimants of the Settlement Agreement Approval and to inform them that the Claims Process would open on August 12, 2017. Notices were again published in newspapers, on the Office of the Independent Assessor's website, on social media, and in detachment offices.

During these two notice periods, my staff responded to thousands of emails and telephone inquiries about the process. We undertook to respond to all inquiries within 72 hours despite our limited staff and the large volume of calls and emails received. We assisted claimants in understanding the process and directed them to class counsel, or counsel of their choice, when they had more substantive questions about their rights under the Settlement Agreement.

12. Rule 334.29 of the *Federal Court Rules*.

13. *Merlo and Davidson v Canada*, 2017 FC 533.

2

THE ROLE AND RESPONSIBILITIES OF THE ASSESSOR UNDER THE SETTLEMENT AGREEMENT

I THE INDEPENDENT ASSESSOR

The Settlement Agreement provided that, as the Assessor, I had a dual function: administering the claims process and assessing claims made under the Agreement.

A Settlement Agreement is a contractual agreement between the parties, which is approved by the Court. It follows that my duties, powers and responsibilities as the Assessor are restricted to those set out in the Settlement Agreement as approved by the Federal Court on May 30, 2017.

These duties and responsibilities are summarized in art 6.04 of the Settlement Agreement as follows:

- establishing and staffing an Office of the Assessor;
- implementing the Notice Plan approved by the Court;
- retaining an experienced claims administrator to assist with notice and other administrative functions as required;
- developing a Claim Form for compensating class members;
- developing, installing and implementing systems and procedures for receiving, processing, evaluating and making decisions respecting Claims including making all necessary inquiries to obtain information and documents (including consulting medical personnel) to determine the validity of any Claim;
- receiving and responding to all inquiries and correspondence respecting Claims, supplying Claim Forms, reviewing and evaluating all Claims, and rendering decisions in respect of Claims;
- receiving compensation payments on behalf of the class members from the RCMP IN TRUST and forwarding the compensation to the eligible Claimant within a reasonable period;
- keeping or causing to be kept accurate accounts of activities, preparing such financial statements, reports and records for administrative and fiscal purposes as are determined by Canada; and
- drafting a report that will provide an overview of the Assessor's observations and Recommendations stemming from his work in assessing Claims.

My mandate was to apply the terms of the Settlement Agreement efficiently, fairly, in accordance with its wording and the parties' intention.

The Role and Responsibilities of the Assessor under the Settlement Agreement

I was committed to ensuring that claims were processed as efficiently and consistently as possible. To this end, we developed a process map, based on the requirements of the Settlement Agreement, as well as standardized training material.

The process map addressed issues such as ensuring that all persons who dealt with a file in a substantive manner would make a conflict of interest declaration; that any threshold issues with the claim's eligibility (such as prior compensation, having opted out, or not meeting the required elements for class membership) were examined at the outset of the process by counsel; that requests for additional information from third parties were documented, among other issues. This process map evolved over time to ensure the most efficient and consistent treatment of claims.

To ensure consistency in the communication of the Office with claimants, templates were developed for notifying claimants of when a file was assigned for preliminary review, to schedule interviews, decision letters and final reports. All administrative staff and lawyers working on files used these templates.

Internal policies addressing information management, privacy and confidentiality, conflict of interest, requests for information from third parties, file verification, file intake, processing secondary claims and communications materials were also established.

Guidance documents tracking the criteria set out in the Settlement Agreement and reviewing relevant case law, tribunal decisions and policies were developed and distributed to staff lawyers. Documents relating to evaluating written material and understanding various psychological conditions, such as Post Traumatic Stress Disorder were distributed and discussed with an expert psychiatrist.

The criteria set out in Appendix 6 of the Settlement Agreement were also discussed with the expert psychiatrist and insight into the nature of many of the injuries was provided to the group.¹⁴

Following the start of the claims period, I convened regular meetings with the Office staff, and more specifically, with the staff lawyers who were conducting preliminary reviews of files. At times, experts attended these meetings to provide additional information and/or respond to questions. This allowed my team to ensure that we were working with a common understanding of the criteria and the Agreement. These experts were also available to respond to questions during the claims process in relation to specific cases.

A common folder containing materials necessary to confirm class membership and establish instances of prior compensation was created for the use of our staff lawyers. If issues relating to class membership arose, the staff lawyer would seek additional information from the claimant. If the claimant was not able to provide evidence establishing class membership, the lawyer sought the claimant's written consent to contact the RCMP Designated Contact¹⁵ to confirm the claimant's employment status and dates. This was done via telephone communication and, in order to protect confidentiality, all checks of the Human Resources Management Information System (hereinafter referred to as "HRMIS") were done by an RCMP employee who used the HRMIS regularly for other purposes. Questions related to prior compensation were referred to a single point of contact in the Department of Justice Canada¹⁶ who provided any relevant information held by the Department of Justice. At times, additional information about prior compensation was also requested from claimants.

14. Appendix 6 of the Settlement Agreement: <https://merlodavidson.ca>

15. Schedule D of the Settlement Agreement:
<https://merlodavidson.ca/wp-content/uploads/SCHEDULE-D-RCMP-Designated-Contact.pdf>.

16. The RCMP Legal Services.

The Role and Responsibilities of the Assessor under the Settlement Agreement

I supervised the work of the staff lawyers with the assistance of the Lead Counsel, who at the outset of the process, reviewed the Recommendations being made and addressed any issues in the consistency of applying the criteria. Over time, this became less necessary, but it allowed for the identification of difficult issues at the earliest moment possible. Lawyers also had ready access to the lead counsel and me to discuss files or issues that they were having. These issues were then discussed amongst the team.

Starting on August 17, 2017, our website provided a link to a secure online portal which allowed claimants to complete and submit their claim form and other mandatory and supporting documents electronically. We received over 1,800 claims via this electronic system.

Our website also provided all the relevant settlement documents and Court Orders as well as a robust Frequently Asked Questions page that was regularly updated as new questions arose.

Staff lawyers worked with an online platform that allowed them to input necessary information, analyze the claim and provide a recommendation to the Independent Assessor via a claim assessment tool. This tool saved all the data entered by the lawyers onto a secure server. This ensured that the information relating to the claims was not on a specific computer and limited risks of privacy breaches and breaches of confidentiality. All documentation submitted by claimants was also held on an electronic file unless the file size was excessively large.¹⁷ This allowed lawyers to work on their files remotely and to have access to all relevant information while travelling with me to conduct interviews.

The online assessment tool required that the lawyers complete the following tabs:

- Conflict of Interest Declaration
- Background (allowed for the capture of specific data about each claim)
- Eligibility of the claimant
- Completeness of the claim file
- Incidents
- Injury
- Preliminary Recommendation

When necessary:

- Request for Consultation/Information – third party
- Interview
- Request for Reconsideration Analysis
- Secondary Class Claim analysis
- Extension Requests

It is important to stress that an Assessor reviewed each file as well as the supporting documents provided. All decisions are those of myself as the Assessor (or of an Additional Assessor¹⁸). The decisions of the Assessor in relation to the claim were recorded in a Final Assessment tab. Other decisions such as requests for reconsideration or extensions were recorded under the relevant tab. The system also allowed for staff to write notes to claimants and for claimants to reply to them via a secured portal.

17. Paper-based information was stored in locked cabinets reviewed by staff lawyers in the Office. Documents identified as relevant to the claim were then uploaded to the electronic system.

18. See B. Appointment of Additional Assessors below.

The Role and Responsibilities of the Assessor under the Settlement Agreement

Towards the end of December 2017, with the increased publicity given to the #MeToo movement, it was becoming apparent that the number of claims that class counsel estimated would be filed under the Settlement Agreement was low. Initially, class counsel estimated that there would be approximately 1,000 claims filed. As soon as Office of the Independent Assessor's Executive Director realized that the Office was not staffed to deal with the additional number of claims being filed, she requested, and received, additional resources from the Government of Canada. These resources included additional administrative staff as well as additional staff lawyers.

It was not until February 2018, however, that the true extent of the additional files became clear. In February 2018, the Independent Assessor received over 1000 claims.

With the help of a specialized technology company,¹⁹ the Office of the Independent Assessor created an online Claim Form which automatically populated the assessment tool used by the Office with basic information about the claim. However, both class counsel chose not to use our online system when filing their 698 claims. This resulted in an additional workload for the Office's staff who were required to manually open an account and enter basic information that would otherwise have been captured by the system

The table below illustrates the number of cases involved.

	Claims filed in Case Management System	Paper claims	Claims filed by Klein via Hightail	Claims filed by Kim Spencer McPhee via Hightail	Total
August 2017	43	15	0	0	58
September 2017	50	29	0	0	79
October 2017	68	24	27	1	120
November 2017	65	42	39	0	146
December 2017	118	32	109	1	260
January 2018	387	166	117	2	672
February 2018	872	207	66	2	1,147
March 2018	17	2	75	1	95
April 2018	23	3	69	1	96
May 2018	206	19	103	85	413
Total	1,849	539	605	93	3,086
%	59.92%	17.47%	19.60%	3.01%	100.00%

19. DISTANTIA

The Role and Responsibilities of the Assessor under the Settlement Agreement

The original terms of the Settlement Agreement also provided for the late filing of claims. It gave primary class members an additional 100 days from the deadline to file a request for an extension. Claimants were required to file a Request for Extension Form, a completed Claim Form and any supporting documents by the extended deadline, which was May 22, 2018 (at 11:59 PST).

Class counsel sought an extension for any claimant that had indicated an intention to file a claim prior to that deadline (February 8, 2018 at 11:59 p.m. PST). This extension was granted by the Federal Court on February 7, 2018. The Court Order granted an extension to any claimant who wrote to class counsel and expressed an intention to file a claim or who opened an online account on the Office website. This allowed claimants who met one or both requirements until May 22, 2018 at 11:59 PST to file their claim without needing to ask for an extension. All claims were required to have been received by the extended deadline. There was no further provision for an extension of time beyond May 22, 2018 made in the court order or in the Settlement Agreement.

Class counsel and individual claimants submitted 679 claims after the February 8, 2018 deadline pursuant to the Extension Order granted February 7, 2018.

As noted above, claimants who did not meet the requirements of the Extension Order still had to make a request for an extension to the Independent Assessor and demonstrate that exceptional circumstances had prevented them from submitting their claim by February 8, 2018. Decisions on each of these requests were made by the Independent Assessor.

In total, we received 75 extension requests from claimants who did not meet the requirements of the Extension Order. Of these, 15 were granted.

We also received 123 late Claim Forms that were either not accompanied with an extension request or which had incomplete requests for extension. These files were closed as not admissible.

Over 500 claims were started in our online system but were not completed and/or submitted.

The total number of receivable claims is 3,086.

II APPOINTMENT OF ADDITIONAL ASSESSORS

The Settlement Agreement provided for the appointment of Additional Assessors (see article 6.03 of the Agreement). Both the parties and I, as the Assessor, were required to agree to the proposed Additional Assessors and their appointment had to be formally approved by the Court. These Assessors were appointed to provide for the timely assessment of claims.

Due to the unforeseen increase in the number of claims submitted under the Agreement, I requested that the plaintiffs via class counsel and the Government of Canada move to have two Additional Assessors appointed by the Federal Court to assist me in conducting interviews, particularly in the western provinces given the distribution of claimants.

The Role and Responsibilities of the Assessor under the Settlement Agreement

The process of appointing the Additional Assessors was a lengthy one due to objections by class counsel concerning the terms of their appointment. I requested assistance in June 2018. The parties finally filed the motion to appoint one of the two additional assessors on October 17, 2018. The Federal Court appointed the Honourable Lynn Smith, Q.C. as an Additional Assessor on October 26, 2018. A second Additional Assessor, the Honourable Marion Allan, was appointed on December 20, 2018. Both Additional Assessors are former judges of the Supreme Court of British Columbia.

The Honourable Lynn Smith began conducting interviews in December 2018 and the Honourable Marion Allan began interviewing claimants in January 2019. The Additional Assessors rendered final decision in the 237 files for which they conducted the interview. They have greatly assisted in the timely assessment of claims.

III CONFIDENTIALITY UNDERLYING THE CLAIMS PROCESS

Confidentiality for claimants was a pillar of both the Settlement Agreement and of the Claims Process. Article 14.01 of the Settlement Agreement addressed this directly:

Any information provided, created or obtained in the settlement and Claims Process, whether written or oral, will be confidential by the Parties and their counsel, all Claimants, the Assessor(s) and the Designated Contact, except where provided by law, and will not be used for any purpose other than the settlement and Claims Process unless otherwise agreed by the Parties.

In its Settlement Approval Order, the Federal Court also noted the importance of confidentiality to claimants. The Federal Court referenced the nature of claimants' psychological injuries and the need to provide safeguards for claimants who were still serving within the RCMP.

The Federal Court's strong emphasis on confidentiality was not unwarranted. In the early months of the Claims Process, the Office of the Independent Assessor heard repeatedly from claimants with concerns about the Claims Process's confidentiality. The concerns were so great that some claimants stated that they would not submit a claim.

The Role and Responsibilities of the Assessor under the Settlement Agreement

As such, on November 3, 2017, I took the step of issuing a statement emphasizing the paramountcy of the principles of confidentiality. The statement attempted to reassure claimants that no investigations would be launched into claims and that individuals named in the claim, either as perpetrators or witnesses, would not be contacted. I also stated that claimants would first be informed if the Office needed to request information from the RCMP about a claim, and that the claimant would be given an option to choose to have her claim evaluated without the information in question. I affirmed that:

“Confidentiality, privacy, and protection of the claimant are essential to the success of the claims process. These principles were, and remain, at the forefront of my mind in the design and implementation of the Assessment process.”²⁰

To assure anonymity, each claimant was assigned a claim number when her file was opened with the Office. This unique number was utilized in the Office’s internal files and correspondence with respect to claims. Additionally, file access within the Office was restricted only to administrative personnel, to the staff lawyer working on a claim, and to the Assessor.

In some circumstances, the Office needed to access information from the RCMP to validate claims. For instance, claimants at times did not have records of their service and were not on the Class Member List provided by the RCMP. In other cases, there were questions as to whether an individual perpetrating gender- or sexual orientation-based harassment or discrimination was a Regular Member, Civilian Member, or Public Service Employee. The Settlement Agreement provided the Office with a secure means of verifying information via the RCMP Designated Contact.

The Designated Contact was an official identified by the RCMP pursuant to Schedule D of the Settlement Agreement. The Designated Contact was located at RCMP National Headquarters and had secure means of accessing service records. The Designated Contact’s position was such that inquiries regarding service records would not draw undue attention to a claimant. The Settlement Agreement had numerous physical security requirements for the Designated Contact and the Office also developed its own confidentiality requirements surrounding communications with the Designated Contact. The office of the Designated Contact was extremely professional and efficient throughout the claims process.

20. See Appendix 3. Statement on Confidentiality and Protection of Claimants, November 3, 2017.

3

THE ASSESSMENT OF CLAIMS

I OVERVIEW

By the end of July 2020, I and the two Additional Assessors appointed by the Federal Court, had assessed 3086 claims and conducted 644 interviews. We awarded compensation to 2304 women.

Although the number of claims may seem high, I was told by claimants that other women did not file claims either because they had decided that it was too difficult, or, they were afraid that, due to a possible breach of confidentiality, they would be subjected to reprisals for seeking compensation.

By the end of July 2020, I and the two Additional Assessors appointed by the Federal Court, had assessed 3086 claims and conducted 644 interviews.

My task was to review each claim and to determine where it fell on the scale of injury agreed to by the parties. This required me to consider the nature and severity of the incidents of harassment or discrimination and determine the impact that these incidents had on the claimant.

The Settlement Agreement established six incremental categories of compensation. I went to great lengths to ensure consistency in the assessments and to ensure fairness to claimants.

I note that, at the outset, that the RCMP conceded that it had failed to provide a safe and respectful workplace for women working for the RCMP. Consequently, the systemic nature of the harassment was an important consideration in the assessment process.

The systemic nature of the harassment and discrimination is well described by the following statements. The themes of harassment, reprisals and loss of trust run through the experiences of both these claimants.

The Assessment of Claims

CLAIMANT 1

My husband and kids suffer so much because of who I am because of this. I have a seemingly really beautiful life. I have a loving husband and [...] amazing kids, but it is so tainted by what has happened to me and what I lived through in the RCMP. All of these things that I went through caused me to feel terrible about myself and killed my self-esteem. I had so much confidence, trust, and happiness when I started in the RCMP. I was young and bright and ready to go out and help people and be a great Police Officer. Right from the beginning in training that was taken away from me. I was taught over and over again that I could not challenge authority, that I couldn't talk back and that if I felt like something was wrong I just had to deal with it and keep it to myself-or else you were punished. There was never anyone to tell about anything. That was drilled into me at such a young age, they taught us those things in so many ways — you just had to take it. Every day I feel like I was manipulated and cheated out of a career that I dreamed of since I was a little girl. I lost out on a life where I could speak up for myself and didn't have to "play along" when I was treated horribly. As if it wasn't bad enough that I was sexually assaulted on multiple occasions, it is so much worse that I always felt I had to be the one that had to hide it and smooth it all over-like it was all ok. I always felt I had to make sure they knew I wouldn't tell anyone because if I did I would lose all of the credibility and reputation that I had worked so hard to gain — as a female member, you didn't just get credibility, you had to earn it. I had such a glowing wonderful picture of what I thought the RCMP was going to be like. Even through everything, I held the RCMP in such high regard, with so much honor and tradition that I did everything I could to make it seem like all of that was real especially to the people in my life, my family and friends. I always felt and the need to hold

I have felt suicidal for most of the years I was in the RCMP and have had to bury that down too because that is not what a police officer should feel. I have abused prescription medication and food to stuff all my feelings down and keep it in for all the years since.... Not only did this steal my career but so many years of my life from me.

my head high and be the strong person that I was trained to be- that I needed to be, to do the job. So, I had to keep it all to myself-through everything. Everything that happened to me, everything I endured, the way that I was treated. I did not even feel like I could tell my parents, my husband, my best friend or my therapist. I kept it all a secret and that has been killing me for all these years. Nobody knows about everything that happened to me over those years and how terribly it has affected me. I just cannot bear to tell people what has happened to me and how it makes me feel about myself. I have felt suicidal for most of the years I was in the RCMP and have had to bury that down too because that is not what a police officer should feel.

I have abused prescription medication and food to stuff all my feelings down and keep it in for all the years since.... Not only did this steal my career but so many years of my life from me. Like I am not the strong person, the wife and daughter and friend

that everyone is proud of — it has all been a big charade and I can't get it back-all of those years were just stolen from me. I have such bad anxiety and am always depressed and exhausted from keeping all this inside. I feel like if I start telling people the truth about the things that happened to me then my career in the RCMP is no longer something to be proud of, that I am no longer that strong person that I have worked so hard to be. That I will just be weak and wounded and someone to feel sorry for. I feel dirty and ashamed, manipulated, humiliated, beat down and cheated and weak and worthless because of it all and I do not know how to change it. Do not know how I can make it go away.

I have such bad anxiety and am always depressed and exhausted from keeping all this inside. I feel like if I start telling people the truth about the things that happened to me then my career in the RCMP is no longer something to be proud of, that I am no longer that strong person that I have worked so hard to be. That I will just be weak and wounded and someone to feel sorry for.

The Assessment of Claims

CLAIMANT 2

I have done my best to describe the sexual, gender-based, and sexual orientation harassment and discrimination I faced with dates, incidents, etc. However, my experience is best understood in terms

being a woman in the RCMP was ‘my problem’, not the Force’s, not the men’s. Sexual politics was part of the life. I worked in the social and emotional environment of alienation.

of the culture of gender-based discrimination that prevailed at the RCMP from Depot to my retirement from the force. As a woman in the RCMP, I endured more for a worse outcome in an unspoken way: being a woman in the RCMP was ‘my problem’, not the Force’s, not the men’s. Sexual politics was part of the life. I worked in the social and emotional environment of alienation. Men and women of the day all understood that to be a female officer was to be second-class and that men were more worthy than women. To progress as a woman within the Force was to progress despite this burden. If a man made denigrating assumptions or untoward advances, it was his prerogative as a man on the Force. If she didn’t like it, she could protest and face further denigration or endure it and lose sleep on her own time. Sexualized comments and jokes, asking about and mocking women’s personal lives were in the air we breathe. Every day my women colleagues were under siege. To endure this treatment daily was bad enough. To feel helpless as these men

held back my career went as a matter of routine to men rather than to women; any weakness was attributed to gender, any strength was attributed to ball-breaking and pretension. I was given worse and more menial work that the men thought were more suited to my gender. I was excluded from any sense of ‘I have your back’ or from what I now see as the brotherly camaraderie that existed among male officers at the time. I had no opportunity to advance and was forced to watch as more junior men were placed in higher positions. To complain was out of the question. I saw what happened to women who spoke up, how it only made a bad situation worse for the complainant while the perpetrators escaped any consequences. This sisterly camaraderie that existed among female officers and supervisors was about supporting one another in the face of this exclusion. However, even female supervisors warned us that formally complaining could ruin our careers. The work conditions were known to all levels of command up to S-Sgt., but we all knew that the RCMP would not protect us from gender-based discrimination and harassment, and nothing was done. I joined the RCMP out of a deep sense of pride and duty which never wavered throughout my ... career, but after being mistreated every day and realizing that there would never be anywhere higher for me to go, I couldn’t take it anymore.

If a man made denigrating assumptions or untoward advances, it was his prerogative as a man on the Force. If she didn’t like it, she could protest and face further denigration or endure it and lose sleep on her own time.

The Assessment of Claims

II CLAIMS PROCESS

A) INFORMATION REQUIRED FROM CLAIMANTS

Claimants were required to submit a claim form outlining their history of service with the RCMP, the nature of the acts of gender-based or sexual orientation-based discrimination and/or harassment they experienced, the nature of the impacts on them, as well as general questions regarding their backgrounds and future plans.²¹

The Claim Form was divided into six sections:

Section A (Personal Information)

- Contact information;
- Family status;
- Service history.

Section B (Information related to harassment)

- Details related to the specific incidents of gender or sexual orientation-based discrimination and harassment;
- Details regarding the impacts of the incidents of gender or sexual orientation-based discrimination and harassment.

Section C (Treatment)

- Details of treatment, counselling, or healing for emotional, physical or psychological effects related to the gender or sexual orientation-based discrimination and harassment.

Section D (Other information about you)

- History of physical, emotional or sexual harassment outside of the RCMP.

Section E (Your education and work history)

- Details of education and training;
- Employment history outside of the RCMP.

Section F (Effects of gender or sexual orientation-based harassment or discrimination on the claimant's employment and career)

- Impact of gender or sexual orientation-based discrimination and harassment on training, employment, and ability to work;
- Impacts of any other physical or psychological injuries on training, employment and ability to work;
- Future work and/or education plans.

21. The claim form was based on the Independent Assessor's prior experience dealing with claims of sexual abuse within the Catholic Diocese of Bathurst and the Catholic Diocese of Moncton, and, based on a review of claim forms arising from other class action settlement processes addressing similar forms of abuse.

The Assessment of Claims

Claimants were also required, by the Settlement Agreement, to provide all relevant documents in support of their claims (e.g. documents that might confirm the details of the harassment or discrimination that the claimant experienced or confirmed the injuries or harms experienced), either at the time of filing their claim form or within 60 days of submission. The onus was on the claimants to put their best foot forward in submitting their claim so as to establish their claim was compensable on a balance of probability. The Assessors were not required to investigate claims.

B) CONFIRMATION OF CLAIMANT ELIGIBILITY

Prior to forwarding a claim for evaluation, the Office of the Independent Assessor confirmed the claimant's eligibility in the Primary Class. To be eligible, a claimant must have:

- Been a woman, or identifying as a female at the time of the incident(s); Worked within the RCMP as a Regular Member, Civilian Member, or Public Service Employee (as defined in the Settlement Agreement) at the time of the incident(s); Raised incidents that occurred between September 16, 1974, and May 30, 2017; and,
- Been alive at the end of the opt-out period.²²

The RCMP provided an initial list of the names of 22,345 women who had worked within the RCMP as Regular Members, Civilian Members or Public Service Employees during this time, as well as a supplementary list of 33,513 women following a more complete search of its records. Where a claimant's name appeared on either list, she was confirmed to be an eligible class member unless something in her claim form raised doubt as to her status at the time of the events described.

If a doubt was raised, or if a claimant was not on either list, the Office of the Independent Assessor provided the claimant with a further opportunity to provide proof of her status. If such proof was not available, the Office of the Independent Assessor requested the claimant's permission to follow up with the Designated Contact to clarify her status based on the RCMP's human resources records.

Following confirmation of class membership, the Office of the Independent Assessor checked the claimant's name against the list of women who had already received compensation for harassment within the RCMP in prior proceedings (provided by the Department of Justice and the RCMP). The list the Office of the Independent Assessor received from the Department of Justice and the RCMP contained 170 names. In some cases, on further investigation of the claimant's circumstances, prior compensation had not been paid to some individuals on this list which included the names of some individuals who discontinued their action or complaints. At times, the Office of the Independent Assessor was required to obtain additional documentation from the Department of Justice and, in some circumstances, from claimants.

Lastly, the Office of the Independent Assessor checked the claimant's name against the list of claimants who had opted out and, for claims submitted after February 8, 2018, against the list of claims to which the Extension Order applied.²³

22. This requirement was modified by an Order of the Federal Court dated June 3, 2020 which permitted the Assessor to award compensation to a claimant who submitted a claim and was deceased during the claims process.

23. The Federal Court issued an Extension Order on February 7, 2018 which provided that those claimants who had opened an online account or written to class counsel prior to February 8, 2018 (23:59 PST) were deemed to have been granted an extension and were allowed to file their claims on or before May 22, 2018 (the extended deadline). All others had to submit a Request for Extension Form to the Assessor on or before May 22, 2018.

The Assessment of Claims

C) EVALUATING THE CLAIMS

Given the sensitive nature of the claims and the need for confidentiality, particularly for those who are still actively employed by the RCMP, the parties agreed that the assessment of claims would be based almost exclusively on the information provided by the claimant. This made it difficult, at times, to assess more complicated claims but, in most of these cases, an interview was held which allowed me, and the other Assessors, to assess credibility. In some cases, I had a health professional to advise me. Through a special confidential process, I was also able to access information held by the RCMP including grievance records and other relevant documents that were not available to the claimant. As promised, early in the claims process, I only contacted the RCMP following the written consent of claimants to ensure their utmost confidence in the confidentiality of the claim process.

Many claimants described multiple incidents of culpable conduct ranging over a significant period of time, some spanning decades. The assessment of claims was done on a global basis – considering all of the conduct described by a claimant over the span of her career. Allowance was made in the assessment process for the reality that claimants might have more difficulty remembering key details and specifics for events that had occurred more than twenty, thirty, or even forty years prior. Nonetheless, many claimants recalled events from that time period with remarkable clarity. The assessment also took into account aggravating factors set out in the claim form, such as other forms of discrimination including racism or linguistic identity.

The claims process was designed by the parties to be non-adversarial, with an intention of limiting the potential for re-victimizing claimants, however, claimants were still required to prove that the incidents they set out in their claim forms occurred on a balance of probabilities. They were able to do so by way of a sworn statement (the claim form), supporting information and evidence and, in some cases, by way of an interview.

There were credibility issues, as there are in any context. The non-adversarial process precluded the cross-examination of claimants. Evidence of the persons whose conduct was culpable was also not available. However, the other Assessors and I were usually able to resolve concerns about credibility and reach conclusions about the claims on the balance of probabilities. In the rare case where a credibility issue could not be resolved that aspect of the claim was denied.

The absence of the traditional form of testing evidence through an adversarial model, left me with an obligation to ensure that the claims I accepted met the requisite evidentiary threshold of a balance of probabilities.

Claimants were aware that signing the claim form had the same effect as stating the information in the claim form under oath or affirmation in Court. Accordingly, at the outset, unless there was a reason to believe that their evidence was not credible, I accepted the statements of the claimants for the truth of what they set out unless it was contradicted by other information or by answers during an interview.

In addition to the claim forms, I considered the following to determine if claims met the requisite evidentiary threshold and set out credible information.

The Assessment of Claims

First, I examined the supporting information (if any) provided by the claimants to ensure that there were no inconsistencies and that they supported the assertions made in the claim form.

Second, a claimant's account would at times describe conduct by an RCMP member whom the Assessors knew to have been the subject of independent claims by other women who had been abused by him at the same detachment, or at other detachments. Certain individuals were serial harassers and gave rise to multiple claims. Not only certain individuals, but certain detachments and types of detachments gave rise to multiple independent claims. The Assessor's office tracked these individuals and noted when they appeared in subsequent claims.²⁴

Third, the general patterns of conduct that were described were often similar (sexual advances, sexual assaults, bullying, disparaging women in general, treating claimants unfairly with respect to training opportunities, working conditions, or transfers, as set out in this report), but there were always individual differences that contextualized the stories in time and place. In other words, there was neither suspicious repetition of details nor stories that seemed generic in the claim forms.²⁵

Fourth, going through the claims process was difficult. Many women were extremely reluctant to engage with the claims process because it entailed speaking negatively about the RCMP, and they felt as though they were betraying the RCMP. At the same time, many of them said that they understood that if change was going to happen, they had to tell their story and support the other women who were coming forward. To a certain extent, the confidentiality provisions may have helped them to be open.

I assigned compensation levels based on both the nature of the culpable conduct and the nature of the effect on the claimant. In fixing the level of compensation, I considered the global impact of the culpable conduct and its effect on claimants for each incident of gender or sexual orientation-based discrimination or harassment that stemmed from the workplace.

In some cases, claimants who experienced culpable conduct falling at level 1 or 2 stated that they suffered significant impacts. When the impact appeared to be disproportionate to the conduct, I looked for information explaining the discrepancy in the claim form or in the supporting documentation provided by the claimant, such as medical records. Unfortunately, not all claimants, even those represented by counsel, submitted medical records as required by the Settlement Agreement.²⁶ Often, the overlap between operational or pre-existing injuries made causality difficult to determine in the absence of a medical report. Under the terms of the Settlement Agreement, I was able to consult with medical professionals to assist me when necessary.

24. No information about the identity of these harassers has been disclosed to the RCMP.

25. I am aware that this process was the subject of much conversation among RCMP women. I considered this in the review of claims that overlapped in location and time.

26. See Settlement Agreement, Article 7.03(2)(c).

The Assessment of Claims

Non-Compensated Claims

Of the 3,086 files assessed, 782 claimants were not awarded compensation. This constitutes 25% of the 3,086 claims assessed. In most of these cases, I believed that the claimants lived through the difficult events described in their claims. However, each one failed to meet one or more of the essential criteria set out in the Settlement Agreement, such that I had no choice but to deny compensation.

The Settlement Agreement provides for a wide, but not unlimited, definition of harassment²⁷:

“Harassment” means improper conduct in the workplace by any Regular Member, Special Constable, Cadet, Auxiliary Constable, Special Constable Member, Reserve Member, Civilian Member, Public Service Employee, including any Temporary Civilian Employee, working within the RCMP, male or female, that is directed at and offensive to another Regular Member, Special Constable, Cadet, Auxiliary Constable, Special Constable Member, Reserve Member, Civilian Member, Public Service Employee, including Temporary Civilian Employee working within the RCMP, including, but not limited to, at any event or any location related to work, and that the individual engaging in such improper conduct knew or ought reasonably to have known would cause offence or harm. It comprises objectionable act(s) comment(s) or display(s) that demean, belittle, or cause personal humiliation or embarrassment, and any act of intimidation or threat. It also includes harassment within the meaning of the Canadian Human Rights Act, R.S.C. 1985, c. H-6, based on sex, sexual orientation, marital status, and family status. Harassment can be a series of incidents but can also be one severe incident which has a lasting impact on the individual. Harassment by members of the public is not harassment for the purposes of this Agreement. In this Agreement, “Harassment” refers collectively to gender and sexual orientation-based harassment, gender and sexual orientation-based discrimination, and sexual assault, including physical assault during conduct constituting harassment.

There are several elements in this definition that had to be satisfied before compensation could be awarded.

First, the claimant was required to be female or to have identified as female at the time of the incidents. I received 13 claims from men, which were denied.

Second, the claimant was required to be living. I received one claim from a claimant who had passed away before her file was assigned for review. As the Settlement Agreement read at the time, I was required to deny her compensation as a result of her untimely death. However, the requirement that the claimant be alive at the time the claim was decided was amended by Federal Court Order on June 3, 2020, which extended the definition of a claimant to include women who were alive at the end of the opt-out period. This expanded my ability to award compensation to the estate of a claimant who died before her claim was assessed, as long as she had submitted her claim prior to the deadline.²⁸

27. The term harassment, as defined by the Settlement Agreement, also includes discrimination.

28. FC Order June 3, 2020

The Assessment of Claims

Third, the claimant had to be a current or former employee of the RCMP as defined in the Settlement Agreement. This definition excluded municipal employees, volunteers and contractors, as well as members of other police forces embedded in the RCMP who were not considered RCMP employees. I denied some claims on the basis that the claimant was not a current or former employee of the RCMP at the time of the incidents, as required by the definition of a Primary class member. Incidents that occurred while a claimant was not a Primary Class Member were not taken into consideration in fixing the compensation level, even though the same claimant may have received compensation on the basis of incidents that occurred when she was a primary class member. For example, a claimant joins the RCMP as a municipal employee from 1980 to 1985 and then becomes a Civilian Member in 1986. Incidents that occurred between 1980 and 1985 were not compensable, whereas incidents that occurred after 1986 were compensated. This aspect of the Settlement Agreement posed particular problems for claimants who experienced harassment or discrimination when applying to work for the RCMP. Unfortunately, a number of claimants were sexually assaulted by RCMP doctors during the mandatory medical examination required as part of the application process. If the claimant was not otherwise a Civilian Member or Public Service Employee when she applied to join the RCMP, she could not receive compensation under the Merlo Davidson Settlement Agreement as she was not a primary class member. I have more detailed comments about the abuses that took place in the Health Services Offices of the RCMP in chapter 6 setting out my Recommendations.

Fourth, the claimant was required to demonstrate, on a balance of probabilities, that the discrimination and/or harassment she experienced was linked to her gender or sexual orientation. I received many claims where the link to gender or sexual orientation was not sufficiently made out by the claimant. There were also a number of other claims where the claimant was clearly harassed and/or discriminated against but on other grounds, such as race or disability. These claims were denied, or incidents were excluded from consideration in setting the compensation level, if in addition to this form of discrimination, there was no link to gender or sexual orientation made out on a balance of probabilities.

Fifth, the perpetrator of the harassment had to be a Regular Member, Civilian member or Public Service Employee working for the RCMP. I note that the perpetrator did not need to be male. Acts by contractors, retired employees, municipal employees, employees of other police forces or public servants not employed by the RCMP were not compensable. As necessary, the RCMP collaborates with other security forces to fulfill its policing mandate within international, federal, provincial, or municipal jurisdictions. Under the Settlement Agreement, female Regular Members, Civilian Members, or Public Service Employees who were subject to gender-based or sexual orientation-based harassment or discrimination while fulfilling a RCMP function were denied compensation if that discrimination or harassment resulted from the actions of a non-RCMP police member or employee. In a very small number of cases, claims were denied on the ground that the claimant had not demonstrated, and/or my Office was not able to confirm, that the harasser was an employee of the RCMP at the time of the harassment.²⁹

29. In some instances, where the conduct itself was not compensable due to the perpetrator not being a Regular Member, Civilian Member or Public Service Employee, the failure of the RCMP management to respond to complaints was compensable.

The Assessment of Claims

Sixth, the harassment complained of by the claimant was required to be a series of incidents, or one sufficiently severe incident, that the perpetrator knew or ought reasonably to have known would be offensive to the claimant. One or two minor incidents were not enough to meet the threshold of harassment set out in the Settlement Agreement. However, as the harassment and discrimination experienced by women in the RCMP was systemic, I did consider a claimant's career as a whole. Thus, even if individual incidents, taken alone, would have been insufficient to meet the threshold of harassment, multiple similar incidents over time could, and did, lead to compensation. For example, a claimant who noted one incident of being called a derogatory name on the basis of her gender or sexual orientation may not have received compensation, while a claimant who was the recipient of occasional derogatory comments from multiple individuals throughout her career might receive compensation. Establishing causality between the impugned conduct and its consequences on the claimants was complicated by the fact that, given the nature of their work, RCMP members are subject to a large number of inherent stresses. It was also complicated by the fact that some of the events were remote in time.

Finally, the harassment also had to be related to the workplace. The definition of harassment in the Settlement Agreement stated that the objectionable actions included, but were not limited to, '... any event or any location related to work...'³⁰ While I interpreted this requirement broadly, in a manner consistent with human rights law, linkage between the claimant's employment and the harassment still had to be demonstrated for the conduct to be considered compensable. If a sufficient linkage to the workplace was not demonstrated, then the conduct was not compensable. For example, if a claimant went out with a colleague in a purely social capacity, I could not conclude that any harassment or assault was sufficiently linked to the workplace. The same is true of incidents of harassment or assault that arose between individuals who were in a private relationship and were both RCMP members, where the incidents occurred in the private sphere, outside of the workplace. Although some of the conduct reported could be criminal in nature, it was not workplace sexual harassment as defined by the Settlement Agreement. However, social events that were clearly related to the workplace, such as events that occurred during detachment parties or social outings following the completion of training or assignments, were generally considered to be sufficiently linked to the workplace.

In addition to the criteria set out in the definition of harassment, the Settlement Agreement provided that claimants who had received prior monetary compensation were not entitled to obtain additional compensation for the same incidents. Incidents that had not been subject to any prior compensation were considered and compensated where appropriate. Where a claim form included some incidents for which compensation had been paid and others for which it had not, I only considered the incidents for which no compensation had been paid.

Claimants who opted out during the opt-out period were also not entitled to make a claim under the Settlement Agreement.

Late claims and extensions of time

Claimants who filed their claims after February 8, 2018 and did not qualify for an extension³¹ were required to seek an extension from the Assessor. To do so they were required to file a Request for Extension of Time Form, a completed Claim Form and other supporting documents. Claimants were required to demonstrate that there were exceptional circumstances which prevented them from filing their claims on time. In all, we received 75 requests for extensions and 15 of those requests were granted.

30. See the definition of "harassment" in the Settlement Agreement, article 1 – interpretation, 1.01 definitions.

31. See chapter 2 at p. 14

The Assessment of Claims

III LEVELS OF COMPENSATION AND ASSESSMENT PROCESS

The parties agreed that the Settlement Agreement would provide six levels of compensation, with a fixed the amount of compensation for each of the levels. As detailed in Appendix 7 to Schedule B of the Settlement Agreement, the compensation levels are as follows:

Level 1	Minimal Injury	\$ 10,000
Level 2	Mild Injury	\$ 35,000
Level 3	Low Moderate Injury	\$ 70,000
Level 4	Upper Moderate Injury	\$100,000
Level 5	Significant Injury	\$150,000
Level 6	Severe Injury	\$220,000

A) GENERAL APPROACH TO ASSESSING INDIVIDUAL CLAIMS

Under the terms of the Claims Process set out in Appendix B of the Settlement Agreement, the first review of a claim was done entirely on the paper record. If, following a paper review, I assessed the claim at levels 1 or 2, there was no interview, subject only to a reconsideration process for Level 2 claims. Claims preliminarily assessed at Level 3 or higher proceeded to an interview.

As noted above, claims were assessed as a whole. This assessment was informed by the factors listed in Appendix 6, which were drawn from an analysis of decisions made by human rights tribunals and courts, and compensation was awarded in relation to the injury levels set out in Appendix 7.

Appendix 6 sets out factors, regarding both culpable conduct and impact on the claimant, to consider when determining the level to be assigned to a claim. Appendix 7 sets out the level of injury and the amount of compensation to be awarded for incidents occurring during the claims period, September 16, 1974, to May 30, 2017. These two appendices must be read together.

The introductory note in Appendix 6 makes clear that the factors it sets out are a guide to the level of compensation to be awarded and are not part of a checklist. Indeed, in looking at Appendix 6, we see that in some instances the culpable conduct listed in one level is repeated or overlaps with a minor change of wording in another. See for example levels 2 and 3 – persistent communication of a romantic or sexual nature (level 2) and incessant communication of a romantic or sexual nature (level 3).

As such, the presence or absence of a factor listed in Appendix 6 was not conclusive in the determination of the level of compensation; the claim was examined as a whole and placed on a continuum addressing the severity of the conduct and the nature of the impact on the claimant. Furthermore, there are some inconsistencies in the injuries set out in Appendix 6. For example, level 2 states that compensable injuries include mild PTSD and depression but a note to that level states that it does not include psychiatric conditions.

The Assessment of Claims

B) CLAIMS THAT WERE COMPENSATED

Of the 3,086 claims assessed, 2,304 were compensated. The following chart outlines the levels of compensated claims.

Level 1	747	32,42%
Level 2	918	39,85%
Level 3	180	7,81%
Level 4	198	8,59%
Level 5	111	4,82%
Level 6	150	6,51%
Total	2,304	100%

Level 1

There were 747 claims assessed at Level 1 which represented 24% of all the claims assessed and 32% of claims compensated. The first level of compensation, addressed to minimal injuries, resulted in an award of \$10,000.

The culpable conduct associated with Level 1 was generally of a minor nature, including general, non-specific derogatory remarks based on gender or sexual orientation from colleagues, exposure to generalized inappropriate conduct from male colleagues, and low-level bullying. For example, a constable's colleagues repeatedly referring to 1974 as the worst year in the RCMP's history, excluding the claimant from detachment activities like coffee runs, persistent commentary on a claimant's physical appearance or sex life, immature practical jokes, and pejorative comments about the "place" of women in the RCMP being to attend to male members.

The impact of Level 1 harassment is minimal (anxiety, anger, loss of self-esteem, malaise). The length of time over which the conduct is experienced may be an aggravating factor. In some cases, claimants were assessed at Level 1 despite reporting more serious harms, either on the basis that I found that it was more likely than not that the harms were connected to other incidents, or that the file lacked medical documentation that would have allowed me to connect the less serious culpable conduct to these very serious harms.

Generally, Level 1 impacts on claimants were minor and the claimant could be expected to recover or was shown to have recovered. These impacts included claimants temporarily losing confidence in their policing abilities, claimants showing elevated levels of stress before returning to work after being away, feelings of anger against colleagues, or feelings of humiliation.

There were 747 claims assessed at Level 1 which represented 24% of all the claims assessed and 32% of claims compensated.

The Assessment of Claims

Level 2

There were 918 files assessed at Level 2 which made up 30% of all claims assessed and 40% of claims compensated. The Settlement Agreement provided that level 2 claimants suffered mild injury which resulted in an award of \$35,000.

There were 918 files assessed at Level 2 which made up 30% of all claims assessed and 40% of claims compensated.

Culpable conduct falling at Level 2 generally included a heightened degree of severity from the incidents seen at Level 1, or involved conduct at the hands of superiors or persons in positions of authority, including trainers during the Recruit Field Training period at a claimant's first detachment posting. For instance, a claimant's supervisor might exclude her from detachment activities or training or retaliate against a claimant following her advising she was pregnant and would be taking maternity leave. In other cases, superiors made inappropriate comments regarding a claimant's physical appearance, pursued sexual or romantic relationships with claimants, or made inappropriate inquiries about, or commentary on, a claimant's sex life. There were also more serious incidents from colleagues, such as unwanted kissing or more minor touching with a sexual purpose or intention.

Level 2 impacts on claimants were generally more sustained than those at Level 1, but it appeared that the claimant either had, or would, recover. While some work disruption was consistent with Level 2 impacts, as mentioned above, a note in Appendix 6 to the Settlement Agreement specified that Level 2 impacts would have no psychiatric condition, no troubling substance abuse, and no permanent psychiatric condition. However, this note was contradicted by items like "post-traumatic stress, not severe" and "mild depression" being included in the list of Level 2 impacts. As such, the presence or absence of a psychiatric diagnosis was not a determinative of a claim falling at Level 2 or above.

Claimants who were assessed at Level 2 were entitled to seek reconsideration of that decision, as this level fell at the line between the simplified file-based review and the more complex process involving an in-person interview with an Assessor. The new elements had to be compelling.

The threshold for reconsideration agreed to by the parties and approved by the Federal Court was high. Claimants had to demonstrate that they had new information (not reasonably available at the time of the decision) and demonstrate that there were reasonable grounds to show that their claim should be determined after an interview.³²

Instances in which reconsiderations were granted primarily occurred where claimants were unable to obtain relevant documentation or information due to circumstances beyond their control. In such cases, the claimants also had to show that there were reasonable grounds to show that their claims should be determined after an interview.

Very few claimants were able to meet both elements of the test set out in the Settlement Agreement. Eight of the 156 requests for reconsideration received by the Assessor were granted.

Some claimants were assessed at level 2 following an interview. Preliminary assessments following paper file reviews were not binding on the Assessor conducting the interview. It was open to the Assessor conducting the interview to make a determination, based on all of the evidence including the interview, that a file should be assessed at level 2 despite having been granted an interview. This occurred in only 6 files.

32. See Settlement Agreement, Schedule B, s. 23.

The Assessment of Claims

Level 3 to 6 Claims

If, based on a paper review, I preliminarily assessed a claim at level 3 or higher, an interview was required prior to the final assessment. All three Assessors, myself, the Honourable Marion Allan and the Honourable Lynn Smith, conducted interviews across the country, from Halifax to Vancouver. Most of the interviews were conducted in person. Following the declaration of states of emergency across the country in March 2020 due to the COVID-19 pandemic, interviews were conducted by video conference or, where that was not possible, by telephone. All interviews were attended by the claimant, the Assessor and a staff lawyer. If a claimant wished, she was able to have a support person attend with her.

In all, the Assessors conducted interviews in 644 of the 3,086 files assessed.

Level 3

Of the 3,086 claims reviewed, 180 cases were assessed at level 3. This is 6% of all claims assessed and 8% of claimants awarded compensation. Claimants assessed at Level 3 received an award of \$70,000 and were required to demonstrate “lower moderate injury”.

Level 3 culpable conduct involved sexual assaults involving kissing and groping or more serious examples of bullying in which the claimant was ostracized from her colleagues or made to feel unsafe in the workplace due to constant negative conduct from colleagues and superiors. In some cases, claimants were intentionally put in harm’s way by colleagues or superiors who failed to provide backup. Level 3 culpable conduct also included more graphic acts, such as male officers exposing their genitals to female members or persistently displaying graphic pornographic material in the workplace.

Level 3 effects on victims were more debilitating than those falling at Level 2, and had longer-term consequences for the claimant’s health, personal life and career, often (but not always) involving the diagnoses of psychiatric conditions, the prescription of medication, and the use of long-term counselling.

Level 4

Of the 3,086 claims reviewed, 198 were assessed at level 4. This is 6% of all claims assessed and 9% of claims awarded compensation. Claimants at level 4 received \$100 000 and were required to demonstrate “upper moderate injury”.

Level 4 culpable conduct involved a heightened degree of severity. For instance, sexual assaults involving the use of force or intimidation, attempts to undress the claimant, exposure of genitals to the claimant including situations in which a male colleagues and superiors rubbed his erect penis against the claimant or attempted to force her to touch it. Level 4 culpable conduct also involved bullying conduct leading to a toxic workplace, or physical aggression or other acts or omissions resulting in bodily harm to the claimant.

The impacts at Level 4 were more serious than those at Level 3, although there were still indications that the claimant could recover and continue to function professionally.

Of the 3086 claims reviewed, 180 cases were assessed at level 3. This is 6% of all claims assessed and 8% of claimants awarded compensation.

Of the 3086 claims reviewed, 198 were assessed at level 4. This is 6% of all claims assessed and 9% of claims awarded compensation.

The Assessment of Claims

Level 5

There were 111 claims compensated at level 5 which represents 4% of the total claims assessed and 5% of claims awarded compensation. This is also the first level where the Settlement Agreement provides a right to seek compensation for secondary class claimants, more specifically, current or former children and current spouses. This is indicative of the severity of the impacts at this level on the claimant's family. Children and current spouses of the claimant were entitled to make a secondary class claim following an assessment at level 5.

Culpable conduct at level 5 included sexual assaults involving non-penetrative genital sex acts, and serious workplace incidents aiming to destroy a claimant's career or cause grievous bodily harm.

The impact on victims established by the Settlement Agreement for level 5 was "significant injury". These effects were much more serious, involving, for example, significant substance abuse problems, suicidal ideation, and serious problems in family and intimate relationships. These claims resulted in an award of \$150,000.

Level 6

Level 6 was the highest level of compensation available. Claimants who sustained "severe injury" linked to gender or sexual orientation-based harassment and discrimination were assessed at level 6. As with level 5, children and current spouses of the claimant were entitled to make a secondary class claim following an assessment at level 6.

There were 150 claims compensated at level 6 representing 5% of the files assessed and 7% of claims awarded. Claimants assessed at Level 6 received compensation of \$220,000.

Many of the cases that fell at level 6 involved a serious, penetrative sexual assault. Level 6 culpable conduct could also cover bullying and constructive dismissal of vulnerable claimants resulting in resignation, or, leaving a claimant in a dangerous situation without backup in which she was seriously injured resulting in permanent disability.

These women frequently reported suicidal ideation and attempts and presented with severe PTSD or other forms of severe psychological injury. For some claimants, the claims process and the interview were the first time they had ever spoken of the sexual violence they lived through. Others had reported the sexual violence and had gone through horrific investigations, leaving them broken and without a career.

Many claimants stated that they were just now dealing with the trauma caused by the sexual and psychological violence they experienced, through counselling and medication. Others had become addicted to alcohol or pain killers, while still others had completely withdrawn from the world and had few, if any, social ties.

In many instances, it was clear that no amount of money would ever compensate these claimants for the trauma that they were subjected to by their male colleagues.

There were 111 claims compensated at level 5 which represents 4% of the total claims assessed and 5% of claims awarded compensation.

There were 150 claims compensated at level 6 representing 5% of the files assessed and 7% of claims awarded.

The Assessment of Claims

Secondary Class Claims

Claimants who were assessed at level 5 or level 6 were entitled to make secondary class claims for eligible secondary class members. Secondary class members were defined as being children and the current spouse of the primary class member.

A spouse was defined as: (a) either one of two persons who are currently married to each other or who have together, in good faith on the part of a person relying on this clause to assert any right, entered into a marriage that is voidable or void, and are living together; OR (b) either one of two persons who are not married to each other and have co-habited for a period of not less than three years, or are in a relationship of some permanence, if they are the natural or adoptive parents of a child.

Child was defined as: "a natural or legally adopted child of the Primary Class Member, or a person for whom the Primary Class Member has custody under a court order or domestic contract, or a person toward whom the Primary Class Member has demonstrated a settled intention to treat as a child of her family, except under an arrangement where the child is placed for valuable consideration in a foster home by a person having lawful custody.

A primary class member was required to submit a secondary class claim form for each eligible secondary class member along with proof of their relationship to the primary class member. This included marriage certificates, proof of cohabitation, long form birth certificates, affidavits, relevant court orders or adoption documents.

A total of 10% of the award made to a primary class member could be awarded to eligible secondary class members. Each secondary class member was entitled to a maximum of 5% of the total award. If there were more than two secondary class members, the 10% was divided evenly between them. For example, if there were four secondary class claimants, each one would receive 2.5% of the overall compensation awarded to the primary class member.

The 15% class counsel fee and applicable sales taxes were also deducted from secondary class claim awards.

For level 5, 93 of the claimants made secondary class claims which resulted in 210 payments for family members. As for level 6, 127 of the claimants made secondary class claims, which resulted in 278 payments for their families.

In all, I approved 488 secondary class claim awards for a total of \$3,616,500.

The Assessment of Claims

C) PAYMENT OF COMPENSATION AND CLASS COUNSEL FEES

Compensation was paid directly from the Office of the Independent Assessor to claimants by way of a cheque. The Federal Court denied a request from class counsel that payments be made directly to them pursuant to a “direction to pay” signed by a claimant.³³

In total, the government was required to pay \$125.4 Million under the Claims Process. 85% of this amount went to claimants, while 15% was paid to the two law firms that acted as class counsel.³⁴

The Federal Court’s Settlement Approval Order awarded class counsel a counsel fee of 15% (plus applicable sales taxes). The class counsel fee was withheld from the amount of compensation awarded to a claimant. This fee was in addition to the \$12,000,000 in legal fees that the federal government agreed to pay to the law firms acting for the two representative plaintiffs.

Class counsel had no obligation to assist claimants prepare their individual claims. Some claimants entered into separate retainer agreements with the offices of the two class counsel (Klein Lawyers LLP and Kim Spencer McPhee P.C.) and paid an additional percentage of their award for their services; others retained other counsel and paid fees for their services. A number of claimants were confused by the withholding of class counsel fees from their awards under the Settlement Agreement and the additional bills they received for legal services. They had been under the impression that the class counsel fees included the individual assistance they received from class counsel.

Of the 3,086 claims assessed, 734 chose to be represented by counsel. Of these, 605 were represented by Klein Lawyers, 93 were represented by Kim Spencer McPhee and 36 were represented by other law firms.

Claimants represented	
Klein Lawyers	605
Kim Spencer Mc Phee	93
Other law firms	36
	734
Claimants not represented	2,352
Total	3,086

In all, class counsel received \$30,789,975 as class counsel fees (\$15,394,987.50 to each law firm). This number includes both the lump sum payment as well as the 15% but excludes the applicable provincial tax withheld and additional charges required by either law firm for services rendered to assist claimants in completing their claims. Of the \$137.4 million paid by the federal government (Claims Process + Lump Sum Counsel Fee), nearly 25% was paid to the two law firms who brought these class actions, while the 2,304 current and former Regular Members, Civilian Members, and Public Service Employees who were compensated for gender-based and sexual orientation-based harassment and discrimination received the balance.

33. 2018 FC 255

34. Klein Lawyers LLP and Kim Spencer McPhee P.C.

4

PAST RECORD OF SEXUAL HARASSMENT AND DISCRIMINATION AT THE RCMP

I PREVIOUS LITIGATION AND REPORTS

The issues of sexual harassment and discrimination in the RCMP are not new. Over 30 years ago, the Honourable Sheila Copps spoke in the House of Commons about the sexual harassment and assault of a female RCMP member by her male colleagues on the Musical Ride.³⁵ She asked the Government of Canada to conduct an independent inquiry into allegations of sexual harassment in the RCMP. The Government declined.

Litigation against the RCMP arising from incidents of sexual harassment and assault against women is also not new. Indeed, the Merlo Davidson Settlement Agreement was preceded by numerous actions against the RCMP by women.

A) PAST LITIGATION

The first successful suit against the RCMP was brought by a female member in 1989. Constable Alice Clark sued the RCMP for damages arising from the gender-based harassment and discrimination that she experienced during her posting to Red Deer from 1981 to 1987. She was awarded \$93,000 (\$88,000 for lost wages and \$5,000 for pain and suffering).³⁶ Her case showed that, two decades before this settlement, the problems facing women in the RCMP were known both to the RCMP and to the government. Constable Clark's case spurred its own media interest (Maclean's magazine published a lengthy article on the subject in April 1995);³⁷ however, it would take many more cases of such conduct coming to light to spur any real movement within the RCMP or among the general public.

35. *House of Commons Debates*, 33rd Parl, 2nd Sess, (14 July 1988) at 17551.

36. *Clark v Canada*, [1994] 3 FC 323, 76 F.T.R. 241 (FC) (available on CanLII).

37. Rae Corelli, "Aiming for Respect: Policewomen fight to end sexual harassment on the job", *Maclean's*, (10 April 1995) 46, online: [Macleans.ca <http://www.archive.macleans.ca>](http://www.archive.macleans.ca).

Past Record of Sexual Harassment and Discrimination at the RCMP

The next two decades would see repeated suits from women in the RCMP resulting from gender-based discrimination and harassment. In 1997, Lydia Petrovics and Cheryl Cook started a lawsuit in the New Brunswick Court of Queen's Bench alleging that Sergeant Clive Cannon had engaged in a wide variety of sexual harassment, including degrading sexual comments, requests for intercourse, and simulated masturbation and orgasm.³⁸

- Constable Krista Carle, Corporal Victoria Cliffe and two unnamed female members brought suit against Sergeant Robert Blundell in 2003 and settled their claim in 2004.³⁹
- Constable Nancy Sulz was awarded \$950,000 in damages in 2006, after nearly ten years of litigation.⁴⁰

The movement by women in the RCMP to engage the civil courts came to widespread public attention when Corporal Catherine Galliford filed suit in British Columbia in 2012.⁴¹ Corporal Galliford had considerable public recognition as the Media Relations Officer for both the Air India Task Force and the Missing Women's Task Force investigating the disappearances of numerous women eventually linked to Robert Pickton.

Numerous other civil claims against the RCMP were filed by women between 2011 and 2013.⁴² Members also sought redress before the Canadian Human Rights Tribunal,⁴³ including one complaint that specifically put systemic gender-based harassment in issue and the RCMP was required to disclose its recent studies and reports on sexual harassment within the RCMP.⁴⁴

RCMP women also recounted their experiences of sexual harassment and discrimination in memoirs,⁴⁵ and in letters to RCMP Commissioners and politicians.⁴⁶

38. *Petrovics v Canada*, New Brunswick Court of Queen's Bench File No. F/C/751/97 (District of Fredericton); *Cook v Canada*, New Brunswick Court of Queen's Bench File No. F/C/751/97 (District of Fredericton). Motion to strike dismissed in: *Petrovics v Canada*; *Cook v Canada* (1999), 209 NBR (2d) 237 (QB); aff'd 210 NBR (2d) 109 (CA) (available on CanLII).

39. Joe Friesen and Andy Hoffman, "RCMP settles sex-assault allegations", *The Globe and Mail*, (4 August 2004).

40. *Sulz v Canada*, 2006 BCSC 99, appeal dismissed 2006 BCCA 582 (available on CanLII).

41. *Catherine Galliford v Marvin Wawia, Mike Bergerman, Doug Henderson, Phil Little, Dr. Ian MacDonald, Canada (Attorney General) and British Columbia (Minister of Justice)*, Supreme Court of British Columbia File No. S-123330 (Vancouver Registry).

42. *Gastaldo v Canada*, Supreme Court of British Columbia File No. S115714 (Vancouver Registry) (August 2011); *Couture v Canada*, Supreme Court of British Columbia File No. S118171 (Vancouver Registry) (December 2011); *Katz v Canada*, Supreme Court of British Columbia File No. S120006 (Vancouver Registry) (January 2012); *Rai v RCMP*, Canadian Human Rights Tribunal File No. T1795/2512 (March 2012); *Katz v Canada*, Supreme Court of British Columbia File No. S124793 (Vancouver Registry) (July 2012); *O'Farrell v Canada*, Ontario Superior Court of Justice File No. 13-57685 (Ottawa Registry) (May 2013); *Montague v Shields*, Supreme Court of British Columbia File No. S135796 (Vancouver Registry) (August 2013).

43. See for e.g.: *Jackson v RCMP*, Canadian Human Rights Tribunal File No. T611/6900; *Thompson v Canada*, 2007 FC 119; *Canada v Windsor-Brown*, 2016 FC 1201.

44. *Rai v RCMP*, 2013 CHRT 36 at paras 18-19.

45. For example, see: Karen L. Adams, *Woman in Scarlet: The Groundbreaking True Story of Life as a Female Mountie* (Adams Enterprise, 2018) Janet Merlo, *No One to Tell: Breaking my silence on life in the RCMP* (St. John's, NL: Breakwater Books, 2013).

46. Letter to Perrin Beatty, Solicitor General, February 17, 1986; Janet Merlo also wrote to RCMP Commissioner William Elliott, in 2007, raising concern with RCMP policies on transfers and sexual harassment. In her memoir, she includes Minister Stockwell Day's response from October 12, 2007 which does not acknowledge her allegations of harassment, and Deputy Commissioner Peter Martin's response two years later stating the RCMP takes her allegations seriously. See *No One to Tell*, *supra* note 11, 174-175 and accompanying letters.

Past Record of Sexual Harassment and Discrimination at the RCMP

Despite their advocacy and despite the many internal investigations, I infer that sexual violence and harassment continued within the RCMP because there was a lack of sanctions for unacceptable conduct. In the words of one claimant:

“It is my opinion that if the offending male members had the deterrent of having to answer for their indiscrete and unprofessional behaviour then they would be less likely of committing acts of sexual harassment. It would also give the female members some peace of mind to know that they had somewhere to turn when they were harassed by some unscrupulous male members regardless of his rank.”⁴⁷

Relying on the RCMP to investigate and implement remedial action has not, based on what I have heard during the claims process, been effective.

B) PREVIOUS REPORTS ON SEXUAL HARASSMENT AND DISCRIMINATION IN THE RCMP

Since 2007, there have been at least 15 reports, internal and external, that have highlighted workplace issues and at least in part addressed harassment, including sexual harassment.

Numerous Recommendations have been made to the RCMP management and although many have been accepted and implemented, I was told of sexual harassment and assaults occurring as late as May 2017. The claimants I interviewed said that there was no meaningful implementation of these Recommendations.

I note that some of the findings and Recommendations set out in the previous reports are similar to those heard from the claimants in the Merlo Davidson claims process.

Based on what I have heard, I cannot conclude that the steps taken to address sexual harassment and discrimination have been sufficiently effective.

Past litigation, discussion in Parliament, and prior reports reveal what was known by RCMP management about harassment in their workplaces. The systemic discrimination that prevailed for years has been tolerated. In the following paragraphs, I will highlight some of the more recent reports.

47. *Ibid.* at 46..

Past Record of Sexual Harassment and Discrimination at the RCMP

From 2011 to 2014 there were no less than 7 investigations into the RCMP workplace (including some about sexual harassment), most external to the RCMP, which recommended reforms to human resource management, the harassment complaints processes, and cultural change. Some of these reforms were not new but had already been recommended in the 2007 Brown Task Force report.⁴⁸

In 2011, following an interview with Cpl Galliford about the harassment she experienced in the RCMP, the Government and RCMP announced that the Civilian Review and Complaints Commission would investigate the RCMP's handling of harassment claims dating back to 2005.⁴⁹ At the same time, E Division (the largest Division covering British Columbia where Cpl Galliford's career was based) began an internal review of sexual harassment using employee focus groups to identify the scale of the problem.⁵⁰

The E Division Report gathered information from members throughout British Columbia. While the report noted that employee participants self-reported that harassment was not "rampant,"⁵¹ those participants also flagged serious barriers to reporting incidents. Those included mistrust that the complaint would be taken seriously or a mistrust that the chain of command would fairly assess the problem.⁵² Similar barriers were commonly identified by claimants in the claims process for the Merlo Davidson Settlement Agreement. However, despite uncertainty as to the extent of the problem, the participants agreed the issue of harassment was serious enough that it warranted a completely new reporting process independent of the chain of command.⁵³

The Civilian Review and Complaints Commission's report found that the RCMP was generally following policy but that it could improve transparency and consistency. To achieve those improvements, the Commission recommended an external review mechanism for decisions about harassment complaints, mandatory training and timelines for investigators, education on workplace harassment for all employees and ongoing evaluation of the efficacy of the reforms.⁵⁴

48. Task Force on Governance and Cultural Change in the RCMP, *Rebuilding the Trust* (Ottawa: Government of Canada, 2007) online: https://www.publicsafety.gc.ca/cnt/cntrng-crm/tsk-frc-rcmp-grc/_fl/archive-tsk-frc-rpt-eng.pdf ["Brown Task Force Report"].

49. Jane Taber, "Mounties get new chief, begin probe of sexual-harassment allegations", *The Globe and Mail*. (16 November 2011) online: <https://www.theglobeandmail.com/news/politics/ottawa-notebook/mounties-get-new-chief-begin-probe-of-sexual-harassment-allegations/article619740/>. Commission for Public Complaints Against the Royal Canadian Mounted Police, *Public Interest Investigation Report into Workplace Harassment in the RCMP*, (Ottawa: Civilian Review and Complaints Commission, 2013) (Chair: Ian McPhail) online: <https://www.crcc-ccetp.gc.ca/en/report-workplace-harassment-rcmp> ["Public Complaints Commission"].

50. Royal Canadian Mounted Police, *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> > ["E Division Report"].

51. *Ibid.* at 20.

52. *Ibid.* at 5.

53. *Ibid.* at 6 and 19.

54. Civilian Review and Complaints Commission, *supra* note 14, at 2-3.

Past Record of Sexual Harassment and Discrimination at the RCMP

The RCMP also conducted an internal audit of gender representation within the senior ranks: the Gender-Based Assessment.⁵⁵ The RCMP wanted to know whether gender discrepancy within the senior ranks was a product of discriminatory policy or some other failure to provide equal opportunity for women in the RCMP.⁵⁶ The gender audit found that RCMP policies regarding recruitment and promotion were predominantly gender-neutral – they did not discriminate. To the extent the data revealed gender disparity within the chain of command, the authors identified a number of significant factors. These included non-policy based social factors impeding women’s access to promotional opportunities such as access to childcare, ease of mobility, a tendency to self-limit promotion applications.⁵⁷

In the 2012 *Gender and Respect Action Plan*, the RCMP committed to 37 measures to improve the culture and composition of the RCMP.⁵⁸

In 2013 the Senate Standing Committee on National Security and Defence also conducted a study on sexual harassment in the RCMP. The Committee received testimony from experts throughout 2013 and made Recommendations to address sexual harassment.⁵⁹ In its report, the Committee urged the force to make better use of the *Code of Conduct* and use the chain of command to rein in the problem actors. The 11 Recommendations flowed from testimony from a range of witnesses on how to address ongoing issues of harassment and members’ loss of trust in the disciplinary process.

In 2014, Senator Grant Mitchell and the Honourable Judy Sgro, MP, held four roundtables and one expert panel to receive direct stories about harassment.⁶⁰ Their report, “Shattered Dreams: Addressing Harassment and Systemic Discontent within the RCMP”, described the injuries and harms experienced by the women in detail.⁶¹ They heard evidence that emphasized the mental toll of sexual harassment on women who remained and those who had given up their careers because of their colleagues’ treatment.⁶² A lack of mental health support, a seemingly ineffective grievance process, and poor treatment of injured members were indicative of the true cost of harassment in the workplace. The authors’ roadmap for change included recommended improvements in access to mental health services during and after service and stressed that all recommended initiatives must support the critical need for cultural change.⁶³

The authors’ roadmap for change included recommended improvements in access to mental health services during and after service and stressed that all recommended initiatives must support the critical need for cultural change.

55. Royal Canadian Mounted Police, *Gender-Based Assessment* (2012) online: <https://www.publicsafety.gc.ca/lbrr/archives/cnmcs-plcng/cn30907-eng.pdf> [“Gender-Based Assessment”].

56. *Ibid.* at 1.

57. *Ibid.* at 28–29.

58. Royal Canadian Mounted Police, *Gender and Respect: The RCMP Action Plan* (2013) online: <https://www.rcmp-grc.gc.ca/en/gender-and-respect-the-rcmp-action-plan> [“*Gender and Respect Action Plan*”].

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

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

61. *Ibid.*

62. *Ibid.* at 11, and see quoted testimony from witnesses appearing at Roundtables in *ibid.* at Appendix II at 23–31.

63. *Ibid.*

Past Record of Sexual Harassment and Discrimination at the RCMP

The RCMP Women's Veteran Council also contributed to the discussion of sexual harassment and discrimination in the RCMP in 2013.⁶⁴ Notably, it asserted that sexual harassment was the least common form of harassment within the force and that personal harassment and abuse of power were more widespread and therefore more pressing.⁶⁵

When considered together, these reports reveal a layered and concerning picture of workplace dysfunctions that would be unacceptable in any organization but is of particular concern in a national police force.

These and earlier reports led up to the passage of Government Bill C-42 *The RCMP Accountability Act* which was intended to address a range of problems within the RCMP, including sexual harassment.

II LEGISLATIVE REFORM AND OTHER INITIATIVES

In 2014, Parliament enacted a number of significant changes to the *RCMP Act* in the *Enhancing Royal Canadian Mounted Police Accountability Act* ("*RCMP Accountability Act*").⁶⁶

The *RCMP Accountability Act* had two primary goals. The first was to strengthen "... the Royal Canadian Mounted Police review and complaints body" and implement "... a framework to handle investigations of serious incidents involving members."⁶⁷ The second was to modernize the "... discipline, grievance and human resource management processes for members, with a view to preventing, addressing and correcting performance and conduct issues in a timely and fair manner."⁶⁸

Although the *RCMP Accountability Act* did not make substantive amendments to the RCMP External Review Committee, section 17 of the 2014 *Royal Canadian Mounted Police Regulations* (2014 Regs)⁶⁹ expanded the Committee's mandate to include, among other things, appeals relating to decisions that a member had contravened the *Code of Conduct* by engaging in harassment.⁷⁰

64. Jane Hall et al. *Addressing a Crisis in Leadership* (RCMP Veteran's Women's Council, 2014) online: <http://redwalljanehall.com/wp-content/uploads/2015/03/RCMP-Veteran-Womens-Council-Report-June-2014-Addressing-a-Crisis-in-Leadership.pdf> ["Veteran's Women's Council"].

65. *Ibid.* at 4.

66. *Enhancing Royal Canadian Mounted Police Accountability Act*, R.S. 2013, c. 18 ["*RCMP Accountability Act*"].

67. *Ibid.*, Summary.

68. *Ibid.*, Summary.

69. Royal Canadian Mounted Police Regulations, (SOR/2014-281) ["2014 Regs"].

70. Following the 2014 legislative and regulatory amendments, the RCMP External Review Committee expanded mandate includes: (1) an appeal relating to a decision that a member, on a balance of probabilities, contravened the Code of Conduct by engaging in harassment; (2) an appeal relating to a decision to discharge or demote on the grounds of (i) a disability, as defined in the *Canadian Human Rights Act*, (ii) being absent from duty without authorization or having left an assigned duty without authorization, (iii) a conflict of interest; (4) an appeal of a decision to revoke an appointment; (5) an appeal of a discharge or demotion for ground of unsatisfactory performance; (5) an appeal of a decision ordering the stoppage of pay or allowance for reasons listed in paragraph 22.(2)(b) of the *RCMP Act*; and (7) a decision that a complaint was not submitted within the prescribed timeframe. *Supra* note 34.

Past Record of Sexual Harassment and Discrimination at the RCMP

A) CHANGES TO THE GRIEVANCE PROCESS

The 2014 *RCMP Accountability Act* required that the Commissioner establish an informal conflict management system as well as inform the members of the RCMP of its availability.⁷¹

The amendments also established a new framework for the adjudication of grievances.⁷² Adjudicators, designated by the Commissioner to hear grievances, now have the power to decide on all matters relating to the grievance before them,⁷³ and their decisions must be rendered as informally and expeditiously as the principles of procedural fairness permits.⁷⁴

If a decision of an RCMP adjudicator concerns harassment or other specified conduct matters, a file must be reviewed by the External Review Committee before an appeal is determined.⁷⁵ However, the Commissioner is not bound by the findings or Recommendations made by the Committee.⁷⁶

B) CHANGES TO THE CODE OF CONDUCT

The *RCMP Accountability Act* also made several amendments to the *RCMP Code of Conduct* (found in a Schedule to the 2014 Regulations). These changes were intended to emphasize the importance of public trust and the accountability of members. Amendments were also made to the framework for dealing with conduct questions to ensure that proceedings were conducted in “a fair and consistent manner” at an appropriate level. The goal was for disciplinary measures to be remedial where appropriate.⁷⁷

Of note, it was only in 2014 that the *Code of Conduct* was amended to include an explicit obligation for a member to not engage in harassment or discriminatory conduct. This was a recommendation in the Final Report of the Standing Committee on National Security and Defence called “*Conduct Becoming: Why the Royal Canadian Mounted Police Must Transform its Culture*.”⁷⁸ Section 2.1 of the 2014 *Code of Conduct* now states:

“Members treat every person with respect and courtesy and do not engage in discrimination or harassment.”⁷⁹

71. Section 30.2 enacted by the *RCMP Accountability Act*, *supra* note 31]. It is this provision that is relied upon for the making of the *Commissioner's Standing Orders (Investigation and Resolution of Harassment Complaints)* SOR/2014-290.

72. Section 36 of the *Commissioner's Standing Orders (Grievance and Appeals)*, SOR/2014-289.

73. Section 10 of the *Commissioner's Standing Orders (Grievance and Appeals)*, SOR/2014-289.

74. Section 11(1) of the *Commissioner's Standing Orders (Grievance and Appeals)*, SOR/2014-289.

75. Paragraph 6(2)(b) of the *Commissioner's Standing Orders (Investigation and Resolution of Harassment Complaints)*, SOR/2014-290.

76. Subsections 32(2) enacted by the *RCMP Accountability Act*, *supra* note 31.

77. Subsection 36.2(b) enacted by the *RCMP Accountability Act*, *ibid*.

78. *Conduct Becoming*, *supra* note 24.

79. Section 2.1 of the Schedule to the 2014 Regs, *supra* note 34.

Past Record of Sexual Harassment and Discrimination at the RCMP

The *RCMP Accountability Act* also added a new part⁸⁰ that deals with “serious incidents”. A serious incident includes an incident that resulted in serious injury (which is defined as prescribed physical or psychological injuries).⁸¹ It also includes an incident that may constitute an offence under federal or provincial law if the Minister, a provincial minister, or the Commissioner decides that it is in the public interest that the incident be investigated by a provincial investigative body or police force (other than the Force).

C) REPORTS OF MOUNTING LITIGATION COSTS AND AN UNTENABLE STATUS QUO

Even after the enactment of the 2014 *RCMP Accountability Act*, there were several reports critical of the RCMP workplace as well as its grievance and discipline structure.

In early 2016, the RCMP Commissioner learned of reports of sexual misconduct in the explosives training unit. An internal RCMP report into the allegations was published in June 2016. This report describes allegations of sexual harassment by two RCMP members (S/Sgt. and CM) who worked at the Explosive Training Unit with the Canadian Police College. These two men were investigated at least twice before the allegations were made public. One member had written to the RCMP Commissioner expressing a concern that the disciplinary action taken against these members was inadequate. Even after they were disciplined, these men were transferred to supervise or work in close proximity to the victims and the witnesses that had testified against them. This report summarizes the action taken against these men, identifies concerns with the overall process, and makes 27 Recommendations.⁸²

In March 2017, former Auditor General of Canada, Sheila Fraser, was asked to review four civil litigation cases brought against the RCMP seeking damages for workplace sexual harassment. Ms. Fraser reported to the Minister of Public Safety and Emergency Preparedness on her observations on this issue and made 3 primary Recommendations, namely, that the Government:

- establish a Management Advisory Board;
- establish a separate distinct unit to deal with all harassment and workplace issues staffed by non-RCMP individuals. Confidential and anonymous complaints should be allowed. This unit should report functionally to the Management Advisory Board; and,
- carry out independent, external reviews on the RCMP Health Services Branch and the grievance system.⁸³

80. Sections 45.79 to 45.87 enacted by the *RCMP Accountability Act*, *supra* note 31.

81. SOR/2019-280 only prescribes physical injuries. Regulations prescribing “psychological injuries” have not yet been made.

82. 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: <https://www.rcmp-grc.gc.ca/en/report-allegations-harassment-and-sexual-misconduct-the-rcmps-canadian-police-college-explosives> [“Report on Police College”];

83. Sheila Fraser, *Review of four cases of civil litigation against the RCMP on Workplace Harassment: Report to the Minister of Public Safety and Emergency Preparedness – March 2017* (Ottawa: Public Safety Canada, 2017) online: <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/rcmp-wrkplc-hrsmnt-css/index-en.aspx> [“Fraser Report”].

Past Record of Sexual Harassment and Discrimination at the RCMP

Shortly after Ms. Fraser's report was published, the Civilian Review and Complaints Commission (CRCC) for the RCMP published a Report into Workplace Harassment in the RCMP. This report notes the failure of the RCMP to take action, puts responsibility for future action on the Government, and forcefully recommends civilian oversight.⁸⁴

The Government responded to the Fraser Report and the CRCC Report and agreed to implement their Recommendations. Most notably, the Government agreed to:

- Establish the Management Advisory Board;
- Amend the *RCMP Act* to allow the Minister to direct the RCMP Commissioner to seek the Board's advice and report back on that advice, including any actions taken;
- Establish the Gender and Harassment Advisory Committees by Division.⁸⁵

Currently, the RCMP is taking steps to enact amendments to the federal harassment regime under Bill C-65 (*An Act to Amend the Canada Labour Code Harassment and Violence*), including creating a dedicated roster of investigators, and a new policy allowing parties to agree on an internal or external investigator; and a new policy to ensure that complaints of sexual harassment are investigated by external civilian investigators.⁸⁶

Additionally, the Government agreed to evaluate the changes, explore ways to externalize the harassment resolution process, overhaul the RCMP's leadership development, improve recruitment, professionalize key segments of its workforce, and communicate progress on all its modernization efforts to RCMP employees and Canadians.⁸⁷

Finally, in 2019 – 12 years after the Brown Task Force recommended outside management of the RCMP – the Government established an Interim Management Advisory Board and has committed to making the legislative changes necessary to make that Board permanent. Thirteen members have been appointed to serve on the interim Board.⁸⁸

84. Canada, Civilian Review and Complaints Commission for the RCMP, *Report into Workplace Harassment in the RCMP* (Ottawa: Civilian Review and Complaints Commission for the RCMP, 2017), online: <<https://www.crcc-ccetp.gc.ca/en/report-workplace-harassment-rcmp>> ["CRCC Report"].

85. Canada, Ministry of Public Safety and Emergency Preparedness Canada, Response to the *Report on Workplace Harassment in the RCMP and the Review of the Four Cases of Civil Litigation against the RCMP on Workplace Harassment* (Ottawa: Public Safety Canada, 2018) online: <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2018-rspns-rcmp-wrkplc-hrsmnt/2018-rspns-rcmp-wrkplc-hrsmnt-en.pdf> ["Public Safety's Response to the Reports from CCRC and Fraser"]

86. *Ibid.*, at 27.

87. *Ibid.*

88. Canada, Public Safety Canada, "RCMP Interim Management Advisory Board members announced by Minister Goodale" (5 June 2019) online: <<https://www.canada.ca/en/public-safety-canada/news/2019/06/rcmp-interim-management-advisory-board-members-announced-by-minister-goodale.html>>.

Past Record of Sexual Harassment and Discrimination at the RCMP

D) CHANGE INITIATIVES FOLLOWING THE SETTLEMENT AGREEMENT

As part of the Merlo Davidson Settlement Agreement the Government and the RCMP agreed to implement 20 change initiatives. Schedule “E” to the Settlement Agreement outlined these Change Initiatives which include an agreement to implement additional resources to assist supervisors in implementing existing anti-harassment policies arising from the Treasury Board Directives and the RCMP Commissioner’s Standing Orders. Firstly, the RCMP agreed to make its harassment policy more available to those working in its ranks and to communicate that input on the harassment policy from those working within the RCMP was welcome. Secondly, the RCMP committed to strengthen anti-harassment training at Depot, for employees, and in the supervisor and management development program.

Thirdly, the RCMP agreed to update its promotion policies and materials to institute more objective and relevant merit and to make clear that people of all genders and sexual orientation are equally capable of achieving leadership positions within the RCMP.

Another Change Initiative requires the establishment of Gender and Harassment Advisory Committees (“GHACs”). Specifically, the RCMP was required to establish a National Gender and Harassment Advisory Committee in order to advise the Commissioner on issues of gender, sexual orientation, harassment, equity and inclusivity, as well as local Gender and Harassment Advisory Committees to give advice to Division Commanding Officers on those issues.

After the Settlement Agreement was approved, the RCMP created GHACs in all sixteen divisions and at the national level. An application/nomination process selected GHACs made up of Regular Members, Civilian Members and Public Service Employees. The first Divisional GHAC meetings took place between January and March 2018. The National GHAC met in April 2018 and published an annual report addressing the subjects discussed at the meeting, including:

- Terms of Reference;
- Relationships between GHACs and other RCMP committees that address diversity and inclusion;
- Programs and policies for employees returning to the workplace following long absences;
- The Troop 17 Scholarship; and
- Possibility of more frequent meetings.

As part of the Settlement Agreement, the RCMP also established the “Troop 17 Scholarship”. This scholarship was named after the first troop of women to attend Depot in 1974. The scholarship recognizes full-time college or university students who have made significant efforts toward the prevention of bullying and harassment in their schools or communities. Up to five \$1,000 scholarships are awarded each year. In 2018, the scholarship was awarded to four students, from Quebec, New Brunswick, British Columbia, and Ontario. In 2019, the scholarship was awarded to five students, from Nova Scotia, British Columbia, and Alberta.

Past Record of Sexual Harassment and Discrimination at the RCMP**E) PAST REPORTS: WHAT DO THEY TELL US ABOUT RCMP REFORM**

What do I take from this very brief review of prior litigation and internal and external studies and responses? For almost 30 years the RCMP and the Government have known that there are pervasive issues of workplace sexual harassment and gender and sexual orientation-based discrimination. Initiatives taken to date do not seem to have had the desired effect. Indeed, many of the issues highlighted by previous reports were repeated to me by claimants in the Merlo Davidson claims process. I was told by some claimants that male members were mocking the Settlement Agreement and minimizing the extent of the problem. Women were called names and then told they could make a claim for compensation.

I can only conclude that more needs to be done by the Government to combat what appears to be a pervasive and systemic problem within the RCMP. In the next chapter, I enumerate the findings drawn during my mandate as Assessor concerning sexual harassment and discrimination in the RCMP. These findings serve as the basis upon which I have made 46 Recommendations of more effective measures that should be implemented by the RCMP if the organization is really dedicated to eradicating the systemic problem of sexual misconduct within the Force. These Recommendations are contained in Chapter 6 of this report.

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5

FINDINGS

I THE RCMP'S CULTURE IS TOXIC AND MUST BE ADDRESSED BY THE GOVERNMENT

The RCMP's stated core values are honesty, integrity, professionalism, compassion, accountability and respect. These are the values that should underpin the culture of the RCMP. Sadly, that is not what I heard. The lack of respect, integrity, compassion and accountability that was related by claimants to me and the other Assessors directly contradicts these stated values.

Based on the 3,086 claims I have read and the 644 interviews that we (I and the two other Assessors) conducted, I have concluded that the RCMP is imbued with a toxic culture that tolerates misogyny and homophobia within its ranks and leadership. This is very different from the image that most Canadians have of the RCMP and its culture which is exemplified by fictional (white male) characters such as Dudley Do Right.

The culture of the RCMP portrayed by the claimants as one in which sexism, homophobia, gossip and backbiting; reprisals for rocking the boat and rumour-mongering flourish. While many claimants took care to mention that they had worked with some good members, they indicated that even these members often felt compelled to accept the prevalent culture and remained silent in the face of injustice.

In her 2015 Report on Sexual Harassment in the Canadian Armed Forces,⁸⁹ the Hon. Marie Deschamps describes culture as: "...the ways in which, over time, people who work or live within a particular organizational and institutional setting develop a shared set of understandings which allow them to interpret and act upon the world around them."

A similar definition was set out by Linda Duxbury in her 2007 report written in support of the Brown Task Force which states: "In simple terms, organizational culture is the pattern of shared values and beliefs that lead to certain norms of behaviour. It is "the way we do it around here." It is the behavioural norms of the organization that a newcomer to the organization would quickly notice. It is "what and how we do things in this organization in order to succeed".

89. <https://www.canada.ca/en/department-national-defence/corporate/reports-publications/sexual-misbehaviour/external-review-2015.html>

Findings

The testimony heard by the Assessors from the claimants is that the latter were drawn to the RCMP because of a desire to help people; they were confident that the RCMP was the best police organization in the world. The Red Serge, the Musical Ride, the police dogs, the opportunity to see the country had created an image that seemed too strong to be contested. Women often said that they were not apprehensive about joining a male dominated paramilitary organization. Even when they arrived at Depot, most of those that experienced insulting and vulgar language from trainers tried to ignore that; they believed it was just a way to toughen them up.

However, as time passed, many of them realized that this misogynist behaviour and discriminatory treatment of woman trainees would not go away; it was firmly entrenched in the RCMP culture.

A) OFFENSIVE LANGUAGE

Claimants told the Assessors that male RCMP members would call women sickening and humiliating names like “split-tail, “cunt, “canoe-licker, “bitch”, “ball-breaker”, “fresh meat”, “beaver tails”, “WREN (wasted regimental number)”. If a woman happened to also be Indigenous she was called a “squaw”, “smoked meat”, etc.

Stories of “pranks” intended to make women understand that they were not accepted and were different from male members were frequently heard. The use of “pranks” was sometimes just annoying, but sometimes contributed in the long run to psychological harm. It was humiliating. The person who is “pranked” persistently is constantly reminded that she does not belong. And the pranks were sometimes well over the line. Dildoes placed in women’s desks were not uncommon. At least one woman found used condoms in her desk drawer. Other women were handcuffed to the toilet in the men’s washroom or to chairs, or in a cell. Other examples included leaving tampons covered in ketchup in a woman’s desk drawer, forming a wool hat into the shape of a “beaver”, putting dog turds in boots, putting ink on a toilet seat, invading a woman’s personal space in a locker, putting up doctored photos of women on detachment bulletin boards suggesting that they are selling sex and the list goes on. Some were permanently injured by the pranks.

Women also recounted being given menial tasks, i.e. being told to empty garbage cans, clean kitchens, wash cars or make coffee with the goal of making them feel “less than”, of humiliating them. They were told that they had to do these tasks because it was women’s work.

B) SEXUAL MISCONDUCT

Sexual misconduct in the RCMP appears to occur with a surprising frequency. The Assessors were told of drunk male members at Regimental dinners, standing on the table and waving their penises at the women; sexual assaults when members are out of town on courses and staying at hotels were frequent. In Surrey, the largest detachment in Canada, there is an RCMP building called ‘The White House’ where members would go to drink. A lot of sexual activity took place there, some consensual, some not. Apparently, the question, ‘Do you want to go downstairs to play pool?’ is code for ‘do you want to give me a blow job?’

Women told the Assessors stories of being sexually propositioned by male members at a detachment and being called “fresh meat” (it was worse at Depot). In some instances, the Assessors were told that male members would have a betting pool for who was going to sleep with a new woman member first.

Findings

In other detachments, claimants reported hearing that the male members had rating systems both for the female members and female members of the public. Some said that these members would make comments about women over the radio, rating them or making salacious comments to be heard by everyone on the frequency.

It was a frequent occurrence for male members – trainers, colleagues and supervisors included– to ask embarrassing and invasive questions about women’s sexual lives, sexual practices, partners and orientation. Many would also tell women, in excessive detail, about their own sexual life, boasting about their penis size or their ability to “flip” LGBTQ2S+ women.

LGBTQ2S+ women or women of Indigenous or racialized heritage were often treated even more poorly. They were subjected to discrimination and harassment because of their sexual orientation or race as well as gender. Many Indigenous women that the Assessors met had joined the RCMP straight out of high school; they came from small communities. Some, due to their youth, were naïve and not accustomed to sexual behaviour or talk. Indigenous women were, at times, forced to watch RCMP members treat other Indigenous people brutally. Indigenous women, particularly those who had been abused as children, were preyed upon by their male colleagues for sexual favours. Similarly, the Assessors heard reports of French speakers being targeted for additional abuse due to their linguistic identity.

Pornography on RCMP computers and phones was raised in many claims. Some of this material was violent and obscene. The Assessors were told of seized pornography being passed around as amusement. Sometimes male RCMP members would spend time at the scene of the search, viewing it with relish and requiring female members to come and watch with them. In earlier times, pornography was sometimes displayed at the detachment; it can now be emailed or texted to women members.

This type of conduct was at times modelled, and at other times implicitly condoned, by more senior officers. We were told of senior non-commissioned officers (NCOs) greeting women arriving at their new detachments with threats that they would drive them out of the RCMP by making their lives miserable. They would also utter threats in relation to the possibility that the women would become pregnant while posted to “their” detachment. We heard very few stories of supervisors who addressed harassing conduct in an effective way; those that did earn the gratitude of women employees and many could still remember the names of these “gentlemen”.

During the claims process, it also became clear that several men (at every level of seniority) repeatedly harassed or sexually assaulted women. These men were often not held accountable for their actions. Indeed, the Assessors were told that one tactic used by the RCMP to resolve complaints of sexual harassment was to promote and transfer these men. One claimant pithily stated that the RCMP is the Catholic Church of policing. Another told us of a male colleague who took out his badge and asked her what it was. She said it was his badge. He said no, it is my do-anything-and-get-away-with-it card.

The term “old boys’ club” was very frequently used by women in the interviews to describe how the harassment and discrimination are perpetuated. The Old Boys Club refers to a network that they say exists between men (and now like-minded women) that asserts control over the RCMP and how it approaches change, who it promotes and who it holds back. Those that belong to the Club have a vested interest in the *status quo* which gives them preferential treatment.

Women told the Assessors of wanting training that would help them to achieve their career goals and postings that would help them obtain valuable experience. They discovered that the allocation of opportunities for advancement was often governed by friendships and other forms of favouritism (the Old Boys’ Club). Women recounted being denied training that they requested which was then given to men who were significantly junior to them or, even in some instances, who had not requested training.

Findings

This made it more difficult for women to seek promotion since training is essential to becoming qualified for promotion, particularly in specialized fields. In other words, by refusing women training, men had a way in which to 'keep them in their place'. In some instances, this was the explicit stated intent, in others it was simply a by-product of unconscious bias and favouritism. In either case, the impact on a woman's career was usually negative.

When women did get to go on training, they were at times subjected to sexual advances and or sexual assault in hotels or training facilities both by fellow trainees and instructors.

The claimants also disclosed incidents of hazing that included various forms of sexual activity that was required to be performed before the woman member would be accepted by the group. Bullying was frequently the norm; giving in to requests for sexual favours was expected by the male members.

A surprising number of women reported that they were stalked by fellow members who were seeking a sexual relationship. Text messages, telephone calls, individuals standing outside their house at night, patrol cars passing frequently and taking down the license plates on cars in their driveways.

This negative conduct towards women appears to have been heightened in several specialized areas like undercover operations, the TAC Team, the Dog Handling Team, or the Musical Ride. These specialized teams are apparently seen as the elite. To make a complaint against team members does not end well, particularly if the complainant wants to be accepted on these teams.

Outright sexual assaults, that would qualify as criminal conduct, were more frequent than the Assessors could have imagined. These ranged from grabbing breasts and unwanted kissing and touching right up to penetrative sexual assaults. Some described being forced to perform fellatio at watch parties, in police cars or in detachment offices. Of note are the assaults that took place at the hands of two RCMP doctors. Vulnerable women, applying to the RCMP, their dream career, were subjected to "prostate" rectal exams; their breasts were felt in a lingering and unprofessional manner; they were subjected to unnecessary and gratuitous vaginal "exams". Nurses were not present. The Assessors were told that some members were aware of the conduct of these doctors and warned applicants about the doctors but that nothing was done to discipline them or to protect the vulnerable young women who were forced to endure these medical examinations.

The Assessors concluded that there were 131 cases of outright rape reported. Some may have resulted from the use of a drug commonly known as a date rape drug; sometimes they happened when a claimant was so intoxicated that she was incapable of consent; sometimes they resulted from the use of force. Some included instances of sodomy and multiple assailants. For some women, this was their first sexual experience. In some cases, the women had to continue working with their assailants with no one to tell. In all cases the women told us that they would never have suspected that a fellow officer would assault them in any manner, let alone sexually. Some women froze – particularly those who had experience investigating violent sexual assaults and knew what happened to women who fought back. In other cases, women did fight back, as hard as they could, shoving men out the door of their home or hotel room, or kicking or punching, and staved off attempts at rape.

There were many cases of serious sexual assault that were not penetrative and many cases of sexual assault that could be considered less serious, for example touching or kissing (although I am of the view that all forms of sexual assault are serious).

Findings

C) EXCLUSION FROM JOB OPPORTUNITIES

Women were not always welcomed on the Musical Ride. Some women on the Ride were dumped in a trench of manure and had their riding equipment tampered with intentionally, placing them at risk of injury. The Assessors were told that there was a considerable amount of infidelity and that some women felt pressure to have sexual relations with more senior members. Claimants said that they were told that “What happens on the Ride, stays on the Ride”.

Women wanting to join the Dog Squad were also discouraged. If they persist, they may become ‘quarries’ for the police dogs. Eventually, some persistent women overcome the barriers and they are now women dog-handlers.

On the undercover team, women were rarely allowed to do more than serve as eye candy or props for the male undercover officers. Claimants recounted numerous instances of sexual assaults during undercover operations; there appears to be little accountability for the actions of undercover operators.

During the claims process, it also became clear that several men (at every level of seniority) repeatedly harassed or sexually assaulted women. These men were often not held accountable for their actions. Indeed, the Assessors were told that one tactic used by the RCMP to resolve complaints of sexual harassment was to promote and transfer these men.

D) OTHER MISCONDUCT

Women described either experiencing, fearing, or being threatened with a denial of backup. Indeed, many women said that they were denied backup in critical situations merely on the basis that they were women. They also told stories of being forced into violent situations to prove themselves. Others said that if they complained about harassment or rejected overt sexual advances, they could find themselves without backup and alone on a dangerous call, sometimes facing serious threat to their health or even their life. The denial of “backup” is of course inconsistent with what the RCMP purports to be – an organization where “we have each other’s backs”, and where “we are a family”. Claimants noted the irony of being afraid of the men they worked with, not the public.

In some cases, claimants demonstrated that their supervisors were intentionally inflicting mental harm on them. Scheduling them so that they were unable to spend time with their partner, questioning documented medical leaves, refusing them appropriate psychological care after traumatic incidents, isolating them and refusing them backup in dangerous situations are but a few of the actions taken with what was at times an explicit intent to drive women to resign.

Some women demonstrated an ability to defuse dangerous situations and avoid violence. Instead of being praised for such an ability, they were accused of being too scared to do their job. Women members who became pregnant were treated so badly that they resigned or had to take medical leave.

One of the most egregious tactics that we saw used on a few occasions to discredit a female member was to charge her with a criminal offence or encourage a member of the public to make a public complaint or bring an action in damages against the member. The Assessors reviewed several files in which this type of behaviour was reported.

Findings

E) HARMFUL IMPACT OF CULPABLE BEHAVIOUR ON WOMEN

The impacts on the women that the Assessors listened to were devastating.

It is impossible to fully convey the depth of the pain that we witnessed in the 644 interviews that were conducted. The impacts on claimants' families were often significant. Some claimants showed the Assessors photographs of themselves when they graduated from Depot, full of hope and pride. This image was far removed from the often-broken person that was in front of us in the interview.

Bright, well-educated women, with tremendous potential for advancement became resigned to being in the Constables-For-Life (CFL) Club because of their gender, their sexual orientation or their decision to have children (or all three). Many women reported losing all enthusiasm for their job and simply putting in the hours until they can retire.

Women often said that they joined the RCMP seeking to help others, sometimes because they themselves had needed help as a young person. They told the Assessors of the brutal treatment they experienced which ground them down, broke their confidence, and shattered their trust in their fellow officers.

"It's difficult to put into words the way I was made to feel during my time as a regular member of the RCMP. I learned early on not to trust anyone, which remains a problem for me to this day. I often wonder what kind of career I might have had if I hadn't had to work with guys like [my harassers]. I'm sure I wouldn't have ended up contemplating suicide as my only way out. Guys like that made going to work miserable for me. They made my life a living hell. If you can't trust or depend on the people you're working with, especially in this type of work, every day is an uphill battle."

The full tragedy of what the RCMP's failure to provide a safe workplace has done to these women is overwhelming. Loss of potential, loss of mental health, loss of family and connection, irremediable personality change caused by years of internalized emotion, stress and anxiety.

Many women that the Assessors interviewed had been diagnosed with serious psychological injuries including Major Depressive Disorder, Post-Traumatic Stress Disorder, Generalized Anxiety Disorder, panic attacks and substance dependence. Claimants also reported a lack of trust in the RCMP, a lack of trust in men, feelings of isolation, withdrawal from social activities, friendships and sexual relations, humiliation, lack of self-esteem and lack of confidence. Many women experienced eating disorders, alcohol abuse, panic attacks, vomiting on the way to work, inability to maintain a positive relationship with their spouse and children.

Some women suffered from physical ailments. Irritable bowel syndrome, jaw clenching, back and neck injuries, ulcers, migraine headaches, scars and permanent physical disabilities.

Findings

Those subjected to more intense forms of sexual harassment and discrimination told us of debilitating anxiety and vomiting on the way to the detachment. The extent to which women were affected by the sexual harassment is revealed by the number of cases in which claimants described having breast reduction or other surgery to deal with their colleagues' relentless focus on their bodies. Some put on weight to appear less attractive. They wore baggy clothes and put on no makeup. There would be no change in their treatment; the focus would simply shift to a negative view of their bodies. The problems became more intense because of maternity leaves and difficulties raising children within the confines of the police system.

Some reported intentionally injuring themselves repeatedly. Self-blame is common, even after blatant sexual assaults. We heard stories of women who sat with their service revolvers in their mouths and were only stopped from killing themselves when they thought of their children or their pets. Heartbreaking stories of despair. One claimant committed suicide during the claims process.

“My experiences continue to have a significant impact on my sex life and intimacy. I don't want to be touched. I cringe when someone comes for a hug — even one of my own children. I am not able to be affectionate with my family.”

“And in the end, I lived in fear, was overwhelmed by debilitating anxiety and post-traumatic stress disorder (PTSD) from incidents on the streets but perhaps even more so from incidents in the office. Strength should have been derived from within, to face the violence of the world outside, but it wasn't. The dangers on the street were expected; the dangers within the organization were not. The RCMP broke me. Vigilance on the streets became secondary to the vigilance required within the silent walls of the RCMP, eroding any trust I had for the organization, and worse, any self-worth I might have. I remain filled with self-blame for lacking the strength I should have had to protect myself.”

Findings

“I feel like I am walking around with a banner on my head that says, “fucked up.” The anger, shame, humiliation and poor self-image are all still with me today. All the drive I had was beaten out of me. I always wanted to be a Mountie and was over the moon with joy when I got accepted. I never wanted to do anything else. Now, that dream is gone. It was devastating to lose my career. I went from a very confident, self-assured, well-rounded person to somebody who has completely changed.”

In several interviews, the Assessors realized that they were seeing a woman whose life had not just been changed for the worse, or damaged, or disrupted. It was worse: some of the women have been destroyed. From strong, confident, ambitious, sometimes very bright young women who were eager to make a contribution to society through service in the RCMP, they had become depressed, anxious, fearful, unable to work, unable to make any form of contribution to society, angry (at the RCMP, at themselves, at the world), and often extremely socially isolated – frequently living alone, whether after early retirement or on medical leave, sometimes without any meaningful support from family or friends. A few expressed their feelings that as a result of what they experienced in the RCMP, they had absolutely wasted their lives. And it was not unusual for women who felt their lives had been wasted to add that they felt that their partners’ and children’s lives had also been seriously damaged as a result.

Some of the women that were interviewed, who are still in the RCMP, had been diagnosed with PTSD and were off duty sick at the time they made their claim. It was obvious they would never be fit for work and that, at some point, they would have to accept a medical discharge, some abandoning the hope they had of obtaining a full pension. Obviously, the job of police officer involves encountering traumatic events which can result in PTSD. When that is combined with the effects of sexual harassment, assault and discrimination however, the effect can be overwhelming. The effect of traumatic incidents can be cumulative.

The impact of the harassment is also revealed by the number of women who described extreme social isolation. Having come to fear spending any more time in the detachment than necessary, or to dread socializing with fellow members, they were left with no one else to socialize with. Many women regularly described having to overcome fits of weeping before reporting to work, persistent insomnia and depression, and falling into various forms of self-abusive behaviour.

In other instances, the claimants were not so utterly destroyed: they had been able to carry on working in the RCMP or in another job. However, their ability to do their jobs or to enjoy their lives was nonetheless damaged. In some cases, it was evident that a talented, energetic, and able person had been rendered unable to reach anything like her true potential.

Those who fought back and complained paid a high price; some were forced to resign by the reprisals they experienced thereby losing their employment and sometimes their pension.

Findings

The following illustrates the impact that the injuries caused to the primary class member had on her children who had made secondary class claims:

“When my brother and I were younger, my Mom (an RCMP member) often had us stay inside rather than go out and do things, like go to the park or engage in activities with other people we did not know. She lived in constant fear and always seemed on edge. As a small child, I was not privy to the details of my mother’s abuse while at her place of work. However, the rest of the family including my father often ate supper alone or did things separately while my mother was in her room or just simply out. She tried her very best to keep what happened to her at work separate from her home life, but this is more easily said than done ...”.

“For me, the worst part about these experiences is the impact they have had on my children. I was completely unavailable to them. I could not attend their school or sports events, or even help them with homework. ... it broke my heart. I felt so ashamed that I could not provide for their needs.”

As years passed one would expect things to get better. And, according to some of the claimants, progress has been made to a certain extent. Others say that nothing has changed. Others say that the harassment and discrimination have gone underground and is less obvious but still present.

The destruction or serious impairment of these women’s ability to work and succeed in the RCMP is a waste of human resources that should have been better deployed to the benefit of society.

In response to the question of whether the RCMP is broken, I can only state with clarity that, at the very least, the RCMP has broken, and continues to break, the lives of countless women and shattered their dreams. This is, in my opinion, a tremendous waste.

Findings

F) CONTINUOUS HARASSMENT DESPITE RCMP'S UPDATED POLICIES

All three Assessors were surprised by the prevalence of sexual harassment and discrimination as well as by its level of violence. What the other Assessors and I heard confirmed the RCMP Commissioner's admission that there is a systemic problem with harassment and discrimination in the RCMP, one which remains unaddressed despite past promises of change and the amendment of policies.

What is even more concerning is that the events described in these claims are not simply historical, overtaken by time and updated policies. While the claims process did not review conduct that occurred after May 30, 2017, some claimants disclosed that they were still experiencing similar incidents despite the initiatives taken by the RCMP to address gender and sexual orientation-based harassment.

During the interviews of 644 women, some of whom are still in the RCMP, the Assessors often asked if their experience permitted them to say whether the changes that had been made over time had produced a better workplace for them. From what they said, I have concluded that harassment remains present in many areas of the organization. Worse still, disrespectful conduct has been perpetrated and condoned at every level of the hierarchy. This quote, which was provided to me in a document after an interview conducted in 2020, provides a good summary of the problems I was told of:

"The RCMP has systemic, pervasive issues related to sexual harassment and gender-based discrimination in the workforce. These issues are ingrained in the culture — they are part of the humour, part of the structural framework of the organization, and because of this, many successful women in the organization have learned to not just tolerate but completely adapt to accommodate and fit in with the male-dominated, sexist, harassing archaic ways of the RCMP."

There have been investigations and reviews both internal and external, and there have been good Recommendations made because of these reviews. Policies have been adopted and legislative changes have been enacted as a result, but based on what we have been told, they are often not properly implemented or followed; at times, the discretion set out in the policies is used to override the intent of the changes and not uphold them. As is well known and often quoted: Culture eats Policy every time.

Recent response to the issue of systemic racism has demonstrated that the RCMP leadership or membership either does not understand what systemic racism is, or if they do, they do not believe that it exists within their organization, or they are willfully blind. There is a letter to the editor of the Globe and Mail which I found insightful and from which I am quoting below, as I believe it succinctly states the core of the problem regarding race.

Findings

“The existence of systemic racism does not depend on intentional, overt attempts to discriminate. It is not reflected in the ‘unconscious biases’ of a few members, as [the Commissioner] puts it. Rather, it describes the structural inequalities built into the system that create and then perpetuate disadvantage for people of colour and Indigenous people.”⁹⁰

I believe that the same can be said for gender issues. I often heard that there are many good members trying to do a good job in a difficult environment. I am sure that this is true and that many members are well intentioned and are trying to do the right thing. The reality is, however, that even honourable members (and well-intentioned leaders) have been required to conform to (or at least accept) the underlying culture, which they have, for the most part, had to adopt in order to succeed in their career. Those who do not accept the culture are excluded.

I am of the view that that the leadership and membership of the RCMP suffer from a certain cognitive dissonance: they are well intentioned, believe themselves to be ethical, hence, systemic racism or systemic gender-based disadvantages and discrimination cannot exist in the RCMP. They rely on the “few bad apples” justification. This approach allows an organization to continue on as it is relying on the impression that simply finding these bad apples will solve the issue. They are not willing to recognize the systemic and cultural nature of sexual harassment and gender and sexual orientation-based harassment in the RCMP.

The inability to acknowledge that a problem exists will inevitably render attempts to address that problem ineffective.

I met several women who had achieved a senior rank, but they were sidelined – their careers derailed – when they spoke out about systemic issues of gender and race. The leadership has lived this culture and their identity is grounded on its values and beliefs. This generates defensiveness and a certain resistance to true change. And since this culture is based on systemic biases and structural inequalities, the race- and gender-based discrimination and disadvantages that go with it continue to be perpetuated.

90. <https://www.theglobeandmail.com/opinion/letters/article-june-12-she-clearly-does-not-understand-what-it-is-readers-react/> (June 12, 2020)

Findings

G) RCMP'S CULTURE IS AN OBSTACLE TO CHANGE

While my mandate was limited to assessing cases of sexual harassment and gender and sexual orientation-based discrimination, what I heard from the women undermined my belief in the ability of the RCMP to change its culture which, I have concluded, stems from a fundamental lack of respect for anyone that does not fit the profile of the "ideal" Mountie whether due to gender, size, sexual orientation or race.

The 3,086 claims I read lead me to conclude that the RCMP's culture is both misogynistic and homophobic.

This culture is powerful and presents an obstacle to change. In recent years, there has been an increasing number of complaints about how the traditional, paramilitary, male-dominated culture of the RCMP has resulted in too many incidents of harassment, bullying and an apparent refusal to acknowledge the realities of a diverse society and workforce. Financial settlements of class-action lawsuits will not change this culture; what is required is a wholesale change of the negative aspects of the culture, starting from the top but engaging employees at all levels – both regular members, and civilians – in the creation of a more inclusive and respectful workplace. This is a long-term endeavour that requires vision, leadership and determination over a decade or more. At this point, many of the claimants we spoke to do not see this capacity in the RCMP. Indeed, there are strong reasons to doubt that the RCMP has this capacity or the will to make the changes necessary to address the toxic aspects of its culture.

As mentioned above, culture eats policy. I believe that true change can only take hold in the RCMP if independent external pressure is brought to bear. Trying to solve problems from within has been attempted several times and the result has been that the cultural biases and prejudices that exist within the organization have not been eliminated in the proposed solutions. History has taught us that this is so, as demonstrated by the section of the report on earlier studies of the problems discussed in Chapter 4 and Appendix 3.

Many of the claimants we spoke with do not believe there is any chance for reform in the RCMP.

When asked to make suggestions, the claimants often focused on leadership and accountability of the leadership. Some, however, had no suggestions. They did not think it was possible for the RCMP to change or fix itself. Others suggested that it was time to replace the RCMP with a new federal policing agency with a more restrictive mandate.

Findings

This is some of what we heard from the women, in no particular order:

- There needs to be a dedicated plan on how to modernize the RCMP. This will require secure funding and that leadership be held accountable for the results.
- The RCMP needs to implement earlier and more thorough management and leadership training. It needs to be more structured and assist not just those members who are being promoted, but should help throughout the career of a member.
- There must be accountability of managers and harassers; this was often repeated by claimants.
- We were told that an independent oversight body is needed, along with a means for members to bring problems of harassment to the attention of the organization without fearing retaliation.
- A suggestion was made to amend the *RCMP Act* to better set out the Mission and Values of the RCMP.
- RCMP members should be required to re-familiarize themselves with the Code of Conduct each time they are promoted and be required to sign it each time they change rank.
- The RCMP must discipline those who do nothing after observing harassment.
- There needs to be a better selection of senior officers to limit the impact of the Old Boys' club. The top echelons of the RCMP are "old boys" – they have helped each other out to get where they are, and they protect each other. That needs to be wiped out and start from scratch.
- Leaders must be willing to make unpopular decisions to address the cultural issues at play that contribute to harassment and discrimination.
- Women must be put in operational leadership roles and not limited to "pink ghettos" like human resources, etc.
- There needs to be closer supervision of smaller detachments by senior management, including spot audits and random visits.
- Supervisors require management training, people in positions of management must be adequately screened to ensure competence and the ability to manage.
- The RCMP oath requires members to swear fealty to the RCMP and not to the Crown or Canada. This should be changed.
- One claimant compared the RCMP to a hockey game without a penalty box.
- Culture values "big talkers" and those without empathy; this should be addressed, and more voices listened to.
- The RCMP should acknowledge male champions who promote the role of women in the RCMP.
- The RCMP needs to develop a bottom led collaborative model of policing as opposed to the existing hierarchical system. Hierarchical structure impedes good leadership.
- There is a need to capture data in relation to problematic areas and analyze it to fully understand the changes required.
- The creation of a civilian board of management is a positive step.
- The abuse of power must be better understood by members and those who do it, must be sanctioned.
- Some see a more radical solution: to eliminate the RCMP and start afresh.

Findings

It is my view that fixing the RCMP and addressing the negative culture that has taken root in it will take an immense effort and will require the good will of its leaders and members. Most of these individuals are invested in the *status quo* and will not likely want to make the necessary changes to eradicate this toxic culture.

There have been calls for fundamental change to the RCMP with respect to its organization and governance in order to transform it into a modern police force. Some were recently discussed in the media.⁹¹ The possibility of fundamental structural change was mentioned in the 2007 Brown Task Force report:

“Much has been said and written about the complexity of the RCMP given the organization’s law enforcement responsibilities in Canada and abroad. It would therefore not be unreasonable to argue that some or all of the solution to issues confronting the Force rests in breaking it up. Such a consideration would require a much broader public policy debate as to the policing model which best suits Canada and best serves Canadians”⁹²

Such a fundamental restructuring may be necessary to resolve entrenched issues of misogyny, racism and homophobia. To do so will require an in-depth review and examination which is clearly beyond my mandate. In my view however, it is time to discuss the need to make fundamental changes to the RCMP and federal policing. I am of the view that cultural change is highly unlikely to come from within the RCMP. It has had many years and many reports and Recommendations and yet the unacceptable behaviour continues to occur. Women who were favourable to a fresh start were of the view that they, as women, would be better accepted.

Accordingly, it is not surprising that some women recommended the establishment of a Royal Commission of Inquiry to study the options for the future of the RCMP, including significant changes to its mandate, structure and governance, and the option of establishing a new federal police agency.

I am not naïve in believing this option would be accepted by the RCMP or even those who have an attachment to the romantic vision of the Mountie. However, I believe the time has come to ask some hard questions about the structure and governance of federal policing in Canada.

91. <https://www.macleans.ca/news/canada/the-rcmp-is-broken/> (July 9, 2020)

92. Brown Task Force Report, 2007, *supra* note 44, Introduction

6

RECOMMENDATIONS

I ISSUES TO BE ADDRESSED

The following sections set out my conclusions in relation to the themes that arose from my review of 3,086 claims and 644 interviews. I received many comments and Recommendations directly from the claimants who were interviewed; they must be taken seriously because they are based on direct life experience. These claimants have a unique perspective on the nature of the harassment and discrimination they experienced. The women who participated were earnest and well-meaning. Many told us that they had joined the RCMP to help others. Unfortunately, when they needed help, it was seldom available for them.

Although some of the issues that I address may, at first glance, appear to be broader than my mandate, they have all contributed in some way, directly or indirectly, to the harassment and discrimination experienced by women in the RCMP based on their gender and/or their sexual orientation. During the interviews, I promised claimants that I would give them a voice and so, for every theme, I have provided a summary of what we heard from claimants as possible solutions. Some of these are based on past events, but many are from women who are still actively employed by the RCMP. At the end of each section, I will provide my Recommendations for action or next steps.

There is a very large number of Recommendations in the different reports made to the RCMP.⁹³ Some have been implemented and some have not. Many are still relevant and could be repeated (indeed some are).

I recognize that some of the incidents mentioned and related policies have been overtaken by time and subsequent change in the context; however, many of the stories that the other Assessors and I heard were the same, whether the claimant started her career in the mid-1970s or joined in the last 5 years. These are the issues that the Government and the RCMP must address if there is to be any hope of avoiding another generation of broken dreams and wasted potential.

With this in mind, I have provided my Recommendations based on my experience of these last three years. I would, however, not want readers to believe that I reject those Recommendations made by claimants or by others that have not found their way into my own list. I have not attempted to cover all aspects of the harassment and discrimination problem, or to set out all relevant Recommendations. Rather, I have tried to determine, based on what I and the other Assessors were told, the steps that need to be taken now to improve the lot of women (and indeed in many cases, men) in the RCMP.

I also acknowledge that the RCMP is embarking on a new era in which its members, including Civilian Members, are being represented by a union concerning bargaining and labour matters. This is a recent development and it is difficult to forecast what impact it might have on the culture of the RCMP.

93. See Chapter 4 and Appendix 3

Recommendations

I will now set out my findings and analysis based on the specific suggestions all three Assessors received from the claimants, and I will thereafter outline my Recommendations for change. Some of these Recommendations are specific and others advocate for further and more detailed study of certain aspects of the management of the RCMP.

Many of the Recommendations are focused on RCMP Regular Members. I do not mean to dismiss the claims made by Civilian Members and Public Service Employees, but 1900 of the 3086 claims that I received came from Regular Members and accordingly, these first Recommendations focus on their circumstances. I have included a distinct section on the experiences of Civilian Members and Public Service Employees at the end of this chapter.

The following issues that I believe must be addressed, which are the subject of my Recommendations, are: (A) systemic barriers, (B) recruitment, (C) training at Depot (RCMP's training academy), (D) recruit field training, (E) postings, (F) ongoing training, (G) human resources and staffing, (H) maternity and parental leave (I) employment flexibility, (J) grievances and discipline, (K) mental health, (L) promotions, (M) leadership, (N) specialized teams, and (O) medical examinations.

II RECOMMENDATIONS

A) SYSTEMIC BARRIERS

The *Canadian Charter of Rights and Freedoms*⁹⁴ and the *Canadian Human Rights Act*⁹⁵ both embody an understanding of equality that recognizes that same treatment is not necessarily equal treatment. Achieving equality requires government and agencies of government to identify and remove systemic barriers affecting individuals differentially based on their sex, race, age, disability, religion, and other grounds. A few examples of such systemic barriers that came to my attention include: (1) refusal to allow women to wear the same uniform as the men for years; (2) the failure to replace women who take maternity leave, leaving their detachments understaffed and the women vulnerable to resentment and discrimination; (3) prescribing weapons that are unsuited to those with smaller hands, or vehicles that are unsuited to those of smaller stature; (4) the absence of an effective complaint mechanism for issues of sexual harassment and discrimination based on gender and sexual orientation; (5) the deadline for the Officer Candidate Application Process, right at the beginning of the school year when women with young children are hugely busy; and so on. Some of these issues will be discussed in more detail below.

Recommendation on systemic barriers:

- **Examine, through an independent study, all aspects of the RCMP to identify systemic barriers in place that prevent women from succeeding in the RCMP and specify ways in which those barriers can be removed.**

94. *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), c 11

95. *Canadian Human Rights Act*, R.S.C. 1985 c. H-6

Recommendations

B) RECRUITMENT

I have concluded that there are serious questions about whom the RCMP is recruiting.⁹⁶

Overall, my conversations with claimants, including many who are or were directly involved in recruitment and training, have left me with the view that the RCMP is not consistently recruiting the right type of person. These conversations also left me with the view that there is a crisis in recruitment. There are not enough applicants and there are too many vacancies that must be filled quickly.

I was told that recruiting levels are down generally, especially among women – but the RCMP continues to need to fill 40 troops of 32 individuals per year. This may result in standards slipping to meet targets, especially if background checks are not sufficiently detailed or do not focus on issues of misogyny, homophobia (or racism).

The RCMP also appears to pay its members less than those working in a number of other jurisdictions, particularly in urban jurisdictions.⁹⁷

This salary discrepancy may have contributed to a gap between the recruits that are needed and the number of candidates. Indeed, one claimant, in a position to know and with experience in recruiting, told us that because the RCMP does not pay a proper wage there are fewer qualified applicants. According to her, this has resulted in some who have not cleared security checks being recruited. If this is the case, it is extremely worrisome.

I was also told that the salary differential is contributing to trained RCMP police officers leaving to join other police forces. This, in turn, results in increasing pressure to recruit new members to fill positions left vacant.

I was told that “...current hiring practices are not good. RCMP is hiring anyone that is breathing. They have targets and must fill seats in Depot. Similarly, Depot is passing people who should not be passed to meet quotas. There are people in Depot who have not finished their security screening.”

Claimants also spoke about the hardship of attending Depot for 26 weeks without a salary and being separated from families and children.

The claimants I and the other Assessors spoke to had comments and suggestions about what should be considered when hiring new recruits, and the nature of the training at Depot.

One suggested that the RCMP must recruit for the specific skills and competencies required in its four primary business streams, and train and develop employees to carry out very different functions: (a) federal policing, (b) protective policing, (c) provincial policing and (d) forensic and other national police services. At this time, all applicants are streamed into one general programme without any specialization.

96. This is also highly topical in light of the questions surrounding the RCMP and systemic racism which are beyond the scope of this Report.

97. <https://www.narcity.com/news/this-is-how-much-a-police-officer-makes-per-year-by-province-in-canada>

Recommendations

Currently, to apply to become a member of the RCMP, an applicant must, among other things:⁹⁸

- Be at least 18 years of age;
- Possess a Canadian secondary school (high school) diploma or equivalent;
- Meet the health and psychological standards;
- Be willing to spend 26 weeks at Depot in Regina, Saskatchewan;
- Be willing to relocate anywhere within Canada.

Applicants must also: not have any legal proceedings pending or before a criminal court; not have been convicted of a criminal offence for which they haven't received a pardon/records suspension; have not participated in any serious criminal offences or activity⁹⁹ whether or not they were arrested or charged; and, not have participated in any criminal behaviour or activity¹⁰⁰ within at least one year of the date of application whether or not they were arrested or charged; not have been dishonourably discharged or dismissed, including released for misconduct from another police, military, or law enforcement organization; not have any pending and/or current personal bankruptcies or consumer proposals.

When compared with the requirements in some other jurisdictions, these qualifications are much less stringent. For example, both Sweden and Norway require that police officers go through a minimum of 2 years of post-secondary education and training. In Sweden, police officers are required to complete 4 terms at one of three universities, as well as a one-term placement with the Swedish Police before they are entitled to apply to become a police officer.¹⁰¹ In Norway, applicants to the police must complete a three-year university programme; the second year is spent in the field.¹⁰² Recent changes in the United Kingdom have created three entry routes into policing: degree apprenticeship,¹⁰³ degree-holder

98. See: <https://www.rcmp-grc.gc.ca/en/qualifications-and-requirements> To apply as a police officer of the RCMP you must also:

- Be a Canadian citizen or have permanent resident status in Canada. Individuals with permanent resident status must have resided (been physically present) in Canada for 3 (1,095 days) out of the last 5 years.
- Be proficient in English and/or French
- Possess a valid, unrestricted driver's licence
- Meet the vision standards
- Meet the hearing standards
- Meet the necessary level of physical abilities
- Be prepared and able to carry a firearm and to use it or any other necessary physical force
- Be willing to work shift work including weekends and holidays
- Be aware of requirements for tattoos, jewelry and other personal effects

99. <https://www.rcmp-grc.gc.ca/en/good-character>. Examples of serious criminal offences include, but are not limited to: Murder and manslaughter; Sexual assault; Production or distribution of child pornography; Sexual exploitation, violence, abuse or neglect towards children and/or vulnerable adults; Terrorist activities; Participation with any organized criminal group; Benefiting from the trafficking, importing, unlawful manufacturing or unlawful cultivating of illegal drugs; Arson resulting in loss of life or substantial damage; Forcible confinement; Robbery; Any crime committed with a facial covering and/or weapon.

100. <https://www.rcmp-grc.gc.ca/en/good-character>: Criminal behaviours and activities include, but are not limited to: illicit drug use (including non-medical prescription/steroids use); theft; prostitution; solicitation for the purpose of prostitution; assault; impaired driving.

101. <https://polisen.se/om-polisen/bli-polis/polisutbildningen/> and see also: <https://www.sh.se/english/sodertorn-university/meet-sodertorn-university/this-is-sodertorn-university/organisation/police-education>

102. https://www.webcitation.org/69z9ESRMC?url=https://www.politi.no/vedlegg/rapport/Vedlegg_858.pdf at p. 16.

103. Individuals join as police constables and undertake a three-year apprenticeship in professional policing practice. This gives them the chance to earn while they learn. Successfully completing the program means passing both their probation and achieving a degree-level qualification. <https://www.joiningthepolice.co.uk/ways-in-to-policing>

Recommendations

entry¹⁰⁴ and policing degree.¹⁰⁵ Whichever option applies, the police trainee will have achieved a degree-level qualification by the time he or she has finished the probationary period.¹⁰⁶ The Federal Bureau of Investigation in the United States requires that applicants be at least 23 years old and have an undergraduate degree.¹⁰⁷

By contrast, RCMP members, including the 6-month recruit field training period at their first posting, are given less than one year of training and require no post-secondary education apart from that given to them at Depot.

This issue was the subject of comment and a recommendation by the 2007 Brown Task Force which noted that recruitment of RCMP from high school graduates is consistent with a culture that “supports the idea that any member can learn any trade -- even very specialized ones”.¹⁰⁸ Training should recognize the need for a knowledge-based workplace. The Task Force recommended that “...the RCMP should also make a post-secondary degree a condition for all new recruits”.¹⁰⁹

The Task Force also recommended paying cadets during Depot training.¹¹⁰

In my opinion, it is time for the RCMP to re-evaluate its application requirements. It should examine the possibility of setting a minimum age, so that applicants have some life experience and maturity. It should consider imposing a longer period of schooling, at least two years of post-secondary education.

In a modern force, there should be more professional training; better prepared cadets would be an asset, particularly those who have had the opportunity to encounter more diverse groups of Canadians in post-secondary education. Indeed, there is research that correlates a lesser use of force and fewer incidents of discrimination based on race, sexual orientation or gender with higher education standards for police.¹¹¹

Applicants should also be screened for conduct that is considered misogynistic and homophobic, through detailed background checks and personal interviews. One claimant stated: “The starting point is recruitment – testing personality at the time of recruitment – looking for personality traits that differ from those now prevalent at Depot.” Another stated that: “... the RCMP pretends that there are no gender issues – that it doesn’t exist.” She told me that they (the RCMP) “...need to figure out during the selection process what views the candidate has about gender and different sexual orientations”.¹¹² She also believed that there should be education about gender issues at Depot.

104. If applicants already have an undergraduate degree in any subject, there is a two-year pathway available. As a police constable, the applicant combines work-based and classroom learning, leading to a graduate diploma in professional policing practice once they have completed their probation. <https://www.joiningthepolice.co.uk/ways-in-to-policing>

105. Applicants may also obtain a three-year undergraduate professional policing degree at university. They apply to join a police force when they graduate, and start their careers with a shorter on-the-job training programme. <https://www.joiningthepolice.co.uk/ways-in-to-policing>

106. <https://www.prospects.ac.uk/jobs-and-work-experience/job-sectors/law-enforcement-and-security/joining-the-police>.

107. <https://www.fbi.gov/contact-us/field-offices/sandiego/news/press-releases/the-fbi-wants-you-special-agent-application-now-open>.

108. *Rebuilding the Trust, Task Force on Governance and Cultural Change in the RCMP*, December 14, 2007, p. 56: https://www.publicsafety.gc.ca/cnt/cntrng-crm/tsk-frc-rcmp-grc/_fl/archive-tsk-frc-rpt-eng.pdf

109. *Ibid*, p. 38.

110. *Ibid*, p. 57.

111. http://www.cjcg.org/uploads/cjcg/documents/jpj_education_use_of_force.pdf; <https://inpublicsafety.com/2014/07/how-education-impacts-police-performance/>; https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=4117&context=gc_etds

112. This could also be extended to include other forms of diversity.

Recommendations

Another claimant stated: "the RCMP needs to look at recruiting and who is admitted to Depot, i.e. character." More specifically, it was suggested that people who are inappropriately drawn to the power given to the police need to be excluded from the recruitment process because it results in abuses of power. This is consistent with what we heard from other claimants.

Others told me and the other Assessors that the RCMP recruits like-minded people and that consequently, the way they recruit reinforces the existing attitudes.

I am not of the view that individuals should be admitted into the RCMP merely because of diversity requirements. They must be qualified. Ignoring merit and the ability to do the job has, at times, resulted in a worsening of harassment and discrimination. For example, the other Assessors and I were told that in the late 80's and early 90's the RCMP was required to hire many women, some of whom were (for various reasons) not able to do the job. This in turn fuelled the stereotypes and resentment of male members.

One claimant said that she understood that "...the RCMP wants to be more diverse through hiring; however, in doing so, it lowers/changes the standards of hiring based on race and gender. This isn't right. If the RCMP wants more women and/or minorities to apply, perhaps it should try encouraging more of them to be interested in this job. As it stands now, applicants who are minorities/female are given priority over "white males"... I understand that, but it is because there are so few females/minorities who apply. Make the job more attractive for this smaller group so more of them apply."

However, it cannot be assumed that "merit" is a neutral and objective matter. The definition of "merit" needs to be carefully scrutinized, as part of the process of removing systemic barriers. That a candidate brings diversity to the RCMP can be a factor enhancing his or her merit. The question must be asked: what is actually necessary to do "the job"? Further, what is "the job"? As discussed elsewhere in this chapter, it may be time to move from the position that every RCMP member must be a generalist, able to fulfil every possible role. Finally, it cannot be assumed that determining which candidates are meritorious is a neutral and objective process; it may be highly subjective.

Claimants suggested the following measures:

- Increase the age to be admitted to the RCMP to some minimum (25 years was suggested)
- Use an aptitude test to screen out inappropriate (power seeking) personalities during the recruitment process.
- Ensure that screening of new recruits includes incidents of domestic violence or other gender-based issues as part of the "good character" requirement.
- Require the completion of a post-secondary programme before entry. Some suggested that a university degree or another professional program should be mandatory.
- Utilize recruitment tools that eliminate persons with attitudes and beliefs that do not respect women. While the emphasis in recruitment for integrity and honesty are important, recognize that the respect of women also requires prioritization. Note that where intolerance for women exists, intolerance for minorities and, LGBTQ2S+ people will also exist.
- As for recruitment, require a thorough search of the applicant's social media as part of suitability screening.
- Hire for specific career streams and not for all types of business lines.

Recommendations

It is my view that the time has come to require post-secondary education for all new RCMP recruits. This recommendation was also made in the Brown Task Force report.¹¹³ This can be done in different ways and need not consist solely of a requirement to complete a university degree.

I am also of the view that it is imperative to conduct effective and detailed background checks on an applicant's moral character that go beyond criminality. I believe that applicants should be required to complete psychological testing that would screen out those with attitudes or personality traits that do not fit in the modern context of policing and social diversity.

Recommendations on recruitment:

- **Perform a careful analysis of what will constitute “merit” in the recruitment of RCMP members, taking into account the need to remove systemic barriers and to allow for specialized roles and functions.**
- **Require a minimum level of 2 years of post-secondary education or training to apply to the RCMP. I recommend that the RCMP study the recent changes to recruitment recently adopted in the UK which give options for varying ways to meet this requirement.**
- **Encourage applications from diverse groups including women, LGBTQ2S+ people and racialized communities and implement programs to assist them in meeting the entry requirements where necessary.**
- **Conduct effective and detailed background checks on applicants' views on diversity and women. Eliminate those who are not able to function with women, Indigenous people, racialized minorities or LGBTQ2S+ persons and are unwilling to accept the principles of equality and equal opportunity for all. Screening must consider all incidents of harassment and domestic violence.**

113. *Brown Task Force*, *supra* note 16, p. 58.

Recommendations

C) TRAINING AT DEPOT

The model of Depot is one in which, I am told, cadets are broken down to be built back up in the RCMP mould. As one claimant put it: “Members currently learn to conform and not lead at Depot”. This is true for both men and women. One claimant summarized the impact in this way:

“Regardless of gender, RCMP training is in and of itself very arduous. The goal is to break you down into little pieces and build you back up. Within the process, there is a deference to authority for the greater good of protecting those rights and freedoms of the people you will ultimately serve. However, gender discrimination and harassment lays (sic) outside these reasonable boundaries. When I completed my training, I felt less in my uniform solely based on the fact that I was a female. I believed that males were more valued police officers based on the degradation I endured from my troop mates/Instructors at depot training”.

A study of the origins of Depot states: “Steeped in history and paramilitary tradition, the academy had changed its training methods very little since its establishment in 1885. It was modelled after the Royal Irish Constabulary’s Depot of Instruction. The RIC was the British Empire’s largest professional police force and was the inspiration for many colonial policing bodies. Like its counterpart in Dublin, the Regina Academy was named Depot.”¹¹⁴

One claimant compared Depot with another provincial police academy: “There was no comparison between Depot and that Police Academy. There, the instructors wanted you to become the best police officer you could become. They wanted to build you up and teach you what you needed to know. Built an *esprit de corps* by building cadets up not by tearing them down. At Depot, they used the opposite approach. They sought to tear the cadet down and build her up in the RCMP mould. Completely different approach. Not a good approach.”

Claimants said that the RCMP tries to justify this model as required to establish an *esprit de corps* necessary for policing. Based on the accounts that I and the other Assessors have heard, this is not the effect that Depot has, or if it is, the *esprit de corps* effect does not appear to last once the cadets leave Depot, nor to extend to those members who are not white, heterosexual males. We heard repeatedly from claimants that they were prepared to deal with the public, but that they were not prepared to deal with the harassment, discrimination, and violence that they experienced in the workplace from their male colleagues. As one claimant put it: “As I was protecting Canadians, there was no one protecting me”.

Although Depot has changed, to a certain extent, over the past decades, I am of the view that the model of training described to us is outdated and no longer necessary or helpful in creating a modern professional police officer.¹¹⁵ As one claimant stated: “In Depot, the teaching methodology was harsh – criticism and not pedagogy.”

Claimants told me, and the other Assessors, that there was a significant amount of sexualized conduct and comments at Depot both by instructors and by cadets (who learn quickly to emulate their instructors). Some said that infidelity was rampant at Depot. Indeed, I was told that in 1975, the Depot Doctor gave out aspirin to the men and aspirin and birth control to the women.

114. <http://www.canadashistory.ca/Explore/Women/Women-on-the-Force>.

115. <https://www.theatlantic.com/ideas/archive/2020/06/police-academies-paramilitary/612859/>; <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6950698/>;

Recommendations

This sexualized conduct normalizes harassing and discriminatory behaviour which in turn sustains a toxic workplace, tolerant of such conduct. Male cadets absorb the tolerance for this type of conduct at Depot; female cadets are often the target of the conduct.

Many of the women the Assessors interviewed joined the RCMP at a young age – 19 or 20 years old. They were often naïve, and in many cases, the RCMP was their first job and first time away from their family. Many recounted stories of being shocked by the language and open sexualized nature of the conduct they were confronted with at Depot. Stories of instructors preying on young women that they called “fresh meat”. Harassment from male cadets was also frequent.

Women recalled being forced to stand beside the pool in thin wet bathing suits and having their nipples commented on by swimming instructors while other instructors looked on from the viewing area.

Tales of the “Piggy Parade” for women (and men) who were considered overweight were told, as well as stories of surprise dormitory inspections at night while women were trying to sleep and were in a state of undress.

Stories of parties and drinking resulting in sexual assault; abuses of authority to obtain sexual favours and lesser forms of sexual assault by instructors and other cadets were also disclosed. Instructors abused their authority and pressured young female cadets into having a sexual relationship with them, lest they face possible dismissal from Depot.

The refrain at Depot, sometimes in the form of chants, was that 1974 (when women were first admitted) was the worst year in the history of the RCMP. Women were constantly told that they were lesser than, and less capable than the male cadets, although this was frequently not the case. Their bodies were commented on incessantly. Women’s breasts were the focus of significant attention, with some being told they would not be able to function as members because of their breast size.

One claimant told me that the women in her troop were treated as though they should not be in the RCMP. They were told that they were only out to have sex with the men. She said that the female cadets lost all of their self-esteem when they walked into Depot.

Women were physically humiliated in training when they were forced to fight against much larger men. They were told that they would have to be able to handle themselves on the street, but a number of women told us that they rarely engaged in physical altercations because they were able to de-escalate tense situations using other strategies.

If a woman was suspected of being a lesbian, there were lengthy investigations into her personal life which were humiliating; comments were often made to her first posting, before her arrival, about her sexual orientation which set her up for a worse than usual reception.

The Assessors heard that over time, the atmosphere at Depot has changed for the better. However, we still heard recent stories of sexual harassment and discrimination by male instructors, drinking to excess, sexual assaults, and derogatory comments about women and their place in the RCMP.

Recommendations

When complaints about this type of sexualized or discriminatory conduct are made (which are rare because of the fear of reprisals), the complainants are ostracized by their male troop mates and, in more cases than not, the offending instructor is reprimanded but left in place; an offending cadet may be sent home, but may be readmitted in a following class.

Depot should be a place where the core values of the RCMP are taught by example: honesty, integrity, professionalism, compassion, accountability and most importantly, respect.

I am not saying that this is never the case. Indeed, different women had different experiences at Depot and their treatment often depended on the personality of the Commanding Officer, and the instructors' ethics and views. A leader who models core values will likely instill those values in those he or she supervises.

Unfortunately, this was not always the case. One claimant (who had gone through military training) told me that what struck her the most about Depot was the injustice fostered by it. She was told that she had already learned about justice at Depot and that "...now she was going to learn about injustice."

"Both men and women need to have the same core values of respect. This must be instilled at Depot and any deviance by a cadet or an instructor from these core values should be sanctioned immediately."

Consequences for inappropriate behaviour must be swift and final, and cadets must have a confidential and effective means of reporting such behaviour without fear of retribution. Cadets who are dismissed for inappropriate behaviour should not be readmitted. Misogynistic, homophobic and racist comments or slurs by instructors, or in drill, should not be tolerated.

Here is a list of comments made by women who were interviewed:

- Is the Depot model still appropriate? The RCMP needs to reconsider the model. A professional Police Academy may be a more relevant model.
- Should the RCMP require undergraduate studies in policing for members to educate the future members.
- Depot needs to change. Bring in professionals to teach, not RCMP members.
- There should be better/more training at Depot in relation to harassment and ethics.
- Continue with male/female integrated training troops that were absent in the early years at Depot and likely contributed to many of the early bias attitudes. No segregation based on gender should be tolerated.
- There is a new training at Depot called the Blanket Exercise that encourages reconciliation with Indigenous People. It fosters understanding and empathy toward First Nations people and their experiences. Can we develop a training program at Depot that does the same thing for women?
- In the course on mental health, there should be a session on sexual harassment with a real victim to speak about the impacts. The message would be reinforced if there was roleplaying.
- Depot should teach the signs of mental health issues and tell cadets how to access psychological services and when to report.

Recommendations

- There needs to be interactive leadership classes not just paper-based instruction. This needs to start at Depot where cadets must be taught what is appropriate leadership and what is not.
- There should be training at Depot on values, including proper conduct on and off duty; cadets should be discouraged from personal relationships with members they work directly with and encouraged to maintain professional, respectful relationships. Women should also receive advice on how to address harassment.
- A question was raised concerning the impact of the transition from the recruit system to the cadet system on new members (i.e. less financial security) and a chilling effect on the ability to report wrongdoing (occurred in 1997). Today, cadets are not sworn police officers for six months and are thus more vulnerable. Attending Depot can cause a financial burden that creates an entry barrier for some groups, i.e. women with dependents.¹¹⁶
- In Depot, there is a psychology course; it should contain a section on sexual harassment and discrimination, and one on intimidation
- Include education on harassment and a real account of the harassment (like Janet Merlo's book) at Depot- it could be given by one of the women who lived the harassment.

I am of the view that the way that RCMP members are trained at Depot contributes to the continuation of a toxic culture in the RCMP.

Recommendations on training at Depot:

- **The RCMP should appoint an external expert to review the training programme at Depot to ensure that it meets the requirements of and promotes a positive and modern approach to policing and police training that addresses issues of harassment and discrimination, and teaches recruits about the Charter value of equality.**
- **During the time required for the external study, the RCMP should establish and enforce a zero-tolerance policy for harassment and discrimination at Depot with meaningful consequences.**
- **The RCMP should ensure an effective anti-harassment and discrimination course is taught at Depot that includes role-playing as well as participation by members who have experienced harassing conduct.**

116. See <https://www.rcmp-grc.gc.ca/en/evaluation-the-cadet-recruitment-allowance-cra#toc3-3>

Recommendations

D) RECRUIT FIELD TRAINING

Recruit Field Training (“RFT”) is a six-month period of in-the-field training during which a more senior constable is put in charge of training a new constable who has just left Depot. The goal is to train the new constable on the job, to teach her the necessary skills and procedures required to function as a regular member. The “field coach” is responsible for writing an assessment of the new constable and his or her assessment can prolong the training. Once the constable completes her RFT, she becomes a Level 2 constable and is entitled to more pay and to work without direct supervision. We were also told that a constable must serve as a trainer to be eligible for promotion to the rank of corporal.

The other Assessors and I heard a number of negative stories about Recruit Field Training in which trainers make sexual demands of their trainee. If the recruit refuses to go along with her trainer’s requests, she is ignored and not taught what she needs to know or worse, left on her own in dangerous situations.

“[My trainer] turned towards me in his seat and said, he did not like female police officers. And he was not happy when they told him his recruit was a female and that he would have to train one. He told me the other females in the detachment were useless. And, if I did not meet his standards, he would do everything in his power to get me out of the force. In my mind, his words and foreshadowing had nothing to do with me as a police officer but my SEX as a police officer. I was speechless. Again, this was a person in a position of authority to me. I had just come out of Depot and I had been taught to respect the chain of command. This guy held my future in his hands. I thought to myself, not this shit again? So, the damage was done for me here. You can well imagine my intimidation. Again, this was a very stressful bag to carry in one’s psyche.”

Claimants said there was inadequate supervision of trainers and no way to provide feedback for trainers who refused to properly train women recruits, or who neglected their duties in that regard. The other Assessors and I heard stories, in the past, of the difficulties in finding a man willing to train a female recruit because of the objections of their spouses who were afraid their spouses would become sexually involved with the women they trained. They also heard from a number of claimants who said that members who would logically have been their recruit field trainers simply refused to work with women.

Recommendations

All of the Assessors were told of sexual assaults in police cars or drives down abandoned roads. Stories of retaliation through poor assessments resulting in a claimant not being given a pay raise (despite later performance assessments that directly contradict those made by the trainer). Recruits being ignored and told to study the manual to figure out what they needed to know. Stories of humiliation and pranks played on new members who were too intimidated to complain and did not know who they could turn to.

"I turned to [my trainer] and asked if there was a problem with my training progress. He advised me that there wasn't a problem, but that there could be. He asked if I was lonely and went on to say that if I was lonely, he could help with my loneliness and he could be there for me in a sexual way. I was shocked and relayed to him that I was not interested in having sex with him, or entering into a romantic relationship. [My trainer] became irritated and appeared angry with my response. He said that my training would go a lot easier for me if I had sex with him."

The impacts of this negative treatment during the RFT period could, and in some cases did, last an entire career. A recruit who is not properly trained at the beginning of her career has an uphill road to follow. She starts off behind others (usually male) who are taken under the wing of their trainers and given special training and assignment to important files. This allows these better trained members to qualify more quickly for promotions and training.

Women who are ignored, or not properly trained because of their gender or sexual orientation, do not have the skills to investigate complex files or are more prone to making mistakes. This in turn leads to poor performance assessments. This demonstrates the often insidious and systemic nature of the discrimination.

The recruit field training period presents a time during which recruits are particularly vulnerable to harassment and discrimination. As such, it must become more structured, professionalized, and trainers must be effectively supervised and held accountable for the training that the recruit receives.

Recommendations on recruit field training:

- **Establish a mentorship program for women within the Detachment to address adjustment to the force. The mentor must not be the individual's trainer.**
- **Establish a mandatory counselling program for all recruits during the 6-month training period.**
- **Formalize and professionalize the Recruit Field Training program by making it part of Depot with effective oversight and consistent curriculum / targets. This should include a confidential mechanism to report harassment or discriminatory conduct by the trainer.**

Recommendations

E) POSTINGS

The RCMP is Canada's national police force and as such has members posted across all 10 provinces and 3 territories. Many of the detachments are in remote locations and consist of a small number of members and support staff. This results in unique challenges, especially for women, that include loneliness, isolation, lack of social interaction, no access to social support, shortage of housing and childcare, and total reliance on colleagues. Some claimants were told they needed to submit to a sexual assault in order to "fit in". Others noted that removing young recruits from their support network at the beginning of their career, for instance by assigning a posting on the other end of the country far from family and friends, makes them overly vulnerable, particularly to the hazing.

In the early days of women in the RCMP, female recruits would often be the first female ever posted to a detachment. Even in later decades, they were often the only female in the detachment for years. Often, they were not accepted by their colleagues or by members of the public.

One claimant told us that when she arrived at her first posting she "thought she had been sent to Hell":

"I arrived and was excited to begin my field training. A troop mate who was also posted in [...] attended the community with me to help unpack, see my new Detachment and provide support. [We] headed to the Detachment where the Corporal was awaiting my arrival. After introductions and small talk... He spoke ... about the old school days of the Mounties (before females were allowed in) and the changing times and downhill slope the Force was taking. He made it clear that the allowance of females was a definite problem. He spoke of my stature, as I am petite and how good-looking girls cause more problems than good in the RCMP. [...] This was my first day and I will never forget the dread that I felt fill my body. [...] I fell to the carpet of my home and cried and cried."

Housing was also raised as an issue for these members who are either forced to share common housing with male members or forced to commute for long distances and at great expense financially and to the detriment of their ability to learn.

What the experiences of the claimants tell me is that women recruits should not, unless they request it, be posted to isolated or remote areas where there is no other female member. One claimant said: "... isolation of recruits in areas when they have no family is also a dangerous social factor enabling bullying because the RCMP becomes your social and work world. It doesn't have to be that way."

Indeed, it is my view that recruits (male or female) should be posted to an area where they have some support system in place whenever possible. An external support system makes it less likely that recruits will be beholden to their colleagues for their social support. Sole reliance on male colleagues, in remote postings, has led to a number of unfortunate events involving excessive drinking and sexual assault. (More to be said on the drinking culture later).

Recommendation on posting:

- **Post female recruits to detachments in areas where they have adequate housing and social support unless they request otherwise.**

Recommendations

F) ONGOING TRAINING

Training is essential for a member of the RCMP to advance her career. Courses are prerequisites to apply for specialized services and plainclothes positions which are sought after. Many claimants told the Assessors that their careers were hampered, at one time or another, by the inability to obtain training. Several claimants demonstrated that over a lengthy period they had not received any training courses other than those that were mandatory.

I was told that courses are either run by a district, the Division or are national. The type of course determines which level of management is responsible for giving it, deciding who attends the course and how many spots are available.

Several claimants I spoke to had post-secondary and some had graduate level education. Many were bright and enthusiastic; one would expect them to have succeeded. The Assessors were told that in many cases they were simply not given the training they requested and needed to advance.

The allocation of training was, and remains, overly discretionary. It can, and often does, serve as a not-so-subtle tool of discrimination or a lever for those seeking to abuse their authority through the dispensing of benefits and rewards. All of the Assessors were told stories of claimants being removed from courses or not allowed to go on courses as a form of reprisal for not agreeing to a sexual relationship with a supervisor, or for making a complaint about harassment. Claimants told stories of asking for a course for years, only to see it given to a much junior male member.

Claimants also told me and the other Assessors that there is no transparency regarding how courses are allocated. The reasoning behind such decisions is opaque and often incomprehensible to them. Indeed, in several instances I was told that men who did not ask for or want the training were sent on it instead of women who had identified the course in their training plans.

Several claimants told me that they had specific career objectives based on their interests and skills, which they discussed with their supervisors. They identified and requested the training required to attain these goals but were constantly overlooked. Even when claimants went out and paid for the training themselves, they were passed over for promotions. One claimant was told – ‘...don’t bother you will never be promoted’. These women lost their dreams of a meaningful career; one for which they demonstrated an aptitude and enthusiasm. One claimant told us she did not get any of the training she requested and as a result has lost her dream of working in a specific area. Now she is putting in time as a general duty constable until she can retire.

I was also told that there are no effective career plans in place for RCMP members. If this is the case, I am of the view that every member should have a formal career plan in place which identifies his or her long-term career goals and identifies what is required to reach those goals. This would then influence the training and postings they are given.

Training is the key to a successful career. The allocation of training is overly discretionary and is not sufficiently transparent. Training allocation varies depending on the provider and there does not seem to be a structured career management program that would assist members in identifying and obtaining necessary training. Too often the allocation of training is used to pressure members or retaliate against them for conduct that does not please the officer in charge, including a failure to provide sexual favours or a dislike of a person’s sexual orientation.

Recommendations

Recommendations regarding ongoing training:

- There must be transparency in allocating courses.
- The RCMP must implement an early, formal and effective career plan for all members that continues throughout their career with appropriate accountability for ensuring that the member is effectively supported. This plan should determine the allocation of training and postings.
- The RCMP should centralize the allocation of training so that the discretion to grant courses no longer rests with a member's direct supervisor. This allocation should be blind and, based solely on the member's qualifications, experience and career plan.

G) HUMAN RESOURCES AND STAFFING

Many of the claimants told me and the other Assessors that they felt they were treated in a discriminatory manner by the Human Resources / Staffing section of the RCMP because of their gender or sexual orientation. They explained that some members, working in human resources or staffing functions, held inherent biases, notably that a man's career was more important than a woman's career, that same-sex marriage is not the equivalent of a straight marriage, and that women should care for children at the expense of their careers. While I was told that these biases are less explicit today, I was told of recent instances in which these biases impacted women's career aspirations.

"Staffing was not accommodating in the least. They were basically telling me that I would have to damage my husband's career. If they wanted me back full time, I would need a physical transfer. I was told it would be a waste of government money to give me a physical transfer. [My supervisor...] attempted to help me obtain a job-share position in [a new detachment], but staffing had an issue with the part-time positions, and apparently I was not releasable from my position in [my current detachment] even though [my S/Sgt.] did not want me to have a job share position there. I wanted to have a job and be a mother and the Staffing department at the RCMP did absolutely nothing to help rectify the situation. They would not help find someone to take the job share position, they would not approve of any other job shares that were presented to them, they would not release me from my position in [my current detachment], and they would not transfer my husband and myself to anywhere that was suitable. I fully believe that they did not want to make any effort to accommodate RCMP members that were mothers."

I was also told that many of the employees in Staffing and Human Resources are Regular Members who are not specialized in these areas.

Recommendations

During our interviews, many claimants, especially those who have worked in Human Resources and Staffing, recommended that the RCMP establish a professional Human Resource group that is sufficiently staffed and separate from the operational side of the RCMP.

Claimants were also concerned by an apparent lack of effective succession planning throughout the RCMP. They stated that the RCMP reacts to vacancies in an ad hoc manner and with little thought or foresight. They believed that a more formal career planning and succession planning at the lowest level would assist the RCMP in using its employees more effectively.

Recommendations on human resources and staffing:

- **Study the implementation of a model which creates an independent human resource branch.**
- **Ensure that Human Resources staff are trained professionals.**
- **Ensure that Human Resources staff understand the need to remove systemic barriers against women, and are trained on how to do so.**

H) MATERNITY AND PARENTAL LEAVE

The issue of pregnancy and maternity leave came up very frequently in my review of claims. I, and the other Assessors, heard that in many cases, women were treated poorly when they announced that they were pregnant. Many claimants reported that their male superiors reacted by cursing at them when they shared their happy news. These same supervisors were not supportive during the pregnancy. Some told me of the different reactions that occurred when men announced that they were going to become fathers.

“It was not surprising to me at this point [in my career] that they were so open about not wanting women in [the division]. [...] I knew that I’d better never plan on having children or they wouldn’t be happy with me. I felt unwelcome going in.”

One claimant summed it up when she said you would see “...joy on the men’s faces when they learned they were having a baby and the fear on the women’s faces.” Pregnancy was extremely stressful for many women.

Pregnant women were often seen as failing the unit or detachment since they would be off on “holidays” for a lengthy period of time, which meant that the other members would have to shoulder a larger workload.

Recommendations

Claimants described hiding their pregnancies and remaining on active duty far too long, potentially putting their child at risk to avoid criticism. Some told us stories of engaging in arrests or other dangerous duties as far as seven months into their pregnancies.

“When I finally told [my supervisor that I was pregnant] he was very upset, was yelling at me, and I ended up apologizing for being pregnant. Everything was going fine according to him and now everything changed. I had to hide my pregnancy since (for over 5 months) in order to keep peace for myself. I lived in fear of being punched or kicked while carrying my baby but felt I had no alternative”.

Others, who disclosed their pregnancies earlier, were subjected to harsh or humiliating treatment for the duration of the pregnancy. They were given menial tasks instead of being given work that would ease the burden of operational members. This was particularly confounding when one considered that a major source of discord in relation to pregnancy was the impact on operational requirements of other members. Rather than consolidating administrative tasks with the pregnant member, freeing other members up to continue operational tasks, pregnant members were effectively removed from the detachment roster while they still had much to contribute. We heard stories of women being threatened with negative career consequences if they became pregnant. Some felt obliged to terminate their pregnancy.

Claimants told us that they returned to work early to avoid letting down the team, leaving young babies with daycares or family members. Others said that they continued to work from home even while they were on maternity leave.

This issue is not new. It was raised by the 2007 Brown Task Force Report which found that the RCMP does not have the capacity to satisfy its obligations: “in every detachment we visited, there were unacceptable vacancy rates (often in the order of magnitude of 25-30%). Still the Force seems to accept every new request – whether or not it has the financial or human resources to follow through. The Force seems incapable of saying no.”¹¹⁷

The Brown Task Force concluded that if the inability to fill vacant positions is the result of lack of funding, the federal government must re-examine RCMP priorities. If an activity is a priority, the Government should fund it; if not it should be discontinued if funds are not available. In conclusion, the Brown Task Force Report recommends that replacement personnel be provided immediately for those departments/ detachments/ units experiencing unreasonable demands due to extended absences.

117. Brown Task Force, *supra* note 16, at p. 23 The Brown Report mentions that vacancies because of parental leave, Long Term Disability, secondment, or disciplinary action are all part of these vacancies. As of 2007, the contract policing arrangements of the RCMP did not allow for replacement personnel when members are absent for a protracted period of time.

Recommendations

In 2012, the Gender and Respect: The *RCMP Action Plan* acknowledged that over 15 years ago Supt. Bev Busson flagged parental leave as a persistent inequality between men and women causing tension within units and on the members. She pointed out RCMP's failure to backfill members when they are on maternity (or parental) leave causes these problems.¹¹⁸ The report supports the need to backfill positions. But the action item is vague: "We will find a way to advance this through consultation with contracting partners nationwide."¹¹⁹

The specific action item reads: 4.2 Design and implement a mechanism for backfilling employees on parental leave, in consultation with contracting partners.

The RCMP accepted the recommendation would take place in 2015 after discussion at the Contract Management Committee. In 2015, the senior management committee decided that each division would manage their own vacancies related to parental leave.

When asked, the RCMP told my Office that "...there is work that has started which is looking at enhancing its approach to vacancy management by considering the incorporation of "soft" vacancies (i.e., maternity/paternity leave, off-duty sick) into its resource planning models. This model will allow the RCMP to have sustainable processes in place that proactively anticipates future resource requirements." However, at the time of writing, nothing had yet been put in place. The RCMP states that it is "...still at the preliminary stages of working on this model, but anticipate that it will be completed within the next 2-3 years."

In 2020, RCMP Policy states that the positions of persons on parental leave are normally blocked i.e. cannot be permanently staffed in their absence (see policy below). Accordingly, the position may be left vacant or another member could be appointed on an acting basis.

Backfilling a position is a question of funding and the availability/willingness of members to work in a temporary capacity in another detachment.

Refusal or failure to fill these positions creates resentment of women in the RCMP.

Finally, the authors of "Towards a Red Serge Revival: A position paper on the current state of the Royal Canadian Mounted Police" suggested that one way to mitigate the demands of "motherhood" is to "assure good child care is available to families, by reducing transfers of Mounties of both genders when their children are young - ensuring there isn't an excess of disruption to children's school. Attention to human needs could reduce a lot of the stress that seems to be almost endemic to being an RCMP officer."¹²⁰

The RCMP has been aware of the problem of understaffed detachments for years and in any event since 2007. It agreed to take action on the issue in 2015. It is now 2020 and very little progress appears to have been made on this issue leaving detachments short of human resources and women bearing the displeasure and resentment of their colleagues when they announce their pregnancies. Women still report being given humiliating duties, inconsistent with their training and abilities when they are placed on administrative duties as a result of pregnancy.

118. 2012 *Gender and Respect Action plan*, *supra* note XX at page 8

119. *Ibid.*

120. *Canada. Senate. Hon. Tommy Banks et al. Toward a Red Serge Revival: A Position Paper on the Current State of the Royal Canadian Mounted Police, February 22, 2010.* http://colinkenny.ca/en/resources/media/PDF/RedSergeFinal_Web2.pdf

Recommendations

Women should not be penalized for having children. Maternity (and parenthood) must be expected and not resented. Where their absence will have a serious impact on available resources their positions must be filled during their maternity and parental leave.

Recommendations on maternity and parental leave:

- **Women who are on administrative duties because of pregnancy should be given meaningful work that is commensurate with their experience and competencies whenever possible. Managers should be held accountable for the assignments given to women by human resources or some other section outside the detachment.**
- **The Government must provide sufficient funding to maintain effective human resource levels in all detachments including when women take maternity leave.**
- **The RCMP must ensure that it has a system to ensure that resource levels required for operational duties are always maintained and, on an organization-wide basis, not on a Division by Division basis over the next 2-3 years.**
- **Positions should be backfilled so that women are not resented for having children.**
- **The idea of floaters – members that can be deployed where necessary to ensure appropriate coverage, should be endorsed.**
- **The transfer of RCMP members who have young children should be reduced.**

I) EMPLOYMENT FLEXIBILITY

The question of workplace flexibility was raised by numerous claimants. It is true that the burden of childcare and other domestic tasks still rests disproportionately on women. Allowing for more flexible work schedules or assignments with more regular hours for the primary caregiver of young children would be beneficial to the retention of talented members and would assist in their ability to advance their careers. Women and men should not have to choose between having a family and having a successful and rewarding career in the RCMP

In the early days, the 1970s and 1980s, women often felt they had to resign to take care of their children. Some re-engaged after the early childhood years had passed but had lost years of career experience and seniority which impacted on their pensionable time. In later years, women resorted to taking extended leaves without pay to care for children, which also resulted in a loss of career progression.

Caring for small children and balancing a career in the RCMP with its unpredictable hours, often in places where there is limited access to childcare, is a constant tension and pressure on women (and men) in the RCMP.

Recommendations

One claimant wrote to us after her interview and said: “Judge Smith asked what the RCMP can do to improve things. One thing they must do is learn to be more flexible. If we are to attract women and more progressive people to our organization, we have to provide opportunities for part-time work, flexible hours and telecommuting. The RCMP will tell you they do so but that is bullshit. It is on our Info web as options but almost no one is supported to make those choices. We have to pay our people enough that we can compete with the other policing agencies. Policing is not a job that is attractive to very many people in this new generation so we are competing for a very limited number of good candidates. If we want good, strong police officers we have to attract them and it has to be with more than the red uniform. The RCMP needs to consider daycares in large detachments and having rotational positions in small posts rather than permanent positions. Both these options would make family life easier for male and female members to take care of their families which is a huge stress.”

Statistics show that, although the RCMP has allowed members to work part time since 1986, this option is very rarely used and those that use it are most likely to be women in civilian member jobs.

Over the past 20 years, RCMP Regular members, particularly women, have increasingly chosen to work part time but the number is still minimal when compared to the overall workforce, that is, in 2019 there were 34 women and significantly fewer men out of a workforce of over 19,000 on part-time status.

More flexibility in allowing members to select part-time status, job sharing or assignment to positions with more regular hours was identified as an area that could assist those with primary responsibility for childcare (still most likely to be women) in maintaining a better work/life balance.

The possibility of establishing day cares in larger detachments was also suggested to assist parents in working and caring for a family.

Recommendations on employment flexibility:

- **Establish daycares in all large detachments.**
- **Ensure that all members (men and women) are aware of, and are not penalized for requesting job sharing and/or part-time status.¹²¹**

121. In *Fraser v Canada* (Attorney General) 2020 SCC 28 a majority of the Supreme Court of issued a declaration that the s. 15 rights of full time RCMP members who temporarily reduced their working hours under a job sharing agreement were breached based on the inability of those members to buy back full pension credit for that service. The SCC stated that the methodology for facilitating the buy back of pension credit is for the government to develop, but that any remedial measures it takes should be in accordance with the Court's reasons. The measures should also have retroactive effect.

Recommendations

J) GRIEVANCES AND DISCIPLINE

From 1974, when women were permitted to join the RCMP as Regular Members, to 1988, when the first large-scale amendments to the *RCMP Act* received royal assent, the internal RCMP disciplinary rules were arcane, based on criminal law, and largely the same as the 1959 version of the Act. Between 1988 and 2014, when the second major overhaul of the *RCMP Act* came into force, the grievance and disciplinary processes were cumbersome. Up until 2014, the decision makers in disciplinary and grievance matters were kept at a fairly low-level rank. Only in very limited circumstances were aggrieved members entitled to representation by members that were independent from management.

As early as the mid-80's, and notwithstanding the stories that we have heard, the *RCMP Act* imposed on all members a standard that required each of them not to conceal or permit any improper or unlawful conduct of a member.

It is interesting to note, when reading RCMP announcements of the 1986 Amendments and the *RCMP Accountability Act*, that they both aim to accomplish the same thing: establishing and strengthening the review of complaints and the grievance procedures.

I have significant doubt that the 2014 amendments to the *RCMP Act* (see Chapter 4) will address the issues that the other Assessors and I have seen. The procedures are still very much based on an internal mechanism, with decision-making responsibility delegated to a relatively low level, with little independent oversight. Indeed, external reports such as the Fraser Report and the Report by the Civilian Review and Complaints Committee for the RCMP have already made Recommendations for change to the new system.¹²²

During the claims process, the Assessors heard many comments about the grievance, harassment, and code of conduct system from many of the claimants we interviewed. Few of the comments were positive. Indeed, most women said they would never use the grievance or harassment complaint system as they simply had no faith in its efficacy or fairness.

“As I moved through the complaint process I felt minimized and dismissed. The member in Professional Standards made me feel like I had done something wrong. Even with all the supporting evidence it was clear he felt that I was making a big deal of nothing. When I said I wanted to proceed with criminal charges of harassment, he told me that those charges never go through... it was clear he had no interest in dealing with this outside of the RCMP. ... This refusal to take it to Criminal court and the meager “punishment” meted out to [my supervisor] all added up to me feeling completely dismissed. It also destroyed my trust in superior officers to deal with these kinds of situations”.

122. Sheila Fraser, Review of four cases of civil litigation against the RCMP on Workplace Harassment: Report to the Minister of Public Safety and Emergency Preparedness. March 2017 and CRCC Report into Workplace Harassment: <https://www.crcc-ccetp.gc.ca/en/report-workplace-harassment-rcmp>

Recommendations

I understand that since 2014 there are three ways in which allegations of sexual harassment in the RCMP workplace can be addressed: (1) by way of a grievance if the harassment results in a decision about the woman (e.g. a transfer, a denied promotion, etc.), (2) by way of a Code of Conduct investigation initiated by the RCMP; or (3) by way of a harassment investigation if an RCMP member files a harassment complaint. There is some level of independent review as the External Review Committee of the RCMP may be implicated in certain instances.

Of course, given my mandate, I have not conducted an in-depth examination of these mechanisms, but three main issues were repeatedly mentioned by claimants: a lack of fairness in the process, a fear of reprisals, and, the failure to implement effective (or any) penalties. Whether these issues are perceived or actual they contribute to a reluctance to make a complaint regarding harassment and must be addressed. The reluctance to make a complaint in turn allows harassment to continue.

Women who made harassment complaints recounted stories of ineffective, unfair, and biased investigations that included incomplete investigations, investigations done by friends of the target of the complaint, witness statements leaked to persons not involved in the investigation, timelines disregarded, and being forced to continue working in the same detachment as their alleged harasser.

Harassment investigations are internal and those conducting investigations are, for the most part, beholden to their superiors. This creates a systemic lack of independence. In most instances, I was told that the Commanding Officer is the decision maker and that he or she does not always have the training or independence to make informed decisions.

One claimant said that no one complains about harassment because the process is so awful. Complaints are more detrimental to the victim than the harasser. Women who use the system are labelled as complainers and this label follows them to each new posting.

We were told frequently about the fear of reprisals for those who made complaints. Reprisals both direct and indirect are believed by many to be inevitable.

The Assessors also heard a number of claimants say that managers or supervisors actively discouraged them from filing grievances. They were told that they would be labelled as a troublemaker or a complainer; someone who does not understand how to work on a team. In short, when they disclosed harassment to their superiors, they were often told that they should suck it up, keep their head down, not rock the boat.

Claimants were sometimes told that they could complain but they should think carefully before doing so. They were often told to think of the impact their complaint would have on the male member and his career and family.

One claimant told me that as soon as she laid a complaint against a more senior officer, she was slapped with numerous Code of Conduct complaints all of which were concluded as not founded. This story was not unique.

Recommendations

In some instances, claimants were unfairly targeted with criminal charges. I even heard stories of senior officers encouraging members of the public to bring civil actions or public complaints against women who spoke up and complained about the harassing or discriminatory conduct that they had experienced.

Others who spoke up found themselves in extremely dangerous situations without any back up. At times, this resulted in physical injuries as well as incredible stress and anxiety.

Even the best grievance and discipline system, if it allows for reprisals, is doomed to be underused and become a measure of last resort.

All three Assessors heard accounts of harassers, who had been found to have sexually harassed claimants, being promoted and transferred to a new detachment.

Others told the Assessors that those who are forced out because of harassment complaints may still be brought back as retired specialized members in units where they were previously found to harass people. Sometimes they are even put in a position of influence or authority over the person who made the well-founded complaint against them.

One claimant said that she "...feels that the way the RCMP deals with harassers is best summed up as "the higher the number of complaints against the member, the bigger the promotion he will get". There is a complete lack of accountability."

Very often the only solution is to separate the complainant from the perpetrator and there is no hesitation in disrupting the complainant's career and life by moving her. The fact of the complaint, even if founded, will follow the griever, and affect her, often not the person who harassed her.

Even when a complaint of harassment is likely to be founded, the alleged harasser is, in some cases, allowed to retire with a pension. When that happens, I am told, the complaint process stops and there is no effective penalty imposed on the perpetrator.

This trend was noted by Sheila Fraser in her 2017 report. She recommended changes to the substance of sanctions, specifically not accepting resignation or retirement. She noted that as of March 16, 2017, no one had been dismissed for sexual harassment.¹²³ This does not offer closure to the victims. Not only does it suggest the RCMP does not take harassment seriously, but many of the cases also involve more senior officers, so the victims' perception is that rank influences punishment.

123. Fraser Report, *supra* note 30 at p. 13

Recommendations

“Individuals who have been found guilty of harassment are either left in their positions or worse, transferred to another location where people do not know what they did. I believe that when they are given sanctions outside of a loss of pay or loss of holidays that 90 percent of them are not followed up on. Meaning that if they were required to take training or be given extra supervision this is not done because their supervisor was not advised. The whole process is aligned to protect the abuser and not the victim. This is the same if the person accusing them of harassment is lying. Nobody ever gets to hear that the individual lied so it now tarnishes your reputation.”

Claimants had suggestions to deal with the grievance process:

- We need a more detailed Code of Conduct with effective sanctions and a policy on how to implement and enforce it.
- We need to track and identify members who are chronic harassers and deal with their conduct as soon as possible.
- Harassers should be forced to obtain counselling and be prevented from doing any work where they supervise RCMP personnel.
- The RCMP should implement a 24-hour hotline, independent of RCMP, to report misconduct.
- Complaint and investigation processes need to be completely independent of RCMP and not dependant on the chain of command.
- Reprisals and concern about isolation and absence of backup is a real disincentive to making a complaint.
- Amend *RCMP Act* to allow for stiffer sanctions such as suspension without pay, the ability to terminate a member's employment based on a defined set of proven acts based on the balance of probabilities.
- There must be real sanctions for harassers – not simply moving them or the complainant.
- Persons accused of harassment or violence in the workplace should not be allowed to resign to resolve the question. There must be a sanction. Freezing the offender's ability to apply for a promotion for a set period is not enough.
- Assign complainants a lawyer (independent) paid for by the RCMP to represent complainants through the complaint process.
- Claimant noted that there is no anonymous avenue to complain or bring inappropriate behaviour to the attention of management. A whistle-blowing mechanism (PSDPA) could assist.
- Some suggested that a panel of peers of the same gender be used to screen and determine if a complaint meets the threshold of harassment prior to commencement of an investigation.
- Since the changes to the *RCMP Act* in 2014, there is no longer any transparency in relation to those who have been found to have harassed others – all is done at the detachment commander level and is either sent to a conduct hearing (dismissal) or a conduct meeting at the whim of the detachment commander. There is no accountability in this process.

Recommendations

- As decisions are no longer public, there is no way of knowing if the punishments for similar incidents are equivalent.
- There should be a new provision to require reporting in relation to disciplinary measures
- Mandatory timelines sometimes result in an injustice.
- Some members fear that if a member is charged with a Code of Conduct offence it will undermine any high-profile arrests, he (or she) has made.
- The RCMP must change the present policy regarding the harassment complaint process whereby interview tapes are shared with perpetrators - this creates a gross privacy violation for the claimant and prevents women from coming forward.
- Prevent those who retire and/or are fired for harassment from coming back as contractors or casual employees.
- Mediation and informal resolution mechanisms are not appropriate in cases of sexual harassment and/or violence in the workplace
- There needs to be transparency in relation to outcomes of Code of Conduct complaints.
- Individuals who have been found guilty of harassment are either left in their positions or worse, transferred to another location where people do not know what they did. When they are given sanctions outside of a loss of pay or loss of holidays, 90 percent of them are not followed up on. This means that if they were required to take training or be given extra supervision this is not done because their supervisor was not advised. The whole process is aligned to protect the abuser and not the victim. This is the same if the person accusing them of harassment is lying. Nobody ever gets to hear that the individual lied so it now tarnished the reputation of the victim.
- Abuse of power must be better understood and sanctioned. Compulsory notification and the tracking of the complaint in the very first instance, by a specific neutral unit, should happen, no matter what else.
- Ensure that offices are designed to limit opportunities for assault - design with an anti-harassment lens.
- Harassment complaints that are substantiated should result in permanent restrictions on a harasser's career path - i.e. no supervisory roles.
- Supervisors should be notified of any complaints of harassment or bullying by one of their employees regardless of the ranks involved.
- The system for complaints should not compromise a person's career if she complains.
- Decisions regarding discipline cannot be made by the inner circle - detachment commander.
- We need an external body to investigate and make the decision regarding discipline
- Use a code number not a member's name in the complaint process. Have witnesses sign non-disclosure agreements.
- There are obligations for supervisors/management to take actions regarding inappropriate behaviour even without complaints being submitted. They know what is going on yet do nothing and allow it to continue.
- Create an Ombud's Office for members to make complaints. It is important to have someone to speak to outside of the RCMP hierarchy. Establish a 24-hour hotline for members to report abuses and misconduct, one not operated by RCMP, an independent agency that can investigate complaints.

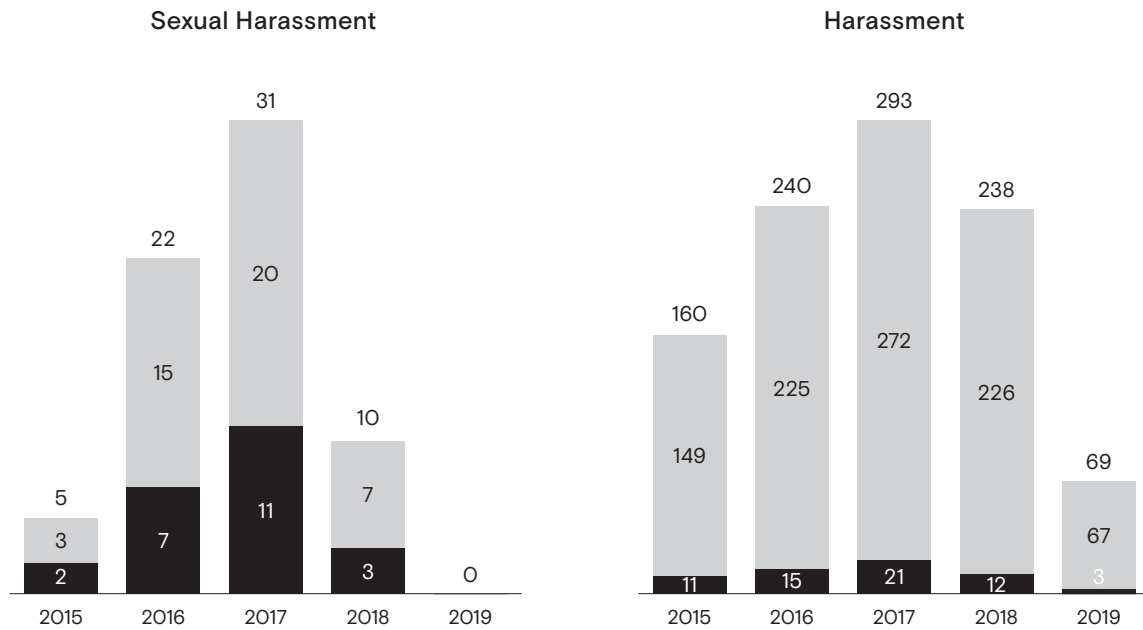
Recommendations

As can be seen by consulting the statistics, there are very few sexual harassment complaints made, even as recently as 2019 (in which there were none). In my view, this is not a good statistic. The Assessors have heard that sexual harassment is found throughout the RCMP workplace, as late as 2019, and my view is that the absence of complaints shows that women are still afraid to report harassment when it occurs despite the changes to the law and policy.

Sexual Harassment vs. Harassment as of December 31, 2019

(Obtained from the RCMP)

Total concluded files
 Established files



Sexual Harassment accounts for 4.8% of Harassment Complaints (2015 (3 files); 2016 (15 files); 2017 (22 files); 2018 (7 files); 2019 (0 files) for a total of 54/1132 files.

Recommendations

Recommendations on grievances and discipline:

- Create an effective, external and independent body to which RCMP employees may report sexual harassment or misconduct which has the power to investigate and make binding findings of fact and recommend penalties. This external body should also have the authority to self-initiate audits of workplaces without notice to the workplace being audited to ensure compliance with harassment and sexual misconduct policies.
- Mediation or other informal measures should not be used in the context of sexual harassment accompanied by violence.
- The RCMP must address the problem of reprisals for making harassment complaints. The isolation of complainants, refusals to provide them with backup, and other forms of punishment such as the refusal of training or transfers must be eliminated.
- Sanctions for those found to have been harassing in the workplace must be effective and include suspensions without pay for longer periods, demotions, removal of supervisory responsibilities for an extended period of time; ban applying for promotions with no discretionary override. Dismissal should be the sanction for serious or repeated offences. Victims should not be transferred unless they request it.
- Those accused of sexual harassment (including assaults) should not be allowed to retire before the conclusion of an investigation and conduct process.
- A system to monitor those who have been found to have harassed members in the workplace should be implemented. A second finding of harassment should result in automatic dismissal.
- Alleged sexual assaults should be disclosed immediately to the appropriate external investigatory body.

Recommendations

K) MENTAL HEALTH

Mental health was a topic that was frequently raised by claimants. I understand that the RCMP has made efforts to address mental health in its ranks,¹²⁴ but we heard numerous accounts of women who were denied effective debriefing, were ridiculed for expressing a need for psychological assistance and were sidelined for admitting to a psychological injury. Some of these accounts are historical and must be considered in that context.

Indeed, in his 2017 Report on mental health in the RCMP, the Auditor General of Canada stated:

“Overall, we found that the RCMP did not adequately meet its members’ mental health needs. The RCMP was one of the first federal government organizations to introduce a mental health strategy. However, it did not make the strategy’s implementation a priority or commit the human and financial resources needed for the strategy’s full and effective implementation. We found that new mental health programs to support early detection and intervention were only partially implemented, and that the RCMP did not allocate budgets to support them. We also found that while 57 percent of members received easy and timely access to mental health support they needed, one in six members (16 percent) did not. For 27 percent of cases examined, the RCMP did not have records that would allow us to assess whether members received the help they needed when they needed it. Finally, we found that members’ supervisors and health services staff did not fulfill their roles in supporting members who were returning to work from mental health sick leave. One in five members who sought mental health support from a health services office did not return to work or was discharged.”¹²⁵

These findings matter because the RCMP is only as strong as its members. If the organization does not effectively manage members’ mental health and fulfill its responsibilities to support their return to work, members struggle to carry out their duties, their confidence in the RCMP is undermined, and the RCMP’s effectiveness is reduced.

It is clear that policing puts individuals at high risk of operational injuries, both psychological and physical. This is not just the case for Regular Members but also for Civilian Members and Public Servants who are exposed to the day-to-day work of the RCMP.

Drinking is often used to help manage stress or to self-medicate. Claimants often reported feeling immense pressure to join in the “party” culture; they felt that if they did not do so, they would not be accepted as part of the team. This acceptance is essential particularly in remote locations where the only people that they had to socialize with were other RCMP members. This led to a number of sexual assaults when a woman had had too much to drink and was left in a vulnerable position. Hazing rituals to reinforce the group cohesiveness were also reported by some claimants and at time involved sexual acts usually under the influence of alcohol.

Employees (male and female) are told that they must “suck it up” or “push through it”. One claimant told us that after a particularly difficult event, her Watch met up at the detachment and a bottle of alcohol was put on the table. That was the only “debrief” that the members received.

124. 2014 RCMP Mental Health Strategy referred to in <https://www.ohscanada.com/rcmp-outlines-five-year-mental-health-strategy>

125. Auditor General Report on mental health in the RCMP: https://www.oag-bvg.gc.ca/internet/English/parl_oag_201705_04_e_42226.htmlOAG Report 4—Mental Health Support for Members—Royal Canadian Mounted Police at para. 4.19.

Recommendations

Women who have asked for a post-incident debrief have been laughed at and told to take it like a man would. Indeed, we heard stories of supervisors, who openly criticize women who resort to psychological assistance because they identify this as a sign of weakness, instead of looking for the cause of the trauma. This type of criticism has a negative impact on an individual's reputation and limits her career advancement.

Many claimants told us that they did not seek psychological support because they were afraid of the impact on their career. They said that there were supervisors obtaining access to confidential medical records that they had no authorization to see, to their detriment.

"I started experiencing a lot of anxiety early on in my career. Many times, I went out on the road in tears or too upset to perform my duties because of the harassment I experienced at the office. In my second year at the RCMP, I wanted to quit. I did not have other female members to support me and did not have the support of RCMP psychologists at the time. I had to suck it up and continue doing my job. I could not tell anyone anything out of fear of backlash."

Others told us of the stigma of admitting to a psychological injury. When a claimant told her 'friends' that she had PTSD she says she never heard from any of them again. There is still a stigma attached to mental illness. For example, another claimant told us that her PTSD diagnosis resulted in her being labelled as "damaged goods". One claimant stated in relation to mental health: "It's so lost. Mental health training – they ignore it and make fun of those with mental health issues. No sensitivity. The top 5% earners – managers are required to check on their mental health, but it is not taken seriously. Programs are there, but the old boys club is there."

"...So much money is spent on training us to get out of situations alive but nothing to safeguard our everyday mental and emotional needs, nothing to create the security that comes from having healthy relationships in your daily life. Especially with people your life could actually depend on. By continuing to not build positive relations within this organization, there will always be a rise in sick leave/internal investigations/ legal complaints and the list goes on. An inclusive environment shouldn't stop at telling a new member who everyone is and sticking them on a team. Members representing minority groups are typically ostracized and criticized to the point their mental/emotional and physical well-being is compromised. This needs to be addressed and yearly staff parties (which most excluded people from cliques do not attend) are not bridging the gaps that desperately need to be built. There is a dire need to make working relationships healthy and inclusive, this can only foster much needed cohesion, trust and a better understanding of diversity. "

Recommendations

Addressing mental health concerns or injuries early and frequently may well assist in the retention of talented employees who would otherwise leave. Many do not feel they can address mental health issues until they leave due to the ongoing stigma attached to such injuries.

Claimants told us that they were prepared for the horrific things that they witnessed as part of their duties. They were prepared for the car accidents and the other gruesome aspects of their job as a police officer, however, many believed that the constant stress of having to watch their backs or being subjected to harassment and discrimination undermined their natural resilience and left them more susceptible to psychological injuries. This was documented in a number of psychological assessments provided to us. In my view, based on the medical reports submitted to us, many of the claimants we spoke to would not have suffered from the psychological injuries that they did if they had not faced such a hostile workplace.

Claimants had this to say about mental health:

- Address the problem of drinking as self-medication for trauma; alcohol addiction and the use of alcohol as a tool to debrief critical incidents was a common theme throughout the claims process.
- 90% of the stress in the RCMP is caused by RCMP members and not external events/actors.
- Provide adequate funding for therapy– 6 or 12 sessions a year is not enough.
- Some of the management problems are linked to the mental health of supervisors which is left undiagnosed or untreated
- Privacy issues arise from the way mental health assistance is approved and funded; there is a fear that seeking treatment will impact the future of a career.
- Should be an annual mental health check as well as effective critical incident debriefs. Those identified for promotion into management should be required to undergo a mental health assessment. Mental health assessments should be done after returning from an isolated posting.
- RCMP should establish a mentorship programme for women.
- Counselling programmes should be put in place for recruits during their first 6 months of career (RFT period).
- The RCMP needs to address the stigma of mental health disclosure both in management and in colleagues.
- It needs to increase the number of Force psychologists (only 1 or 2 in E Division)
- Some compared a career in the RCMP with an abusive relationship – many of the claimants struggled with guilt in coming forward with their complaints in this process because they felt they were betraying the RCMP.
- Members cannot be forthcoming with psychologists for fear of the impact on their career (i.e. cannot admit to suicidal tendencies or burn out); their Gun could be removed and they would become non-operational. There is communication of psychological information to the RCMP management.
- There needs to be a way to access psychological assistance and have it remained confidential.
- We need more action on depression and PTSD.
- Members will not use a helpline unless it is another member on the line.
- Add a process to regularly “check-in” on women who are the only woman in their unit (check-in by someone outside the unit).
- Take active steps to identify and prevent hazing rituals.

Recommendations

- Mental health providers should also be contacted to proactively engage with members of the RCMP on a confidential basis to ask about possible issues. This proactive approach takes the pressure off women and provides normalized opportunities to make reports.
- An anonymous support line should be available for RCMP members who are on the fence about coming forward. Workers of this support line should be able to provide information regarding reporting procedures and referrals to mental health support. They should also be able to take reports by phone if the caller wishes to proceed.
- There needs to be better and earlier recognition of PTSD. A one-hour interview annually at “block training” would allow the RCMP to screen for symptoms and provide earlier treatment.
- Some members suggest the formation of a committee of members and former members to formulate in-house Recommendations in relation to mental health issues and provide support for management initiatives.
- Depot should teach the signs of mental health issues and tell cadets how to access psychological services and when to report.

A number of factors appear to contribute to a reluctance on the part of members to seek psychological assistance in particular the disclosure of personal information.

In her 2017 Report, Ms. Sheila Fraser noted that the head of Health Services is a regular member who oversees the day-to-day operations of doctors, nurses and support staff who are coordinating health and safety services. That same director reports to the head of HR who reports to the Commanding Officer of the Division. After a few years, this individual typically returns to policing or moves onto a different administrative role within the Division. Ms. Fraser suggested that this sets up a risk of conflict of interest.¹²⁶

She also observed that the Office of the Privacy Commissioner has identified several concerns with use and disclosure of medical information.

In 2014, the Privacy Commissioner determined that RCMP members’ personal medical information was being inappropriately collected by the RCMP’s National Compensation Policy Centre and recommended a number of remedial actions be taken.¹²⁷ Ms. Fraser strongly recommended that RCMP consider delivery of health services be provided by an external party and conduct an independent review of Health Services.¹²⁸ In response, the RCMP undertook to “explore options for the review of its Health Services by an independent entity in 2019-2020.”¹²⁹ We were not able to confirm that this has been done.

I am not a mental health expert, but the psychological damage to claimants that all three Assessors saw in the interviews and the pervasive reluctance of claimants to seek early treatment is of great concern to me, as are the reported breaches of claimants’ privacy in the context of mental health issues.

126. Fraser Report *supra* note 30 at pp. 14-15

127. https://www.priv.gc.ca/en/opc-actions-and-decisions/investigations/investigations-into-federal-institutions/2014-15/pa_20141117_rcmp/

128. Fraser Report, *supra* note 30 at page 16

129. Fraser Report, *supra* note 30 at page 32

Recommendations

I have concluded that much of the stress suffered by the women comes not only from their work, but from internal sources which aggravate the normal stress that arises in the context of policing. There must be earlier identification of psychological injuries by regular testing and diagnosis. Medical assistance must be confidential and not disclosed to the RCMP, unless required by professional codes of practice, so that members are not discouraged from seeking help when they need it.¹³⁰ The culture of self-medication by using drugs or alcohol as a coping mechanism by both men and women must be addressed.

Recommendations on mental health:

- **Invite the Privacy Commissioner to investigate the RCMP's use and disclosure of individuals' medical information on an institution wide basis.**
- **Integrate Health Services into an independent Human Resource branch to address potential conflict of interest issues.**
- **Require that Health Services flag retirement or discharge proceedings if a mental health issue is identified. A feasibility of a return to work option should be considered prior to the RCMP approving a request for discharge.**
- **Require regular mental health assessments for all members.**
- **Implement an organization-wide alcohol and drug awareness campaign outlining the hazards of using these for the purposes of dealing with trauma.**
- **Define hazing in the *Code of Conduct* and make it an offence to participate in it.**
- **Develop resources to foster a workplace culture in which members can safely debrief following critical or disturbing incidents.**

130. Aside from instances in which a medical professional is required to disclose information.

Recommendations

L) PROMOTIONS

My mandate did not include an in-depth examination of the promotional process; however, the issue often arose in discussions about the harassment and discrimination that claimants experienced.

From what we heard from claimants, RCMP members are in constant search of a promotion. Receiving a promotion is the only way to obtain increases in salary once a member has reached the top of his or her salary bracket.

This results in a competitive environment in which members are competing against each other to obtain the experience necessary to apply for their next promotion. One claimant described it as a broken process that results in members feeling like the only way to advance their own career is by putting down others. Others called it a popularity contest in which those who are on the “friends and family plan” have a substantial head start. Another claimant said:

“When female members get promoted, rather than giving credit to their capabilities and hard work, there were rumours and talks (sic) about the female members sleeping with someone to get the position.”

To promote, members must demonstrate how they meet specific competencies. Claimants indicated that the use of competencies to assess promotability has led to members taking a check the box approach that is not supportive of good policing.

They must also be eligible based on their years of service, but there is discretion built into the policy that allows for the time periods to be shortened.

I recognize that the promotion system has changed over time and that the emphasis has also changed. The current process which requires candidates to provide examples of competencies also requires validation by supervisors or colleagues. This creates a disincentive to make complaints about harassment against colleagues and supervisors because of the need for their support. It can also be problematic if a person misses out on operational opportunities because she is discriminated against because of her gender or sexual orientation or both. Indeed, there are many ways in which a supervisor can limit a person’s promotability. If a claimant is not assigned to the type of file that would allow her to develop specific competencies, she is not promotable. If a claimant is not given training, she will not meet the requirements of a position.

Some women, who placed in the top 5% on the promotional exams on more than one occasion, told me that they were nevertheless passed over for promotion. Others said that the staffing process is 85% based on who you know.

Recommendations

Still others said that a fundamental problem is the ongoing promotion of bullies and the failure to encourage and nurture female and male champions who have the compassion needed to manage their teams well and maintain a respectful workplace. One claimant suggested that the promotional process be modified to require that candidates give concrete examples of when they did something not for their own benefit, but to assist their subordinates and team members.

Several claimants took the position that the promotional process should reward managers who take care of their team, instead of promoting those who put others down to get to the top.

Although policy prohibits managers from discriminating against women who are pregnant or have small children, I heard accounts of women being passed over for promotion for these reasons and warned not to grieve the decision.

Statistics show that female members have made progress in their representation in higher ranks:

Table – Demographic information regarding ranks in the RCMP as of April 2020

(Source: RCMP)

Rank	Total	Number of Women	(%)
Constable	12,240	2,826	23.1%
Corporal	3,614	760	21.0%
Sergeant	2,008	385	19.2%
Staff Sergeant	850	95	11.2%
Inspector	325	79	24.3%
Superintendent	189	48	25.4%
Assistant Commissioner	7	26	27%
Commissioner	1	1	100%

In most instances, the percentage of women at each rank is at or slightly above the overall percentage of women in the RCMP, that is, 21.2%. Where we see a gap is at the rank of Sergeant and Staff Sergeant. The discrepancy is particularly striking at the Staff Sergeant rank. These are key middle management ranks.

This table does not, however, show the nature of the functions held by women who have been promoted. A concern was raised by claimants about the nature of the promotions that women were given. We were told by several women that it was rare for women to be promoted in operational capacities. I have no statistics to demonstrate the accuracy of this assertion, but I heard similar concerns about the streaming of women into “soft” or “pink” functions from multiple claimants. One person told us that in the Langley Detachment in September 2019, there were 46 operationally investigative supervisor positions and three administrative supervisors. She noted that all of the administrative positions were held by women and only 3 of 46 operational supervisors were female.

Even when they are promoted, women are not always given the same respect as their male colleagues. We were told of numerous incidents in which a junior member questioned and refused to follow the orders of a woman of superior rank. Even when such behaviour was raised with a more senior male officer, it was often disregarded or worse tacitly approved.

Recommendations

These are the comments and suggestions we heard from claimants:

- The promotion process needs to be independent and merit-based and not based on who you know.
- There should be an anonymous process using a random candidate number and not name, regimental number or HRMIS number. No photographs should be included.
- Promotions should require a 360-degree review and not just the recommendation of more senior officers.
- The process should be reformed so that promotional boards are composed of members at least two grades above you, from different areas (in the military, they would have members from the Navy, Army and Airforce).
- There must be transparency in allocating promotions; the decision must be documented and available to the individual.
- The promotion process should comprise a panel exam (like Depot) rather than a paper-based process based on Recommendations. The current process relies too much on who is liked and the old boys' network.

Based on what I, and the other Assessors, have heard, it appears that at the very least there is a strong perception that the promotion system is fundamentally flawed and allows for individuals who are not qualified to succeed based on their connections or personal attributes, such as being male, or white, or heterosexual. As such, identifying applicants during the promotional process is likely detrimental to those who do not meet the RCMP's implicit expectations of the "ideal" member. This is an unsurprising feature of a culture in which as noted above, there is an embedded "Old Boys Club".

Recommendations on promotions:

- **Use a rigorous "blind" process for promotions by assigning a random number to a candidate. No information about the gender, race, or medical or other leave taken by the applicant should be disclosed.**
- **Gather data on the number of women who are supervisors in operational versus administrative roles and, if there is a significant discrepancy, implement an action plan which would include a mentorship programme to encourage women to apply for promotions in these operational areas.**

Recommendations

M) LEADERSHIP

We heard that claimants had good experiences in detachments where the officer in charge was respectful and embodied the RCMP values of respect and professionalism. We also heard that a leader who was harassing or discriminatory and unable, or unwilling, to address misconduct, resulted in a toxic work environment where women were often targeted for harassment and/or discrimination.

In other words, leadership was crucial to the quality of the workplace. Leadership is also crucial for cultural change which the RCMP requires if it is to become a modern, high-performing and diverse police force.

This is not surprising, nor should it be news for those familiar with the principles of organizational behaviour. What should be surprising is how many of the claimants reported toxic workplaces in the RCMP.

This puts into question the nature of promotions into leadership roles in the RCMP. What training is given to candidates? How are they promoted? Is there too much discretion in the hands of the Divisional Head in appointing commissioned officers?

In my view, leadership and who is promoted into leadership roles are key elements in addressing ongoing workplace harassment issues. Based on what I heard from a number of women (including those in the officer ranks) individuals within the RCMP are not always promoted based on merit but on who they know. Indeed, I heard the officer promotion program referred to as the “friends and family” plan where, despite a lack of competence, those who were part of the Old Boys’ Club are promoted well beyond their abilities.

Many claimants, including women in the officer cadre, stated that the Officer Candidate Programme and subsequent promotions should be overhauled to ensure neutrality and transparency in promotions. One claimant said:

“The staffing process is 85% based on who you know. The Officer level staffing process lacks consistency and fairness and needs to be overhauled. Staffing of an Officer should be independent and not selected by the line officer which would prevent the old boys club selection.”

Recommendations

In its 2019 response to the 2017 Fraser Report and the 2017 Civilian Review and Complaints Commission (CRCC) report into workplace harassment, the RCMP stated that it has made a number of changes to the training it gives and the requirements for promotion into the officer cadre.¹³¹ Notably, since 2017, applicants to Officer Candidate Program must prove they completed Status of Women Canada's Introduction to GBA+ online course. Effective 2018-2019, RCMP's Respectful Workplace training will also be a prerequisite for promotion. As of April 1, 2018, all members promoted to Sergeant had to complete the Manager Development Program (MDP). This program has a module emphasizing bias awareness and inclusive leadership practices.¹³²

Sergeants must also complete MDP before applying for promotion to Staff Sergeant and the Supervisor Development Program (SDP) is now mandatory for all members promoted to Corporal. or Sergeant.¹³³

The RCMP also requires that all commissioned officers complete the Executive /Officer Development Program (EODP) which includes a module on inclusive leadership and application of GBA+ to examine bias and promote diversity.¹³⁴

While these are positive initiatives, I believe more must be done to ensure effective leadership at all ranks.

Recommendations on leadership:

- **Leadership training should begin at Depot and be continually emphasized throughout a member's career.**
- **Members should be required to recommit to upholding the *Code of Conduct* every time they are promoted.**
- **Leaders should be held accountable for failing to act when they become aware of harassment or discrimination in their areas of responsibility. Leaders should not be penalized for the existence of harassment and discrimination complaints in their sections as long as appropriate action is taken in a timely and effective manner. Areas in which there are no complaints or grievances should be audited promptly.**
- **Ensure that all leadership training is done in-person and involves role-playing exercises which are key adult learning programmes. Online courses or in class non-participatory classes are insufficient.**
- **Require a complete evaluation of commissioned officers every 3-5 years and in any event before they are promoted again.**

131. Government Response to Report on Workplace Harassment in the RCMP and the Review of Four Cases of Civil Litigation against the RCMP on Workplace Harassment, p. 25 <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2018-rspns-rcmp-wrkplc-hrsmnt/index-en.aspx>

132. *Ibid.*

133. *Ibid.*

134. *Ibid.*

Recommendations**N) SPECIALIZED TEAMS**

We heard numerous accounts of sexual assault and gender-based discrimination in the context of specialized teams particularly in the undercover operations, the TAC (tactical) teams, dog squad and Musical Ride. We are told that these teams, particularly in the context of undercover operations, act as if they are outside the law. In some cases, these teams are the last bastion of the old boys' club to which women are admitted but at a very high price. I understand that there has only been one female member accepted onto the Emergency Response Team to date.

These teams may have structural discriminatory measures built into them, or, they may contain individuals who are intent on ensuring that they remain firmly within the male sphere. In either case, I am of the view that these teams are often seen as being special and, particularly in the case of the undercover team, as above the law.

Recommendations on specialized teams:

- **The RCMP must ensure that there is an effective oversight of specialized teams and in particular of the conduct of its undercover team members.**
- **The RCMP should establish a confidential, independent mechanism for members of these teams to make complaints concerning harassment or violence in the workplace.**

Recommendations

O) MEDICAL EXAMINATION

As part of the application process, individuals were required to undergo a medical examination conducted by a RCMP medical officer. We were told that this examination was the last step before an applicant was accepted into the RCMP. Failure to pass the medical examination would result in an applicant being turned away. This put a tremendous amount of power, at least perceived power, in the hands of the doctor conducting the examination. Claimants told us that they felt completely vulnerable, their dream of becoming a member of the RCMP in the hands of the doctor.

We were told numerous times about the abuses perpetrated by two doctors. Claimants told us of being subjected to prostate exams- despite not having a prostate, rectal exams, vaginal exams, lingering breast exams, unnecessary pap smears and being left with the feeling that they had been assaulted.

During the claims process, I was told by claimants that criminal charges were being investigated against one of the doctors in Halifax, however, no charges were laid.

I was also told that claimants had made complaints about another doctor's conduct to the Ontario College of Physicians and to the Toronto Police but that they were dismissed and again no charges have been laid.

I was not privy to either of these proceedings or decisions, however, I find it difficult to believe, based on what the other Assessors and I heard that there was not enough evidence to proceed in some manner. I had numerous women who complained of inappropriate behaviour including what I consider to be sexual assaults, by these doctors.

"I am forever uncomfortable with health professionals. As a police officer, it made it difficult for me to tell a victim to go get a physical exam (such as for a sexual assault case) and to tell them to trust their physicians... I forever do not have any kind of trust in that respect. It is horrible that the one doctor that this happened to me with was the RCMP hired doctor."

Recommendations

I was also told that the conduct of these doctors was known to other members of the RCMP. Indeed, one of the doctors was given the nickname Dr. Fingers by both male and female members. More than one claimant remembered being warned about the medical examination by others who had been through it. It is incomprehensible to me that such conduct could be tolerated.

Unfortunately, many of the claimants who had had negative experiences with these doctors were not entitled to compensation under the Merlo Davidson Settlement Agreement because they were not members of the RCMP at the time of their examination as they were still in the application process. I strongly recommend that the RCMP provide compensation to these women. I recognize that there is an ongoing proposed class action that seeks to address this misconduct.

Some of the women that were assaulted by these doctors were either Auxiliary Members, Temporary Civilian Employees, public service employees or civilian members applying to transition into a Regular Member position. These individuals were entitled to compensation as they were members of the Primary Class at the time of the assaults. During the interviews with these claimants we heard some truly shocking accounts of abuse.

Recommendation on medical examination:

- **The RCMP must compensate women who were abused by the medical officers during the application process and were not eligible for compensation under the Merlo Davidson Settlement Agreement.**

Recommendations

P) CIVILIAN MEMBERS AND PUBLIC SERVICE EMPLOYEES

In addition to the Regular Members (RMs), the RCMP employed 3,262 Civilian Members (CMs) and 8,477 Public Service Employees (PSEs) as of April 1, 2020 to do various non-policing and/or technical jobs.

Category of employees	Female	Male	Total	% Female	% Male
Civilian members	1,659	1,603	3,262	50.9%	49.1%
Public Service Employees	6,392	2,027	8,477	75.4%	23.9%
Regular Members	4,221	15,205	19,428	21.7%	78.3%

Overall, 430 or 41% of the 3086 claims I received were from women who worked as Civilian Members and/or Public Service Employees. (Some women were both CMs and PSEs and some could have had the 3 different status through their career and they are shown in the multiple status column of the table.¹³⁵ Of these, 59% were awarded compensation. The breakdown of the compensation awarded to CMs, PSEs and RMs is found in the following table.

Level	CM/PSE	RM	Multiple status	Total
No compensation	519	300	37	782
Level 1	332	448	33	747
Level 2	269	687	38	918
Level 3	52	139	11	180
Level 4	36	167	5	198
Level 5	26	92	7	111
Level 6	35	124	9	150
Total claims	1,269	1,957	140	3,086
%	41%	63%	4%	100%

Sadly, stories of sexual harassment cut across all employment categories.

135. This may account for some minor discrepancies in the statistics.

Recommendations

Temporary Civilian Employees

Some claimants began their careers in the RCMP as Temporary Civilian Members (TCEs). TCEs were appointed under now repealed section 10(2) of the *RCMP Act* to fill a temporary need. The RCMP no longer has the authority to appoint TCEs but may staff a position, on a temporary basis, with a casual employee appointed under the *Public Service Employment Act*. Unlike TCEs, who could continue their employment for a lengthier period, casual employees are limited to working a maximum of 90 business days in a calendar year unless the RCMP requires their services for a major investigation, a major event or an operation if the services of the person are required as a result of unforeseen circumstances such as an unknown duration or the unexpected need for a particular skill.¹³⁶ This power is, however, subject to oversight by the Public Service Commission.¹³⁷

While the Settlement Agreement categorizes TCEs as Public Service Employees, I will address sexual harassment faced by TCEs separately because of their particularly vulnerable employment status which arose as their employment could be terminated easily. Women hired on as Temporary Civilian Members described being pressured into entering sexual relationships with male RCMP members to ensure that they would be hired on as a Civilian Member or as a permanent Public Service Employee.

One claimant stated: “XX raped me four times. [...] Before he sexually assaulted me, he would say “Well, don’t you like your job?”, “Don’t you want to keep your job?”, “Don’t you want your job to be made permanent?” This was a big concern of mine. I was a temporary casual employee (for a number of years). The RCMP policy states that you are only supposed to be a TCE for 1 year. He always hung that over my head because he had all the power. He had total control over my career. It was obvious to me that I didn’t have a choice. If I said “no,” I would lose my job.”

Civilian Members

Civilian Members are appointed under the *RCMP Act* but are now in the process of transitioning to employment as Public Service Employees. They account for 3,262 of the employees of the RCMP. According to the RCMP, however, the transition date has been delayed indefinitely. I received 430 claims from CMs. Their roles include forensic scientists, computer and IT professionals, nurses, chaplains, archivists, dispatchers, criminal intelligence analysts and executives. I also note that as a group, as of April 1, 2020 51% of Civilian Members are women compared to 21.7% of Regular Members.

I spoke with several CMs who faced significant barriers with respect to their careers, and who experienced many of the same forms of sexualized and discriminatory conduct that RMs experienced. Unfortunately, their experiences were, at times, aggravated by a workplace culture that viewed them as worth less than RMs.

I and the other Assessors heard accounts of CMs being passed over for promotion in favour of men (RMs and CMs); CMs being discriminated against when they chose to start a family; others having been sexually assaulted because male RMs considered them “available”. One claimant told me: “I have observed male members making sexual advances to young female dispatchers throughout my career. In my first posting, male members always flirted with women and teased us in ways different from their behaviour with each other. For example, Constable XXXX pretended he was in a pursuit with my car on the highway; he turned on his sirens and queried my license plates.” Another told me: “I was constantly being touched or groped as soon as I arrived to the Operational Communication Center (OCC).

136. *Public Service Employment Act*, S.C. 2003, c.22, s. 50, 50.2 and RCMP Casual Employment Regulations SOR/2014-253

137. *Public Service Employment Act*, S.C. 2003, c.22, s. 50.2 (2)

Recommendations

There always seemed to be an underlying tension in the radio room. We were made to feel that the only reason we had a job was because of the members, who were predominantly male, and that we should be grateful that we had our positions. I vividly remember one of the staff sergeants saying, "Thank god there are some good-looking broads in here cause most of you aren't that smart." One of the operators laughed [at him]. As a result, she was forced to publicly apologize in front of the Operational Communications Centre for being insubordinate to a member."

Another female CM wrote: "XXX told me that I was really smart and got along very well with everyone and that I should convert to a Regular Member. While he meant this as a compliment, the message was clear that male police officers held a higher status and were valued much more than female civilian members. [...] this message was regularly reinforced throughout my career."

Conversely, if a female Regular Member converted to a Civilian Member, male RMs would point to this as proof that women are not meant to be Regular Members.

Civilian Members described a pervasive "suck it up" attitude in the workplace. A CM dispatch member explained: "There was no one to talk to if we had emotional problems. We women talked amongst ourselves, but even then we all concluded that we had entered into man's world so we had to take what our superior officers gave us, not show the female side of our personalities, accept sexual comments and sexual advances because that was the price we needed to pay to stay or become a member of the RCMP, the "old boys' club." One of my trainers in radio dispatch—a female—also told me I needed to keep my head down and "toughen up" if I wanted to remain an auxiliary or a regular RMCP member. She told me to do what was expected of me because I worked in a man's world. I found her advice depressing, frustrating and demeaning to me and every female who joined the Force. I wasn't raised to believe being a female should exclude me from any career path or dream I wished to follow, or that I should "keep my head down" for fear of reprisal."

Notably, the CMs appear less career mobile than RMs: they have specialized training or education and have fewer opportunities for new postings. By contrast, moving to a new posting can be a way of exiting a negative situation for Regular Members.

Public Service Employees

The RCMP employs 8,477 PSEs who are appointed under the *Public Service Employment Act*. As of April 1, 2020, 75% of PSEs were women. These employees are, for the most part, unionized but have a less robust sick leave and medical plan than members (Civilian and Regular) of the RCMP. PSEs are, I was told, for the most part administrative or support employees. Women PSEs, like CMs, have been treated poorly by Regular Members. As observed by a PSE claimant: "Women are generally treated badly in the RCMP, but I found as a female public service employee (PSE) I was treated even worse than female members. The male members would have a begrudging respect for female members, though they constantly said that the female members were incompetent or commented that the female member must have "banged their way through Depot." I was treated more like their object, subservient to them. I had to do what they said because as the RCMP hierarchy works, they outranked me. They were all my bosses and I had to listen to them and do as I was told."

Recommendations

One claimant stated: “Members believed that Public Servants were there for their handling and knew management supported their behaviours. Why else did we have trouble walking down a hallway without being looked up and down, rubbed against, pressed against or licked. Because it happened so often with more than one or two members, as a Public Servant I can say that it had become an accepted behaviour because there was no support against it. I’m not alone in saying that I did not like it. I know I did not come forward about it, but the reasons are repetitive: blacklisting, getting hired on again, gossip, rumours, etc.”

Another claimant, who was a PSE in a remote detachment, summarized her experiences as follows: “There were no female constables when I first started in [XXX], so the only female members were in Telecoms. We were treated horribly by all the members as they made it clear it was a man’s domain. They would take every and any opportunity to belittle your job, the way you did it, what you said etc. As a group it was very bad, so you just tried to shy away, stay in the corner, and keep quiet. There were porno mags all over the office. A bottle of whisky in the drawer. Sexual assaults were common in [XXX] and when reported the poor woman was always made to feel it was her fault.”

Another described the working conditions as follows: “I remember them saying that women should be fucked because that is all they are good for. Whenever a new secretary came into the office, they always propositioned her. They treated myself and each new woman like “fresh meat.” They were also always bragging about their sexual escapades. Everyone turned a blind eye to their behaviour. Most of the male members seemed to find it funny. Their sexual and gender harassment against myself and other women in the office was relentless.”

Even though the Public Service Employees have union representatives, I was told that they were unaware of their avenues of recourse or too afraid of retaliation from their RCMP Regular Member supervisors to make a complaint: “...overwhelmingly, RCMP supervisors and managers were men, and PSEs were women working in lower level positions. Many PSEs were afraid of their RCMP supervisors and managers given the impact they could have on future employment. As a result, PSEs were often reluctant to complain about their treatment even when they were sexually harassed or abused. At that time, sexual harassment was widely considered to be part of the job and the culture of the Force. Finally, I should also mention that, physically, most RCMP supervisors and managers (male) were bigger and stronger than the predominately female PSEs they supervised. There were often subtle and not-so-subtle threats of physical intimidation related to the sexual harassment.”

PSEs located in remote detachments or in detachments without effective public service supervision told me that even though they were unionized, they did not feel they were able to seek assistance through the union. I heard them say that often finding another job was not realistic in small communities.

Distinct from job security issues, claimants told me that the reporting relationships for PSEs were not always clear, particularly for smaller detachments. PSEs sometimes reported directly to a Regular Member. Sometimes there was only one PSE in a detachment. The line of communication to their PSE supervisors can be unclear, which makes it difficult for them to report harassment or discrimination in the RCMP workplace.

Recommendations

Recommendations on Civilian Members and Public Service Employees:

Many of the Recommendations already made that focused on Regular Members apply with equal force to Civilian Members and Public Service Employees. For example, the leadership of detachment offices should take responsibility for preventing sexual harassment of Civilian Members and Public Service Employees. The RCMP should create an effective, external, and independent body to which Civilian Members and Public Service Employees can report sexual harassment or misconduct. This body should have the power to investigate and make binding findings of fact and recommend penalties. All the Recommendations on grievances and discipline in this report should apply in the same way, whether the victim of the harassment is a Regular Member, a Civilian Member, or a Public Service Employee. Concerns about human resources and staffing issues, systemic barriers, supporting good mental health, and so on, must also be addressed in the context of Civilian Members and Public Service Employees.

But those Recommendations will do little if the RMs can continue to devalue the work and expertise that CMs and PSEs bring to the RCMP. Leadership must acknowledge and counter the particular kind of prejudice that has festered against these female-dominated PSE and CM positions. It seems intuitive to me, although I am not an expert on policing organizations, that the front line cannot operate effectively without quality dispatch, technical support, intelligence, administration, and other specialized services. The CMs and PSEs play a critical role in the operation of the RCMP. Without leadership and cultural change, the RCMP paramilitary culture will continue to permit misogyny to threaten the workplace safety of CMs and PSEs.

In addition to what has already been recommended in the context of Regular Members, the following should also be done to improve the situation of Civilian Members and Public Service Employees:

- **Ensure that Regular Members be better informed of the importance of the role played by CMs and PSEs to address the discrimination described to me.**
- **Public Service Employees should have a clear reporting relationship with a public service manager to whom they may seek assistance in relation to a difficult or isolated workplace.**

CONCLUSION

My review of over 3,086 claims has led me to conclude that sexual harassment and discrimination based on gender and sexual orientation is found at every level of the RCMP and in every geographic area of Canada.

Despite past efforts, the RCMP has failed to resolve this pervasive problem; sexual discrimination is embedded in its culture. The claimants in this class action have paid the price, as has the Canadian public, whose trust in the RCMP has been undermined.

I heard during multiple interviews that the women did not make a claim solely for the monetary award, because no amount of compensation would allow them to overcome the harm that they, and often their families, have endured. Instead, they expressed a desire to contribute to a change in the organization and to protect other female members.

In the end, over 2,304 women were compensated for injuries, at times severe, caused by sexual harassment and discrimination. Their courage in coming forward should be acknowledged and their experiences should not simply be dismissed now that they have been compensated. It is obvious that many women who would have qualified did not file a claim, for various reasons. Positive change must occur.

I do not see any way forward without some form of sustained independent and external pressure. There are measures that may be taken to address specific issues, but I am not confident that this will correct the fundamental problems in the RCMP.

In my view, the time has come to ask some hard questions about the structure and governance of federal policing in Canada. The past has demonstrated that change cannot come from within the RCMP. There must be a rigorous review of the RCMP followed by changes that will ensure that federal policing is delivered efficiently in a manner compliant with the Charter value of equality and with the Government of Canada's commitment to gender equality, including in the workplace.

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

THIS AGREEMENT is made as of the 6th of October, 2016.

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

and

JANET MERLO AND LINDA GILLIS DAVIDSON
(collectively, the “Class Action representative Plaintiffs”)

WHEREAS:

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

A. On March 27, 2012, the plaintiff Janet Merlo commenced Supreme Court of British Columbia Action No. S-122255, *Merlo v. Attorney General of Canada* against the Attorney General of Canada and the Minister of Justice of British Columbia. On March 25, 2015, the plaintiff Linda Gillis Davidson commenced Ontario Superior Court of Justice Action No. CV-15-52473600CP, *Davidson v. Attorney General of Canada*. Ms. Merlo and Ms. Davidson (collectively, the “Plaintiffs”) allege that they and fellow female Regular Members, Civilian Members and Public Service Employees who worked within the RCMP were subject to gender and/or sexual orientation based discrimination, bullying and harassment in the workplace and that RCMP leadership failed to exercise their duty to women in the RCMP to ensure that they could work in an environment free of gender and sexual orientation based discrimination and harassment;

A. The Plaintiffs and the Defendant (“the Parties”) recognize and acknowledge that gender and sexual orientation based harassment, gender and sexual orientation based discrimination, and sexual assault, including physical assault in the course of conduct constituting harassment have no place in the RCMP and wish to enter into this Settlement Agreement to:

- (a) restore confidence in the RCMP as an organization that values equity and equality;
- (b) implement measures to eliminate workplace harassment and discrimination in the RCMP; and
- (c) resolve the Claims of Primary Class Members who experienced and/or continue to experience gender and/or sexual orientation based harassment and discrimination (as defined below) while working in the RCMP during the Class Period;

C. The Parties agree to: a) implement change initiatives and best practices aimed at eliminating Harassment in the RCMP and increasing equality and b) compensate Class Members who suffered injury as a consequence of that Harassment.

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

D. The Parties entered into an Agreement in Principle on May 25, 2016, for the resolution of the Claims of the Class Members as defined in this Agreement;

E. The Parties wish to settle all outstanding Claims relating to or arising from the allegations that the Primary Class Members were subject to gender and/or sexual orientation based discrimination, harassment and bullying while working within the RCMP;

F. For the purposes of settlement, the Parties, subject to the Approval Order, have agreed to merge the *Merlo* action and *Davidson* action by filing a new statement of claim in the Federal Court, and discontinue the actions commenced in the Supreme Court of British Columbia and the Ontario Superior Court of Justice;

G. The Parties, subject to the Approval Order and the expiration of the Opt Out Period without the Opt Out Threshold being met or waived by the Defendant, have agreed to settle the *Merlo* action and *Davidson* action upon the terms contained in this Agreement;

H. The Parties, subject to the Approval Order, agree to resolve all claims of Class Members relating to allegations of gender and/or sexual orientation based harassment, discrimination and bullying while working in the RCMP upon the terms contained in this Agreement, save and except those actions brought by individuals who opt out or are deemed to have opted out of the Class Action in the manner set out in this Agreement and save and except those who have already been compensated or provided a release or consent dismissal order;

THEREFORE, in consideration of the mutual agreements, covenants and undertakings set out herein, the Parties agree that all actions, causes of action, liabilities, claims and demands whatsoever of every nature or kind for damages, contribution, indemnity, costs, expenses and interest which any Class Member ever had, now has or may hereafter have arising in relation to the Claims asserted by the Class Members, whether such claims were made or could have been made in any proceeding including the Class Actions, will be finally settled

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

based on the terms and conditions set out in this Agreement upon the Implementation Date, and the Releasees will have no further liability except as set out in this Agreement.

ARTICLE 1 – INTERPRETATION**1.01 Definitions**

In this Agreement, in addition to the terms defined in the description of the Parties and in the recitals set out above, the following terms will have the following meanings:

“Agreement” means this settlement agreement, including its recitals and Schedules and Appendices, as amended, supplemented or restated from time to time;

“Agreement in Principle” means the Agreement between the Attorney General of Canada, as represented by the Department of Justice and the Plaintiffs, as represented by Klein Lawyers and Kim Orr, signed in counterpart on May 25, 2016. Where there exists an inconsistency between this Agreement and the Agreement in Principle, this Agreement governs;

“Approval Date” means the date the Federal Court issues the Approval Order;

“Approval Order” means the judgment or order of the Federal Court approving this Agreement as fair, reasonable and in the best interests of the Class Members for the purposes of settlement of the Class Action pursuant to the applicable class proceedings legislation and the common law;

“Assessor” means, subject to the approval of the Federal Court, The Honourable Michel Bastarache, C.C., Q.C. agreed upon by the Parties to administer the Claims Process or, in the event the Honourable Michel Bastarache, C.C., Q.C. is unable or unwilling to act, another person who is a retired jurist, subject to the approval of the Federal Court;

“Business Day” means a day other than a Saturday or a Sunday or a day observed as a holiday under the laws of the Province or Territory in which the person who needs to take action

APPENDIX 1**SUBJECT TO APPROVAL BY THE FEDERAL COURT**

pursuant to this Agreement is situated or a holiday under the federal laws of Canada applicable in the said Province or Territory;

“Canada” or “Government” means the Government of Canada;

“Certification Order” means the order of the Federal Court certifying the Class Action for settlement purposes;

“Change Initiatives” means the initiatives detailed in Schedule E to this Agreement;

“Child” means a natural or legally adopted child of the Primary Class Member, or a person for whom the Primary Class Member has custody under a court order or domestic contract, or a person toward whom the Primary Class Member has demonstrated a settled intention to treat as a child of her family, except under an arrangement where the child is placed for valuable consideration in a foster home by a person having lawful custody;

“Claim” means a claim made by a Primary Class Member for compensation under this Agreement by submitting a Claim Form, attached as Appendix 1 to Schedule B to the Assessor in accordance with this Agreement;

“Claimant” means a Primary Class Member who makes a claim by completing and submitting a Claim Form;

“Claim Deadline” means 180 days from the first publication of the Notice of Settlement Approval;

“Claim Form” means the application form in Appendix 1 to Schedule B of this Agreement;

“Class Action” means the Class Action commenced in the Federal Court;

“Class Counsel” means Klein Lawyers LLP and Kim Orr Barristers P.C.;

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

“**Class Member**” means a Primary Class Member and/or a Secondary Class Member;

“**Class Period**” means the period from September 16, 1974 to the Approval Date;

“**Claims Process**” means the plan outlined in this Agreement, including Schedules and Appendices, for the submission, assessment, determination and payment of Claims made pursuant to the settlement of the merged *Merlo* action and *Davidson* action as set out in this Agreement;

“**Cohabit**” means to live together in a conjugal relationship outside marriage for a period of not less than three years, or in a relationship of some permanence, if the cohabiting individuals are the natural or adoptive parents of a child;

“**Consent to Disclosure of Information**” means the form in Appendix 2 of Schedule B to this Agreement;

“**Court**” means Federal Court;

“**Davidson action**” means Ontario Superior Court of Justice Action No. CV-15-52473600CP commenced by Linda Gillis Davidson on March 25, 2015;

“**Decision**” means the decision of the Assessor with respect to a Claim and as set out in paragraph 33 of Schedule B to this Agreement;

“**Designated Contact**” means the individual(s) designated as the RCMP point(s) of contact for the Assessor under Schedule D to this Agreement;

“**Family Members**” means the Children and current Spouse of a Primary Class Member as defined in this Agreement;

“**Harassment**” means improper conduct in the workplace by any Regular Member, Special Constable, Cadet, Auxiliary Constable, Special Constable Member, Reserve Member, Civilian

APPENDIX 1**SUBJECT TO APPROVAL BY THE FEDERAL COURT**

Member, Public Service Employee, including any Temporary Civilian Employee, working within the RCMP, male or female, that is directed at and offensive to another Regular Member, Special Constable, Cadet, Auxiliary Constable, Special Constable Member, Reserve Member, Civilian Member, Public Service Employee, including Temporary Civilian Employee working within the RCMP, including, but not limited to, at any event or any location related to work, and that the individual engaging in such improper conduct knew or ought reasonably to have known would cause offence or harm. It comprises objectionable act(s) comment(s) or display(s) that demean, belittle, or cause personal humiliation or embarrassment, and any act of intimidation or threat. It also includes harassment within the meaning of the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6, based on sex, sexual orientation, marital status, and family status. Harassment can be a series of incidents but can also be one severe incident which has a lasting impact on the individual. Harassment by members of the public is not harassment for the purposes of this Agreement. In this Agreement, “Harassment” refers collectively to gender and sexual orientation based harassment, gender and sexual orientation based discrimination, and sexual assault, including physical assault in the course of conduct constituting harassment;

“Implementation Date” means the latest of:

- (a) the day following the last day on which a Class Member may appeal or seek leave to appeal the Approval Order; and
- (b) the date of a final determination of any appeal brought in relation to the Approval Order;

“Merlo action” means Supreme Court of British Columbia Action No.S-122255 commenced by Janet Merlo on March 27, 2012;

“Opt Out Form” means the form attached in Schedule H of this Agreement;

“Opt Out Period” means the 60 day period following the publication of the Notice of Certification and Settlement Approval Hearing;

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

“**Opt Out Threshold**” means the Opt Out Threshold set out in Article 5.02 of this Agreement;

“**Parties**” means collectively and individually the signatories to this Agreement;

“**Primary Class Members**” means female current and former living Regular Members, Civilian Members and Public Service Employees (who are appointed by the Commissioner of the RCMP under the delegated authority of the Public Service Commission pursuant to the *Public Service Employment Act*, R.S.C., 1985, c. P-32; amended S.C. 2003, c. 22, ss.12, 13) who worked within the RCMP during the Class Period, who experienced and/or continue to experience gender and/or sexual orientation based harassment and discrimination while working in the RCMP during the Class Period, and who have not opted out or are not deemed to have opted out of the Class Action on or before the expiry of the Opt Out Period.

For the purposes of this Agreement only “**Regular Members**” includes Regular Members, Special Constables, Cadets, Auxiliary Constables, Special Constable Members, and Reserve Members

For the purposes of this Agreement only “**Public Service Employees**” includes Temporary Civilian Employees who, prior to 2014 were appointed under the now-repealed subsection 10(2) of the *RCMP Act*, R.S.C., 1985, c. R-10;

“**Released Claims**” means any and all actions, causes of action, common law, Quebec civil law and statutory liabilities, contracts, claims, grievances and complaints, and demands of every nature or kind available, asserted or which could have been asserted whether known or unknown including for damages, contribution, indemnity, costs, expenses and interest which any Class Member ever had, now has, or may hereafter have, directly or indirectly arising from or in any way relating to or by way of any subrogated or assigned right or otherwise in relation to gender and/or sexual orientation based discrimination, bullying and harassment while working in the RCMP that occurred during the Class Period, and including any such claim made or that could have been made in any proceeding including the Merlo and Davidson actions, whether asserted

APPENDIX 1**SUBJECT TO APPROVAL BY THE FEDERAL COURT**

directly by the Class Member or by any other person, group or legal entity on behalf of or as representative for the Class Member;

“Releasee” means the Defendant in the Class Action commenced in the Federal Court merging the *Merlo* and *Davidson* actions, the B.C. (Minister of Public Safety and Solicitor General), and any other applicable provincial and territorial Ministers and governments who are liable for the actions of RCMP members acting as provincial constables under provincial legislation and/or other provincial-federal policing agreements, and their respective officers, agents, servants and employees;

“Request for Deadline Extension” means the form in Appendix 3 to Schedule B of this Agreement, to be submitted when a Claimant makes a request to extend the Claim Deadline;

“Secondary Class Members” means all persons who have a derivative Claim, in accordance with applicable family law legislation, arising from a family relationship with a Primary Class Member;

“Secondary Class Member Claim Form” means the form in Appendix 1 to Schedule C;

“Spouse” means:

- (a) either of two persons who are currently married to each other or who have together, in good faith on the part of a person relying on this clause to assert any right, entered into a marriage that is voidable or void, and are living together; OR
- (b) either of two persons who are not married to each other and have co-habited for a period of not less than three years, or are in a relationship of some permanence; if they are the natural or adoptive parents of a Child;

“Travel Expenses” has the meaning set out in the National Joint Council Travel Directive.

1.02 This Agreement is not to be construed as an admission of liability by any of the

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

Defendants named in the *Merlo* action or the *Davidson* action.

1.03 Headings

The division of this Agreement into Articles and Sections and the insertion of a table of contents and headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. Unless something in the subject matter or context is inconsistent therewith, references to Articles, Sections and Schedules are to Articles, Sections and Schedules of this Agreement.

1.04 Extended Meanings

In this Agreement, words importing the singular number include the plural and vice versa, and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations, corporations and governmental authorities. The term “including” means “including without limiting the generality of the foregoing”.

1.05 No Contra Proferentem

The Parties acknowledge that they have reviewed and participated in settling the terms of this Agreement and they agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting Parties is not applicable in interpreting this Agreement.

1.06 Statutory References

In this Agreement, unless something in the subject matter or context is inconsistent or unless otherwise provided, a reference to any statute is to that statute as enacted on the date hereof or as the same may from time to time be amended, re-enacted or replaced and includes any regulations made thereunder.

1.06 Day for any action

APPENDIX 1**SUBJECT TO APPROVAL BY THE FEDERAL COURT**

Where the time on or by which any action required to be taken hereunder expires or falls on a day that is not a Business Day, such action may be done on the next succeeding day that is a Business Day.

1.07 Final order

For the purposes of this Agreement a judgment or order becomes final when the time for appealing or seeking leave to appeal the judgment or order has expired without an appeal being taken or leave to appeal being sought or, in the event that an appeal is taken or leave to appeal is sought, when such appeal or leave to appeal and such further appeals as may be taken have been disposed of and the time for further appeal, if any, has expired.

1.08 Schedules

The following Schedules and Appendices to this Agreement are incorporated into and form part of this Agreement as fully as if contained in the body of this Agreement:

SCHEDULE A - NOTICE PLAN

- Appendix 1 – Notice of Certification and Settlement Approval Hearing
- Appendix 2 – Notice of Settlement Approval
- Appendix 3 – Letter to Class Members by Direct Mail

SCHEDULE B – CLAIM PROCESS

- Appendix 1 – Claim Form
- Appendix 2 – Consent to Disclosure of Information
- Appendix 3 – Request for Deadline Extension
- Appendix 4 – Class Member List and Verification of Class Membership
- Appendix 5 – Identification of Previous Claims
- Appendix 6 – Compensation Levels
- Appendix 7 – Compensation Amounts
- Appendix 8 – Request for Reconsideration of a Level 2 Claim
- Appendix 9 – Certification of No Prior Compensation

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

Appendix 10 – Travel Claim

Appendix 11 – Release of Documents and Information held by the RCMP

SCHEDULE C – SECONDARY CLASS MEMBER CLAIMS

Appendix 1 - Secondary Class Member Claim Form

SCHEDULE D – RCMP DESIGNATED CONTACT AND CLAIMS SUPPORT PROCESS**SCHEDULE E – CHANGE INITIATIVES****SCHEDULE F – JOINT COMMUNICATIONS PLAN****SCHEDULE G – NO RETALIATION DIRECTIVE****SCHEDULE H – OPT OUT FORM****1.09 Currency**

All references to currency in this Agreement are to lawful money of Canada.

ARTICLE 2 – EFFECTIVE DATE OF AGREEMENT**2.01 Date when Binding and Effective**

This Agreement will become effective and be binding on the Defendant and on all the Class Members (including Persons under Disability) and the Class Action Plaintiffs, on the Implementation Date.

2.02 Effective in Entirety

None of the provisions in this Agreement will become effective unless and until the Court approves all the provisions of this Agreement, including all Schedules.

APPENDIX 1**SUBJECT TO APPROVAL BY THE FEDERAL COURT****ARTICLE 3 – IMPLEMENTATION OF THE AGREEMENT****3.01 Class Action**

The *Merlo* and *Davidson* actions will be merged into a uniform omnibus Statement of Claim and filed in the Federal Court. The Statement of Claim will name the plaintiffs named in the original Claims and will name as Defendant, Her Majesty the Queen.

3.02 Content of Class Action

The Class Action will define the classes, allege claims and seek relief with such modifications to the *Merlo* and *Davidson* claims as is necessary to correspond with this Agreement, including the scope of the Primary and Secondary classes and relief.

3.03 Consent Certification/Approval of Notice of Certification and Settlement Approval Hearing

- 1) Concurrent applications will be brought for approval of the Notice of Certification and Settlement Approval Hearing and for consent certification of the Class Action for the purposes of settlement in accordance with the terms of this Agreement.
- 2) At the same time, or at a time to be agreed upon by the Parties, the Parties will make an application seeking orders that:
 - (a) the RCMP and Canada release to the Designated Contact information and documents required by the RCMP to compile a List of female Regular Members, Civilian Members and Public Service Employees who have worked within the RCMP during the Class Period as set out in Appendix 4 to Schedule B of this Agreement;
 - (b) the RCMP and Canada compile a list of individuals who have been paid further to a civil claim, grievance or harassment complaint, including a complaint to the Canadian Human Rights Tribunal and/or who have had a prior civil claim, grievance or harassment complaint, including a complaint to the Canadian Human Rights Tribunal, otherwise

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

resolved in respect of the same event(s) and injury(ies) as claimed in the Claim Form, in accordance with Appendix 5 to Schedule B. The list will include the name, date of birth and regimental number, if available, of the individual;

- (c) directing the RCMP to provide the aforementioned lists to the Office of the Assessor in accordance with Appendices 4 and 5 to Schedule B of this Agreement.

3.04 Approval Order

An application to obtain an Approval Order of this settlement will be heard following the expiry of the Opt Out Period. The Approval Order submitted to the Court for approval will include provisions:

- (a) incorporating by reference this Agreement in its entirety including all Schedules and Appendices;
- (b) ordering and declaring that the Order is binding on all Class Members, including Persons Under Disability, unless they opt out or are deemed to have opted out on or before the expiry of the Opt Out Period;
- (c) ordering and declaring that on the expiry of the Opt Out Period all Class Members, unless they have opted out or are deemed to have opted out on or before the expiry of the Opt Out Period, have released the Releasees from any and all actions, including claims made under the Canadian Charter of Rights and Freedoms they have, may have had or in the future may acquire against the Releasees relating to or arising from gender and/or sexual orientation based discrimination, bullying and harassment while working in the RCMP during the Class Period;
- (d) ordering and declaring that on the expiry of the Opt Out Period all Class Members who have not opted out on or before the expiry of the Opt Out Period may not commence any proceedings seeking compensation or other relief arising from or in relation to gender

APPENDIX 1**SUBJECT TO APPROVAL BY THE FEDERAL COURT**

- and/or sexual orientation based discrimination, bullying and harassment while working in the RCMP during the Class Period;
- (e) ordering and declaring that the obligations assumed by Canada under this Agreement are in full and final satisfaction of all claims against the Releasees, including claims made under the Canadian Charter of Rights and Freedoms, relating to or arising from gender and/or sexual orientation based discrimination, bullying and harassment while working in the RCMP during the Class Period;
 - (f) ordering and declaring that on the expiration of the Opt Out Period all Class Members who have not opted out may not commence any proceedings seeking compensation or other relief arising from or in relation to gender and/or sexual orientation based discrimination, bullying and harassment while working in the RCMP during the Class Period against any person who may in turn claim against the Defendant;
 - (g) ordering and declaring that the Notice Plan in Schedule A to this Agreement is approved by the Court;
 - (h) ordering the RCMP and Canada to release to the Assessor information and documents required by him or as otherwise required in the Agreement, including Schedules and Appendices, in accordance with the terms of this Agreement;
 - (i) ordering and declaring that judgments or orders will be sought from the Court in such form as is necessary to implement and enforce the provisions of this Agreement and to supervise the ongoing performance of this Agreement;
 - (j) ordering and declaring that the Assessor(s) shall not be compelled to be (a) witness(es) in any civil or criminal proceeding, administrative proceeding, grievance or arbitration where the information sought relates, directly or indirectly, to information obtained by the Assessor(s) by reason of the Settlement or the settlement claims process; and

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

(k) ordering and declaring that no documents received by the Assessor(s) shall be compelled to be produced in any civil or criminal proceeding, administrative proceeding, grievance or arbitration where the documents or information therein relate, directly or indirectly, to information sought by the Assessor(s) by reason of the Settlement or the settlement claims process.

3.05 Merlo Action and Davidson Action

Upon approval of the settlement by the Federal Court the Plaintiffs will discontinue their actions in the Supreme Court of British Columbia and in the Ontario Superior Court of Justice, namely *Merlo v. Attorney General of Canada*, Supreme Court of British Columbia Action No. S-122255, and *Davidson v. Attorney General of Canada*, Ontario Superior Court of Justice Action No. CV-15-52473600CP.

3.06 Court Materials

The Parties agree to exchange materials for review and comment prior to filing such materials with the Court.

3.07 Time of Filing Court Materials

The Parties agree that no Court materials relating to this Class Action and this Agreement will be filed with the Federal Court until a date and place for filing is expressly agreed to by the Parties.

ARTICLE 4 – NOTICE**4.01 Notice**

1) Canada agrees to pay the reasonable costs of any notices to the class which may be ordered by the Court.

APPENDIX 1**SUBJECT TO APPROVAL BY THE FEDERAL COURT**

- 2) Subject to the approval of the Court, notice to the class shall be implemented as set out in the Notice Plan attached as Schedule A to this Agreement.

ARTICLE 5 – OPT OUT PERIOD**5.01 Opt Out Period**

There will be an Opt Out period of 60 days following the first publication of the Notice of Certification and Settlement Approval Hearing.

5.02 Opt Out Threshold

In the event that the number of eligible Claimants opting out or deemed to have opted out under the Certification Order exceeds fifty (50), this Agreement will be rendered void and the Certification Order set aside in its entirety subject only to the right of Canada, in its sole discretion, to waive compliance with this Section of the Agreement. Canada has the right to waive compliance with this Section of the Agreement until thirty (30) days after the end of the Opt Out Period.

5.03 Opt Out

Any Class Member may opt out of this Agreement by delivering to Class Counsel an executed Opt Out Form, attached as Schedule H to this Agreement, within the Opt Out Period.

5.04 List of Opt Outs

Class Counsel shall promptly provide to the Defendant and to the Assessor, after the expiry of the Opt Out Period, copies of all Opt Out Forms received by Class Counsel.

ARTICLE 6 - THE ASSESSOR**6.01 Appointment of Assessor**

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

Subject to the approval of the Court and as agreed upon by the Parties, the Honourable Michel Bastarache, C.C., Q.C. will be appointed the Assessor to administer the Claims Process and to assess the Claims made by Class Members for compensation, with such powers, rights, duties and responsibilities as agreed to by the Parties and approved by the Court. The Assessor is not an agent, servant, or employee of Canada or a government institution for the purposes of the *Access to Information Act*, R.S.C., 1985, c. A-1, the *Privacy Act*, R.S.C., 1985, c. P-21 and the *Library and Archives of Canada Act*, S.C. 2004, c. 11, and acts solely on his own behalf as agreed to jointly by the Parties in the Agreement and authorized by the Court in the Approval Order.

6.02 Alternative Assessor

If the Honourable Michel Bastarache, C.C., Q.C. is unable or unwilling to act, the Parties will agree upon another person who is a retired jurist and seek the Court's approval.

6.03 Additional Assessors

The Parties and the Assessor may jointly agree to retain one or more additional Assessors to provide for the timely assessment of Claims and if so, to jointly seek the approval of the Court. The additional Assessors are not agents, servants, or employees of Canada or a government institution for the purposes of the *Access to Information Act*, R.S.C., 1985, c. A-1, the *Privacy Act*, R.S.C., 1985, c. P-21 and the *Library and Archives of Canada Act*, S.C. 2004, c. 11 and act solely on their own behalf as agreed to jointly by the Parties in the Agreement and authorized by the Court in the Approval Order.

6.04 Assessor's Duties

Subject to obtaining the approval of the Court, the Assessor's duties and responsibilities will include:

- (a) establishing and staffing an Office of the Assessor;

APPENDIX 1**SUBJECT TO APPROVAL BY THE FEDERAL COURT**

- (b) implementing the Notice Plan approved by the Court;
- (c) retaining an experienced claims administrator to assist with notice and other administrative functions as required;
- (d) developing a Claim Form for compensating Class Members;
- (e) developing, installing and implementing systems and procedures for receiving, processing, evaluating and making decisions respecting Claims including making all necessary inquiries to obtain information and documents (including consulting medical personnel) to determine the validity of any Claim;
- (f) receiving and responding to all inquiries and correspondence respecting Claims, supplying Claim Forms, reviewing and evaluating all Claims, and rendering decisions in respect of Claims;
- (g) receiving compensation payments on behalf of the Class Members from the RCMP IN TRUST and forwarding the compensation to the eligible Claimant within a reasonable period of time;
- (h) keeping or causing to be kept accurate accounts of activities, preparing such financial statements, reports and records for administrative and fiscal purposes as are determined by Canada; and
- (i) drafting a report that will provide an overview of the Assessor's observations and recommendations stemming from his work in assessing Claims.

6.05 Decisions of the Assessor

The Assessor will render a Decision in respect of a Claim to a Claimant promptly after the decision is made in accordance with paragraph 33 of Schedule B to this Agreement. A Decision of the Assessor in respect of a Claim will, subject to the limited right of a Claimant

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

assessed at Level 2 to request a reconsideration as set out in the Claims Process in Schedule B of this Agreement, be final and binding upon the Claimant. For further clarity, there is no right of appeal or judicial review from any Decision of the Assessor.

6.06 Fees

The fees, disbursements and other costs of the Assessor, including the Office of the Assessor will be paid by Canada.

ARTICLE 7 –CLAIMS PROCESS**7.01 Objective**

The objective of the Claims Process is to provide just compensation for meritorious Claims in a process that is both sensitive to and supportive of Primary Class Members in bringing issues forward and at the same time ensures that Claims are properly, fairly and expeditiously assessed on the basis of adequate and sufficient validation which is proportionate to the severity of the injuries alleged.

7.02 Establishment of the Claims Process

A Claims Process will be established as set out in Schedule B of this Agreement. The Assessor will assess each Claim and render a decision in accordance with Schedule B.

7.03 Claims Process

1) A Class Member making a Claim will complete a Claim Form identifying herself by name and setting out in detail the particulars of the harassment complained of (including events, actors, location, time frame) and of the alleged injury and damage (collectively referred to as “injury”) caused.

APPENDIX 1**SUBJECT TO APPROVAL BY THE FEDERAL COURT**

2) The Claimant will send the Claim Form to the Office of the Assessor and, at the same time or within the time allotted in Schedule B, will provide all relevant supporting documentation in her possession or control, including medical records and reports. The Claimant will also provide consent to the release of documents in the possession of the RCMP, medical practitioners, hospitals and government health authorities, and other third parties if consent is required. Relevant documents and information include:

- (a) the particulars of the occurrences of harassment (including where, when and who was involved), any reports made by the Claimant at the time, and resulting actions and results;
- (b) names and contact information of any witness to the harassment;
- (c) evidence of injuries sustained as a result of the alleged harassment, including but not limited to physical and psychological medical records, and provincial healthcare print outs (e.g. OHIP, Pharmanet, or other provincial equivalent), whether in the possession of the RCMP or the Claimant's healthcare providers;
- (d) the Claimant's personnel file and any other file in the possession of the RCMP which may be relevant to the Claimant's career progression (i.e. training, assignments, job competitions); any conduct, complaint or grievance file in relation to the matters in question in the possession of the RCMP; and
- (e) any information or documents relevant to the Claimant's attempts to mitigate her injury or loss.

7.04 Denial of Claim if Prior Compensation Received

The Assessor will deny a Claim upon determining that a previous civil claim, grievance or harassment complaint for compensation for harassment, including a complaint to the Canadian Human Rights Tribunal, made by a Claimant with respect to the same event(s) and

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

injury(ies) as claimed in the Claim Form has been resolved. This determination will be made in accordance with Appendix 5 to Schedule B of this Agreement.

7.05 Claim Deadline

1) Applications to the Claims Process will not be accepted prior to the Implementation Date or after the Claim Deadline, subject to an extension being granted in exceptional circumstances in accordance with Schedule B.

2) The Assessor may grant to individual claimants an extension of the Claim Deadline in exceptional circumstances. A Primary Class Member may make a Request for Deadline Extension to the Assessor within 100 days after the expiration of the Claim Deadline for a deadline extension based on exceptional circumstances provided the Claimant includes with the request

(a) a Request for Deadline Extension Form in Appendix 3 to Schedule B of this Agreement;

(b) reasons for the request that demonstrate exceptional circumstances;

(c) a completed Claim Form; and

(d) supporting documentation as set out in Schedule B of this Agreement;

3) Where an eligible Claimant does not submit a claim in the prescribed form and in accordance with this Agreement that Claimant will not be admitted to the process and any such entitlement to make a claim for compensation will be forever extinguished.

4) All Claims which have been submitted prior to the Claim Deadline or further to an extension granted in accordance with this Agreement shall be processed in accordance with Schedule B of this Agreement.

5) No person may submit more than one Claim Form on her own behalf.

APPENDIX 1**SUBJECT TO APPROVAL BY THE FEDERAL COURT****ARTICLE 8 – PAYMENT OF COMPENSATION****8.01 Payment of Compensation**

Payment of compensation will be made in accordance with the applicable legislation and government directives and policies. In accordance with Schedule B of this Agreement, funds for the payment of compensation will be provided to the Office of the Assessor by the RCMP IN TRUST within 7 business days of receipt by the RCMP of the documentation from the Assessor requesting funds for payment of compensation, unless exceptional circumstances necessitate an additional period of time in which case the RCMP shall make best efforts to pay compensation expeditiously within such extended periods. The Assessor will make payment to the Claimant within 60 days of the date on which a Decision is rendered by him in respect of a Claimant, in accordance with Schedule B of this Agreement.

8.02 Other Government Benefits

- 1) There will be no amounts deducted from the compensation awarded to a Claimant under this settlement agreement in relation to any benefits paid or payable under the federal *Pension Act*, R.S.C. 1985, c. P-6 (“*Pension Act*”). Nothing in this Agreement prevents government officials who adjudicate or administer pensions under the *Pension Act* from making pension adjustments in accordance with the applicable legislation.
- 2) For the purposes of this Settlement, the defendant will not seek a stay under section 111 of the *Pension Act* in relation to any of the Class Members’ Claims.

ARTICLE 9 – PROVINCIAL HEALTH INSURERS**9.01 Subrogated and Direct Claims for Recovery**

Counsel for the Plaintiffs will contact provincial and territorial health insurers to determine if they will be pursuing a health care cost recovery claim for this action, and if so, the

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

nature of their Claim. Counsel for the British Columbia Ministry of Health has advised that British Columbia will not pursue a health care recovery claim for this action.

ARTICLE 10 – RELEASES**10.01 Releases**

The Approval Order will declare that:

- (a) upon the Approval Date, the Releasees are forever and absolutely released separately and severally by the Class Members from the Released Claims; and
- (b) the Class Members are barred from making any claim or taking or continuing any proceedings arising out of or relating to the Released Claims against any Releasee or other person, corporation or entity that might claim damages and/or contribution and indemnity and/or other relief under the provisions of the *Negligence Act*, R.S.O., 1990, c. N-3, or its counterparts in other jurisdictions, the *Police Act*, RSBC 1996, Chapter 367 or, its counterpart in other jurisdictions, the common law, Quebec civil law or any statutory liability for any relief whatsoever, including relief of a monetary, declaratory, or injunctive nature, from the Releasees.

10.02 Cessation of Litigation

- 1) The Parties will cooperate to obtain approval of this Agreement and to facilitate general participation by Primary Class Members in the Claims Process.
- 2) On the Approval Date, Class Counsel will undertake to refrain at any time from commencing or assisting or advising on the commencement or continuation of any action or proceeding against the Releasees in any way relating to or arising from any and all claims asserted in the *Merlo* and *Davidson* actions. Nothing in this Agreement prevents Class Counsel

APPENDIX 1**SUBJECT TO APPROVAL BY THE FEDERAL COURT**

from assisting with the administration of the Agreement, informing Class Members of the provisions of the Agreement, assisting Class Members with their Claims under the Agreement, or advising Class Members to obtain independent legal advice before deciding whether to opt out.

10.03 Consent to Dismissal

Each Class Member who has commenced any action or proceeding relating to the same matters asserted in the Class Action must consent to a dismissal of such action or proceeding against the Releasees without costs before receiving any payment under the Claims Process.

ARTICLE 11 – CLASS COUNSEL FEES AND DISBURSEMENTS**11.01 Legal Fees**

Canada will pay \$12,000,000.00 (twelve million dollars) plus applicable PST, GST and HST to Class Counsel as a contribution toward Class Counsel fees.

11.02 Payment of Legal fees

Payment shall be made to Class Counsel within 30 days following the Approval Date. The sum of \$6 million plus applicable sales taxes will be paid to each of Klein Lawyers LLP and Kim Orr Barristers P.C.

11.03 Disbursements

Canada will pay reasonable disbursements to Class Counsel as agreed or assessed by the Court. Class Counsel shall submit itemized Lists of Disbursements together with receipts or other supporting documentation satisfactory to Canada as soon as possible and at least 1 (one) month prior to the settlement approval hearing.

11.04 Claimant Expenses

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

Canada will re-imburse a Claimant for out-of-pocket expenses incurred to obtain documentary evidence in support of her Claim and for travel of more than 50 kilometers from her residence if required by the Assessor to attend a personal interview with the Assessor, in accordance with National Joint Council Travel Directive.

ARTICLE 12 – CHANGE INITIATIVES**12.01 Implementation of Change Initiatives**

The Parties acknowledge that the RCMP has implemented or is in the process of implementing many change initiatives, including those set out in Schedule E of this Agreement. The RCMP agrees to make efforts to implement these change initiatives as soon as practicable, and in any event by December 31, 2017.

12.02 Apology

Without constituting an express or implied admission of fault or liability, the Commissioner of the RCMP will provide the Class Members with an apology, as defined in the *Apology Act*, SO 2009, c 3, at a time to be agreed upon by the parties, regarding Harassment in the RCMP. Such apology will not be admissible in any civil or criminal proceeding, administrative proceeding or arbitration as evidence of the fault or liability of any person in connection with that matter.

12.03 No Retaliation

The RCMP shall issue a directive substantively as set out in Schedule G, that there is to be no retaliation for making a Claim under this settlement.

ARTICLE 13 – SCHOLARSHIP FUND

APPENDIX 1**SUBJECT TO APPROVAL BY THE FEDERAL COURT****13.01 Establishment of Scholarship Fund by RCMP**

The RCMP will establish a scholarship fund, details of which will be at its discretion, with the objective of recognizing outstanding work in the area of anti-Harassment and the promotion of anti-Harassment principles.

ARTICLE 14 – CONFIDENTIALITY**14.01 Confidentiality**

Any information provided, created or obtained in the settlement and Claims Process, whether written or oral, will be confidential by the Parties and their counsel, all Claimants, the Assessor(s) and the Designated Contact, except where provided by law, and will not be used for any purpose other than the settlement and Claims Process unless otherwise agreed by the Parties.

14.02 Destruction of Class Member Information and Records

Subject to the requirements of law, within six months of the completion of all Claimant assessments and payments through the Claims Process, the Office of the Assessor will destroy all Class Member information and documentation in its possession.

14.03 Confidentiality of Negotiations

Save as otherwise required by law, the undertaking of confidentiality as to the discussions and all communications, whether written or oral, made in and surrounding the negotiations leading to the Agreement in Principle and this Agreement continues in force.

14.04 The Assessor(s) shall not give evidence of the fault or liability of any person in connection with this matter in any civil or criminal proceeding, administrative proceeding or arbitration.

ARTICLE 15 – COMMUNICATIONS

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT**15.01 Public Communications**

Save as otherwise required by law, the Parties will not engage in any media or public communications or disclosure of or about this Agreement until a date agreed to in writing by the Parties.

15.02 Joint Public Announcement

At the time agreed upon, the Parties will make a joint public announcement of this Agreement in accordance with the Joint Communication Plan in Schedule F of this Agreement.

ARTICLE 16– CONDITIONS, AMENDMENT AND TERMINATION**16.01 Agreement is Conditional**

This Agreement will not be effective unless and until it is approved by the Federal Court, and if such approval is not granted by the Federal Court on substantially the same terms and conditions contemplated in this Agreement, this Agreement will thereupon be terminated and none of the Parties will be liable to any of the other Parties hereunder.

16.02 Amendments

Except as expressly provided in this Agreement, no amendment or supplement may be made to the provisions of this Agreement and no restatement of this Agreement may be made unless agreed to by the Parties in writing and any such amendment, supplement or restatement is approved by the Courts without any material differences.

16.03 Termination of Agreement

This Agreement will continue in full force and effect until all obligations under this Agreement are fulfilled.

ARTICLE 17 - GENERAL

APPENDIX 1**SUBJECT TO APPROVAL BY THE FEDERAL COURT****17.01 Entire Agreement**

This Agreement, including all recitals, and Schedules and Appendices, constitutes the entire agreement between the Parties with respect to the subject matter herein and cancels and supersedes any prior or other understandings and agreements between the Parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings, covenants or collateral agreements, express, implied or statutory between the Parties with respect to the subject matter hereof other than as expressly set forth or referred to in this Agreement.

17.02 Applicable Law

This Agreement will be governed by the laws of Canada and, where silent, the laws of Ontario.

17.03 Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same Agreement.

17.04 Official Languages

Canada will prepare a French translation of this Agreement. Prior to the Implementation Date, Canada will pay the costs of the preparation of an authoritative French version of this Agreement and such cost shall include costs of review by a designate of the Parties. The authoritative French version shall be executed by the same Parties who executed this Agreement and, once executed, the English and French language versions shall be of equal weight and force at law.

17.05 No assignment

APPENDIX 1

SUBJECT TO APPROVAL BY THE FEDERAL COURT

Except as directed by court order, no amount payable under this Agreement can be assigned, and such assignment is null and void.

IN WITNESS WHEREOF the Parties have executed this Agreement this day of
, 2016.

David A. Klein,
Counsel for the Plaintiff,
Janet Merlo

Mitchell Taylor, Q.C.,
Counsel for the Defendant the
Attorney General of Canada

Won J. Kim,
Counsel for the Plaintiff,
Linda Gillis Davidson

Gina M. Scarcella,
Counsel for the Defendant the
Attorney General of Canada

APPENDIX 2

STATEMENT OF APOLOGY TO WOMEN IN THE RCMP AND ANNOUNCEMENT OF SETTLEMENT

REGULAR MEMBERS, CIVILIAN MEMBERS AND PUBLIC SERVICE EMPLOYEES WHO EXPERIENCED GENDER AND SEXUAL ORIENTATION-BASED DISCRIMINATION, BULLYING AND HARASSMENT IN THE RCMP

Good morning.

Forty-two years ago, almost to the day, women joined the RCMP as full-fledged police officers for the very first time. It was an historic moment for a national police force whose history is so rich and so intertwined with this incredible country.

The new recruits were very publicly sworn-in by the highest ranking officers in an effort to demonstrate that these pioneering and courageous women would be supported and helped into what would be a very challenging role.

Throughout my thirty-one years of policing, I have found that people seek out and join the RCMP as police officers, civilian members, and public servants, because fundamentally it is noble work in the service of Canadians. People come to work here – to play a role – a key and unique role – in keeping Canada and Canadians safe and secure.

The RCMP has always sought to fulfill its mandate...perform our duties without fear, favour or affection. There is honour in that, and that attracts the best people from across the varied and diverse population, which is Canada.

If you've ever been to Depot, you'll know the tremendous pride, hope and excitement in the cadets who graduate in their Stetsons, high browns and red serge as they head off to every corner of this country to their new duties...without fear, favour or affection. The last thing, the very last thing, any of them would ever expect from this honourable Canadian institution is that their ability to contribute to our crucial mission would be constrained, impeded, defined or even affected by their gender.

No, they rightfully and quite reasonably expect to be developed, supported, encouraged, enabled and protected as they are deployed to the dangerous and challenging work that is policing. They expect to be treated and judged on their dedication, courage, competence and performance.

This has not been the experience for many of the women who have come to the RCMP since that hopeful day forty-two years ago. Instead of succeeding and thriving in a supportive and inclusive workplace, many women have suffered careers scarred by gender and sexual discrimination, bullying and harassment.

Some of these women left the RCMP, heartbroken, disillusioned and angry. Others stayed and were forced to find ways to cope with this inexcusable condition since they did not see an organization that was willing to change.

APPENDIX 2

Still others courageously tried to make themselves heard by management only to find they were denied movement and opportunity or judged adversely and punished within the RCMP for their efforts.

The impact this has had on those who have experienced this shameful conduct cannot – must not – be solely understood as an adverse workplace condition for which they must be compensated. For many of our women this harassment has hurt them mentally and physically. It has destroyed relationships and marriages, and even whole families have suffered as a result. Their very lives have been affected.

Harassment and the lack of effective systems and processes to have prevented it and eliminated it from our workplace is absolutely at odds with what the RCMP is supposed to be. It is at odds with what we all need the RCMP to be.

To the representative plaintiffs here today: Janet Merlo who has so courageously taken the lead to represent so many women who have been adversely affected and to Linda Davidson and all the women you represent:

Indeed to all the women who have been impacted by the Force's failure to have protected your experience at work, and on behalf of every leader, supervisor or manager, every Commissioner: I stand humbly before you and solemnly offer our sincere apology.

You came to the RCMP wanting to personally contribute to your community and we failed you. We hurt you. For that, I am truly sorry. You can now take some comfort in knowing that you have made a difference. Because of you, your courage and your refusal to be silenced, the RCMP will never be the same.

I must also apologize to all Canadians. I know how disappointed you've been with the Force as you heard some of these very public and shameful examples of disgraceful conduct within our ranks.

Since being appointed Commissioner, indeed as I became Commissioner, as I stood in the foyer of our Parliament to be announced and introduced, I was enveloped in the swirl of outrage over some, then, very public failures to have protected our employees and to have eliminated the behaviours which were giving rise to the deep disappointment Canadians were registering with the Force. I remember clinging to my firm belief that improved leadership and enhanced accountability were central pillars to what had to be significant change in the Force.

The announcement that brings us all here today is another huge step in the ongoing work which is the cultural transformation of the RCMP. Today, we've jointly filed a settlement agreement in two class action law suits on behalf of female current and former regular, civilian and public service employees. This settlement, which is still subject to approval by the Federal Court, broadly sets out two main elements:

Firstly, continued organizational change elements, which include new initiatives and a commitment to forge ahead with those we have already started; and, secondly, an independent claims process and compensation scheme for all the women who experienced gender and sexual orientation-based discrimination, bullying and harassment in the RCMP from September 16, 1974 to the date the agreement receives court approval.

The claims and compensation will be managed independently by Justice Bastarache and his team. I know I can speak on behalf of the plaintiffs and the RCMP to say how grateful and fortunate we are to have secured his help.

As I've indicated the agreement must be approved by the court and so it would be premature to discuss the terms of the agreement in any detail.

APPENDIX 2

Permit me to take a moment, however, to thank those who have worked so tirelessly for so long to get us to this point: Of course the plaintiffs Janet Merlo and Linda Davidson and all the women you represent. Counsel for the plaintiffs David Klein, Won Kim and Sandy Zaitzeff. Our litigators from the Department of Justice, Mitch Taylor in Vancouver and Gina Scarcella in Toronto. Liliana Longo from RCMP Legal Services and all of the people from the RCMP and the various government departments who have helped us bring this agreement together.

Ministers Goodale and Mihychuk, thank you and thanks to the Government of Canada for the forbearance, confidence and support in helping make this right for so many people who have served in the RCMP. This agreement is a further commitment from the RCMP to keep building on its efforts to eliminate gender discrimination and harassment.

The harassment problem in the RCMP was enabled by an organizational culture that developed over time in isolation from the values of the communities we serve. Effective accountability and enlightened leadership have been instrumental in bringing us back alongside with modernity.

This agreement demonstrates an RCMP that is accountable to its employees and its citizens. The terms of this agreement will require enlightened leaders at all levels of this organization to make good on our promise of culturally transforming the RCMP so that every employee of this great Force can contribute fairly, equitably and safely to our mission of keeping Canadians and Canada safe and secure.

Bob Paulson

APPENDIX 3

CONFIDENTIALITY AND PROTECTION OF CLAIMANTS IS PARAMOUNT

I have heard that many current regular and civilian members of the RCMP, and current Public Service employees, are concerned that if they submit a claim to me, under the Merlo Davidson Settlement Agreement Assessment process, I will launch an investigation into the incidents described in the claim. They are concerned that such an investigation will result in a breach of confidentiality and that they will be identified as claimants.

While the Settlement Agreement allows me to request information, if necessary, to properly assess a claim, I will not do so without informing the claimant and giving her the opportunity to provide me with the missing information, or choose to have me evaluate her claim without the information. I will also not contact individuals named in a claim as perpetrators or identified as witnesses.

If, after consulting with the claimant, I make a request for information to the RCMP, the Settlement Agreement sets out a process that is designed to protect the claimant's confidentiality.

Rest assured that my mandate under the Settlement Agreement is not investigative nor is the Assessment process adversarial. I will evaluate claims on the information I receive from the claimant, which may include an interview, where warranted. I will evaluate claims in accordance with the Claims Process agreed to by the parties to the Settlement Agreement.

Confidentiality, privacy, and protection of the claimant are essential to the success of the claims process. These principles were, and remain, at the forefront of my mind in the design and implementation of the Assessment process.

Michel Bastarache, Independent Assessor

APPENDIX 4

PRIOR LITIGATION AND REPORTS

Nearly a half-century of litigation: 1980s–2010s

Some women began using the courts to obtain redress as early as the 1980s, but the total number of cases litigated since women joined the RCMP in 1974 is difficult to estimate.

Indeed, the full financial and institutional costs incurred by the RCMP defending sexual harassment claims from female employees is unknown. The report by then Auditor General Sheila Fraser cited that as of February 1, 2017 there were 85 civil actions against the RCMP by former employees (both male and female) and half of those involved allegations of harassment.¹

What follows is a summary of the efforts by some of the women to hold the RCMP accountable for the harassment and discrimination they faced due to their sex and/or sexual orientation while employed in that institution.

The problems facing women in the RCMP were known to the force and to the government decades before Janet Merlo or Linda Davidson came forward.

Clark v Canada

More than two decades before the Merlo Davidson Settlement Agreement was announced, Constable Alice Clark successfully sued the RCMP with respect to gender-based discrimination and harassment experienced during her posting to Red Deer from 1981 to 1987.

Constable Clark was one of four women posted to the Red Deer detachment, and the only woman on her watch. Her supervisors singled her out for criticism and her colleagues treated with hostility. Her sergeant told her that she should go home and start a family. Her Inspector called her “deary”. She was grabbed and kissed by a colleague, was exposed to pornography on repeated occasions while working at the detachment, and on one occasion arrived at her workstation to find plastic breasts taped to it with her regimental number and “RCMP GIRL” written on them. Constable Clark complained of this and other behaviour to her superior and received no assistance. She ultimately resigned from the Force in 1987, after only seven years as a member.

Constable Clark filed a lawsuit against the RCMP in 1989 and, in 1994, following a five-day trial, was awarded \$93,000 in damages (\$88,000 for lost wages following her resignation and \$5,000 for pain and suffering).² Constable Clark’s case spurred its own media interest (Maclean’s magazine published a lengthy article on the subject in April 1995);³ however, it would take many more cases of such conduct coming to light to spur any real movement within the Force or among the general public.

1. Sheila Fraser, *Review of four cases of civil litigation against the RCMP on Workplace Harassment* (Ottawa: Ministry of Public Safety, 2017) at 6, FN 1, online: <<https://www.publicsafety.gc.ca/cnt/fsrscs/pblctns/rcmp-wrkplc-hrssmnt-css/rcmp-wrkplc-hrssmnt-css-en.pdf>>.
2. *Clark v Canada* (1994), 76 F.T.R. 241 (FC) (Federal Court File No. T-648-89) (available on CanLII).
3. Rae Corelli, “Aiming for respect : Policewomen fight to end sexual harassment on the job”, *Maclean’s* (10 April 1995) online : MacLeans <https://archive.macleans.ca/article/1995/4/10/aiming-for-respect#!&pid=46>

APPENDIX 4

Petrovics v Canada; Cook v Canada.⁴

Lidia Petrovics and Cheryl Cook were civilian members of the RCMP who alleged that their direct supervisor, Clive Cannon, then an RCMP sergeant, sexually harassed them in the mid-1990s.⁵ He commented on their bodies, touched them in a sexual manner, simulated masturbation, and asked or suggested sexual favours from them.⁶ The plaintiffs also alleged that he threatened them with their jobs if they refused to comply.

The Crown unsuccessfully moved to strike the pleadings saying the plaintiffs based their claim on a non-existent tort of sexual harassment.⁷ Pointing to numerous other causes of action in the pleadings, the Court denied the motion.⁸

Carlé et al v Canada

In 2003, Constable Krista Carlé and Corporal Victoria Cliffe, alongside two unnamed female members, filed a lawsuit to address sexual assault and harassment committed by Sergeant Robert Blundell. The suit alleged that Sergeant Blundell sexually assaulted and harassed them in the course of undercover operations. Constable Carlé and Corporal Cliffe's claim also generated media attention at the time, and an official response from the RCMP, which instituted a one-day anti-discrimination and anti-harassment training course. Sergeant Blundell was given a reprimand and lost one vacation day.⁹

Constable Carlé became a major public presence following the intense media attention that arose in the early 2010s regarding the issue of gender-based harassment and discrimination within the RCMP (addressed below).

Sulz v Canada

Constable Nancy Sulz joined the RCMP in 1988 and was a member for nine years, posted to the Merritt Detachment, in British Columbia. Like many women in the RCMP who also became mothers during their service, she faced harassment and discrimination arising both when she requested pregnancy-related accommodations to her regular duties and during a maternity leave. Constable Sulz reached out to her divisional representative and the ensuing RCMP investigation concluded that she had been harassed. However, as a result of these events, she was afflicted with major depressive disorder, and accepted a medical discharge in 2000. In 1997 she brought an action seeking damages for her treatment.

In 2006, the Supreme Court of British Columbia awarded Constable Sulz \$950,000 in damages (\$225,000 with respect to past lost wages, \$600,000 for future wage loss, and \$125,000 for general damages). Canada's appeal from this judgment was dismissed the same year.¹⁰ Constable Sulz's claim also generated some media attention at the time.¹¹

4. *Petrovics v Canada*, New Brunswick Court of Queen's Bench File No. F/C/751/97 (District of Fredericton); *Cook v Canada*, New Brunswick Court of Queen's Bench File No. F/C/751/97 (District of Fredericton). Motion to strike dismissed in: *Petrovics v Canada; Cook v Canada* (1999), 209 NBR (2d) 237 (QB); aff'd 210 NBR (2d) 109 (CA).

5. Amended Statement of Claim described in decision on Crown's motion to strike (denied): *Petrovics v Canada et al*, (1990) 209 N.B. R. (2d) 237 (available on CanLII).

6. *Ibid.*, at 243-246.

7. *Ibid.* at 240 – 241.

8. *Ibid.*

9. Joe Friesen and Andy Hoffman, "RCMP settles sex-assault allegations", *The Globe and Mail* (4 August 2004).

10. *Sulz v Canada*, 2006 BCSC 99, appeal dismissed 2006 BCCA 582.

11. Canadian Press, "Former RCMP constable wins harassment suit", *The Globe and Mail* (24 January 2006).

APPENDIX 4***Galliford v Canada et al***

On May 9, 2012, Corporal Catherine Galliford filed a Notice of Civil Claim in the Supreme Court of British Columbia.¹² Corporal Galliford was a RCMP member with sixteen years of service. She had been posted to Alberta and British Columbia, and had considerable public recognition as the Media Relations Officer for the Air India Task Force and the Missing Women's Task Force (Pickton investigation). Corporal Galliford's claim contained allegations, such as:

- Sexual harassment and sexual assault at Depot;
- Being stalked by a colleague;
- Sexual advances and sexual assault from a superior with on RCMP-related travel;
- Colleagues displaying pornography on the walls of a detachment office; and
- Sexist and sexual remarks from superiors and colleagues.

Corporal Galliford's claim also detailed the devastating impact that this harassment had on her, including panic attacks and vomiting at work, hair loss, weight loss, alcohol abuse, and an ultimate diagnosis of post-traumatic stress disorder.

Corporal Galliford's claim was scheduled to go to trial in 2017 but settled in May 2016 for an undisclosed amount.

Gastaldo v Canada et al; Katz v Canada et al; Couture v Canada et al; O'Farrell v Canada

Corporal Galliford's civil claim was not the only one filed against the RCMP in the early 2010s. Numerous other civil proceedings were filed in the Supreme Court of British Columbia by:

- Constable Susan Gastaldo (August 2011);¹³
- Corporal Elisabeth Couture (December 2011);¹⁴
- Constable Karen Katz (January and July 2012);¹⁵
- Ms. Atoya Montague (August 2013).¹⁶

In 2013, Staff Sergeant Caroline O'Farrell brought a claim before the Ontario Superior Court of Justice, with respect to several incidents of assault, sexual assault, and other forms of harassment she alleged occurred in 1986–1987 during her time with the RCMP musical ride. After several attempts to have this suit dismissed on procedural grounds, the RCMP and Staff Sergeant O'Farrell reached a confidential settlement in 2017.¹⁷

12. *Catherine Galliford v Marvin Wawia, Mike Bergerman, Doug Henderson, Phil Little, Dr. Ian MacDonald, Canada (Attorney General) and British Columbia (Minister of Justice)*, Supreme Court of British Columbia File No. S-123330 (Vancouver Registry).

13. *Gastaldo v Canada*, Supreme Court of British Columbia File No. S115714 (Vancouver Registry).]

14. *Couture v Canada*, Supreme Court of British Columbia File No. S118171 (Vancouver Registry).

15. *Katz v Canada*, Supreme Court of British Columbia File No. S120006 (Vancouver Registry); *Katz v Canada*, Supreme Court of British Columbia File No. S124793 (Vancouver Registry).

16. *Montague v Shields*, Supreme Court of British Columbia File No. S135796 (Vancouver Registry).

17. *O'Farrell v Canada*, 2013 ONSC 6987; *O'Farrell v Canada*, 2016 ONSC 6342; *O'Farrell v Canada*, 2017 ONSC 931; Andrew Seymour, "RCMP officer who alleged she was dragged through horse manure settles lawsuit", *Ottawa Citizen* (6 April 2017).

APPENDIX 4**Costs of litigation**

The costs of defending sexual harassment and gender based discrimination litigation mounted. Former Auditor General Sheila Fraser found serious deficiencies with the internal grievance process contributed to members' decisions to pursue redress external to the force.¹⁸

Prior Reports: What does the RCMP know about gender-based harassment and discrimination?

Since 2007, there have been more than a dozen reports about the RCMP workplace, internal and external, that have highlighted workplace issues and at least in part attempted to address workplace harassment. Numerous Recommendations have been made to RCMP management and although a number of these have been accepted and implemented,

Despite the implementation of these Recommendations, I received claims referencing sexual harassment and assaults occurring as late as May 2017. The claimants I interviewed left me with the impression that the implementation of these Recommendations was not effective or meaningful.

What follows is a brief summary of the reports and findings that are particularly relevant to the Merlo Davidson Settlement Agreement.

A Matter of Trust: Report of the Independent Investigator into Matters Relating to RCMP Pension and Insurance Plans, 2007

In 2007, the federal government appointed David Brown to investigate reports of mismanagement of RCMP administration of the pension and insurance plans.¹⁹ Those reports included: nepotism in staffing functions, inappropriate use of pension and insurance funds for unrelated administrative purposes, and contract splitting with service providers to the funds.²⁰

Brown found that management breached the trust of its current and retired members. Some of the concerning features he observed of the RCMP culture included:

- The RCMP management was motivated not to expose weaknesses in the RCMP;
- The RCMP targeted employees who spoke up with demotions, false accusations, and harassment regarding health issues; and
- The lack of sophisticated communications policy allowed rumour and speculation to grow, contributing greatly to the culture of cynicism and mistrust of management.²¹

He recommended that a Task Force review the governance structure and culture of the RCMP and make Recommendations within 6 months (by December 2007).

18. Fraser, *supra* note 1.

19. David Brown, *A Matter of Trust: Report of the Independent Investigator into Matters Relating to RCMP Pension and Insurance Plans* (Ottawa: Government of Canada, Office of the Independent Investigator into RCMP Pension and Insurance Plans, 2007), Appendix 2 Terms of Reference, online: <https://www.publicsafety.gc.ca/lbrr/archives/cn4218-eng.pdf>

20. *Ibid.*

21. *Ibid.*

APPENDIX 4

In addition to identifying the RCMP's management and cultural problems, Mr. Brown questioned whether the paramilitary management model was the best one for a modern policing undertaking.²²

At least one concern Mr. Brown had with that model is that the chain of command structure supports a problematic concentration of powers in the Commissioner and lacks meaningful accountability for the exercise of power.²³ Such concentration of power would have serious implications on how the RCMP treats whistleblowers.²⁴ Relatedly Mr. Brown also observed that the RCMP's Code of Conduct procedures could be weaponized in "a war of personalities" and that these internal investigations offered no protection for whistleblowers.²⁵

The RCMP Yesterday, Today and Tomorrow: An Independent Report Concerning Workplace Issues at the Royal Canadian Mounted Police, 2007

The RCMP commissioned Professor Linda Duxbury to write a report on the RCMP work culture. Her 158 page report summarizes the findings and results of previous studies completed 2001-2004 into the RCMP work culture; identifies existing issues; and provides strategic advice.²⁶

Prof. Duxbury offers 75 Recommendations for fundamental change.²⁷ She concludes that the RCMP can only hope to implement future Recommendations if key decision-makers understand both the specific RCMP context within which changes are implemented and the critical success factors associated with the renewal of the RCMP.²⁸ Prof. Duxbury identified that time, not the political will or leadership of a particular person or party, and resources are the keys to the success of any lasting changes.²⁹

The subject of her Recommendations range from management issues (tackling unsustainable workload issues immediately) to leadership renewal (offering early buy-outs to those who do not want or who cannot support reforms) and many human resource management issues in between.³⁰

Neither her surveys nor her Recommendations were narrowed to discover the problem or causes of sexual harassment and discrimination. But her insights into the RCMP workplace culture are relevant. Prof. Duxbury described in detail the problems with promotion, leadership and how to foster a change-ready organization.

She emphasized that the RCMP would be extremely change resistant. This assessment is repeated in many of the reports to follow and forcefully echoed by the Civilian Complaints Review Commission in 2017.

22. See Section 7.2 "Governance Issues," *ibid.* at 39; And see Mr. Brown's conclusion on the issue of governance alternatives, *ibid.* at 40: "I leave to others whether the traditional paramilitary model is the best governance model for a modern policing undertaking. I am confident in saying that this is not a governance model that investors in a \$3 billion business would accept."

23. See Section 7.3 "Tone at the Top," *ibid.* at 41.

24. See Section 7.4, "Whistleblowing," *ibid.* at 44.

25. *Ibid.* at 46.

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

27. *Ibid.* at 135-157 for key conclusions and Recommendations, and 146-157 for a list of all 75 Recommendations.

28. *Ibid.* at 16.

29. *Ibid.* at 139

30. See Section Nine: Conclusions and Recommendations, *ibid.* at 140.

APPENDIX 4

Rebuilding the Trust: Report of the Task Force On Governance And Cultural Change in the RCMP, 2007

As recommended by Mr. Brown in *A Matter of Trust*, the Government mandated a Task Force to study the RCMP to recommend changes to the organizational management and culture. The report from the Task Force included 49 Recommendations.³¹

The Task Force recommended a new approach to the organization of the Force and its governance structure, specifically calling for a new independent body for complaints and oversight of the RCMP.³²

In total, the Recommendations include changes to the relationship between the RCMP and the Government, to the roles and responsibilities of various parts of the Force. Some of those Recommendations are particularly relevant to the claims filed in the Merlo Davidson Settlement, addressing issues of recruitment, training, discipline, promotion and structural organization.³³

To oversee the necessary reforms, the Task Force recommended the government set up the Reform Implementation Council.³⁴ This body would assist the RCMP improve its management of human and financial resources, its development of future leaders, its communication (internal and external), and its accountability to the government.³⁵ It would play an essential role in guiding change because the Task Force had concluded that “the RCMP in its current structure is not a change-ready organization.”³⁶ The government accepted that recommendation and enacted this Council in 2008. Between 2008-2010, the Council produced 5 reports offering an accounting of the challenges and successes. The Council’s final report is summarized below.

From Reform to Continuous Improvement: The Future of the RCMP, 2010.

The RCMP’s Reform Implementation Council’s final report is generally positive about the RCMP’s new measures for performance assessments (increasing focus on ethics, requiring input from subordinates for promotion) and its acceptance of external expertise in certain areas. But the authors stress that the RCMP continues to lack appropriate internal and external communications capacity, and that no progress has been made with respect to governance and management since the Council was enacted.³⁷

The Council called for the urgent creation of the Board of Management that could continue to provide external advice and support to the RCMP executive and separate employer status for the police force.³⁸ That Board would eventually be established first as an interim measure in 2018 and made permanent in 2019 by amendments to the *RCMP Act*.³⁹

31. Task Force on Governance and Cultural Change in the RCMP, *Rebuilding The Trust* (Ottawa: Government of Canada, 2007) [“*The Brown Report*”].

32. The Marin Commission 1976 recommended an external public complaints mechanism.

33. *Supra*, note 31.

34. *Ibid.* at 47-48.

35. *Ibid.* at 48.

36. *Ibid.* at 47.

37. Reform Implementation Council, *From Reform to Continuous Improvement: The Future of the RCMP* (Ottawa: Government of Canada, RCMP Reform Implementation Council, 2010) online: <https://www.publicsafety.gc.ca/lbrr/archives/cn000038928660-eng.pdf>

38. *Ibid.* at 19.

39. See Interim Board of Management announcement from Public Safety Canada, “*RCMP Interim Management Advisory Board members announced by Minister Goodale*” (5 June 2019) online: <https://www.canada.ca/en/public-safety-canada/news/2019/06/rcmp-interim-management-advisory-board-members-announced-by-minister-goodale.html>; And see legislative changes to the *RCMP Act* making that Board permanent: Canada, Bill C-97, *Budget Implementation Act, 2019*, No. 1, 1st Sess, 42nd Parl, 2019, cl 222 (assented to 21 June 2019).

APPENDIX 4

Towards a Red Serge Revival, 2010

Also in 2010, responding to the ongoing crises involving the RCMP, six Liberal Senators published a position paper called “A Red Serge Revival” with their comments on the “state of RCMP transformation”.⁴⁰ The senators made many Recommendations in four subject areas: creating meaningful independent oversight, increase diversity, addressing lack of funding, and improving leadership.

The first section of this report is about government inaction on policing, describing the loss of public trust in policing following Maher Arar Report and the Brown Task Force in the wake of the pension scandal. The second section is about diversity in the force.

The authors identified barriers for retaining women and other equity based groups. First, the stereotypes that equity groups are promoted as a result of belonging to the group and that these promotions are meritless is a barrier for diversification.⁴¹ Second, that retaining women means ensuring access to childcare and less disruptive transfers so that schooling of young children is not impacted.⁴²

In the third section of the report, the authors focus on the critical need for funding to ensure quality policing. They describe the evolution of the RCMP’s mandate: the increase in federal laws expands the RCMP’s specializations while contract policing for municipalities and provinces across the country necessarily keeps the RCMP focused on community policing objectives.⁴³

Finally, in section four, the authors discuss leadership in the RCMP. The authors quote an early study conducted by Prof Duxbury and Chris Higgins about RCMP perception of competency in leadership.⁴⁴ Generally, those at the top levels of management think they are competent, but those who must report to them overwhelmingly disagree.⁴⁵ This same observation was made and discussed in detail in Prof Duxbury’s comprehensive 2007 report: *The RCMP Yesterday, Today, and Tomorrow referred to supra*.

To combat the leadership problem (both real and perceived) the authors of Red Serge Revival made Recommendations to help professionalize the force’s executive branch and emphasized the importance of learning as a cultural mainstay throughout one’s tenure in the force.⁴⁶

Summary Report on Gender Based Harassment and Respectful Workplace Consultations, 2012

In the wake of explosive media scrutiny of sexual harassment allegations within British Columbia’s RCMP detachments, the Commanding Officer of “E” Division initiated an assessment of that Division’s approach to respectful workplaces.⁴⁷ The report is a summary of the issues raised in focus groups which brought together 426 RCMP employees.

40. Tommy Banks et al. *Toward a Red Serge Revival: A Position Paper on the Current State of the Royal Canadian Mounted Police*. 22 February 2010.

41. *Ibid.* at 30.

42. *Ibid.* at 31-33.

43. *Ibid.* at 35-43.

44. *Ibid.* at 58.

45. *Ibid.*

46. *Ibid.* at 64-70.

47. E Division, *Summary Report on Gender Based Harassment and Respectful Workplace Consultations* (RCMP, E Division: 2012)

APPENDIX 4

The report specifically addresses barriers to gender-based harassment and identified the common concerns as follows:

- a fear of retribution;
- that the “old boys club” works to protect their own and, critically, insulate harassers;
- that supervisors lack the skills to deal with conflict, noting that there is a problem with assuming that a skilled investigator will be a skilled manager;
- the reporting process lacks credibility;
- employees experience a lack of access to reliable and confidential advice;
- the on-line harassment training is inadequate;
- that some employees are weaponizing harassment complaints to retaliate against poor performance reviews;
- that addressing harassment waxes and wanes with the political will, undermining long-term sustainable solutions; and
- that employees have lost pride in the RCMP.⁴⁸

The report acknowledges that problematic workplace culture leads to poor management, including: abuse of power, low self-esteem, resistance to diversity, and a historically male dominated culture.⁴⁹ The report recommends four guiding principles for addressing harassment (facts, access, independence, and resolution) and specific initiatives to enhance each guiding principle.⁵⁰

Despite emphasizing harassment is not “rampant”⁵¹ in the RCMP, the report recommends a standalone harassment resolution unit to better address and resolve valid claims.

Gender and Respect: RCMP Action Plan, 2013

In 2013, then Commissioner Bob Paulson launched the RCMP plan to change the culture and composition of the Force. The Action Plan provides an overview of the RCMP vision for change.⁵²

The Action Plan built on the Gender-Based Assessment (2012) and the 125 Recommendations made in the 2006 Employment Systems Review. The RCMP asserted that of those earlier Recommendations, only ten were outstanding, the rest were out of date or implemented already.⁵³ The report does not provide a specific breakdown of the RCMP’s compliance with each recommendation.

The RCMP committed to 37 Actions, with milestones, targets, and measures identified.⁵⁴ At the conclusion of the report, the RCMP said that it was seeking a person to oversee implementation and coordination the action items.⁵⁵ But it’s unclear whether any such person was ever identified or appointed. Many of the action items have not been realized and others only partially.

48. *Ibid.* at 8-10.

49. *Ibid.* at 12-14.

50. *Ibid.* at 16-20.

51. *Ibid.* at 20.

52. RCMP, *Gender and Respect: RCMP Action Plan* (Ottawa: Royal Canadian Mounted Police, 2013) online: <https://www.publicsafety.gc.ca/lbrr/archives/cnmcs-plcng/cn24836-eng.pdf>

53. *Ibid.* at 20.

54. For a full list, see the *ibid.*, Appendix at 21-24).

55. *Ibid.* at 20.

APPENDIX 4

For example, to improve work-life balance, the Action Plan promised to design and implement a mechanism for backfilling employees on parental leave by 2015.⁵⁶ No such program has yet to be implemented.

To build respectful workplaces, the RCMP promised to use Advisory Committees at the national and provincial levels as key forums for discussion of employee issues and establish Respectful Workplace Programs nationwide.⁵⁷ But each division has been left to develop these programs to tailor to specific needs and this risks a lack of coordination.

Indeed, when the Civilian Review and Complaints Commission reviewed the RCMP's commitment to these action items, it was unimpressed with the lack of leadership and coordination at the national level: "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."⁵⁸

Commission for Public Complaints against the RCMP, Public Interest Investigation into RCMP Workplace Harassment, 2013

The Commission for Public Complaints against the RCMP initiated a public interest investigation into how the RCMP dealt with harassment complaints between 2005-2011. It reported its findings in 2013. The Commission examined all 718 complaints (formal) submitted to the RCMP during that time period and concluded that, generally, the RCMP is following its policies. However, it the Commission made Recommendations for improving the harassment complaints system.

The Commission favoured the RCMP retaining responsibility for dealing with its harassment complaints rather than setting up external processes.⁵⁹ But the Commission identified ways it can improve independence including: mandatory specialized training for harassment investigators, timelines for processing harassment complaints, standards for investigations and an external mechanism for review of harassment decisions.⁶⁰

In total there are 11 Recommendations that flow from this investigation. The Recommendations were designed to:

- allow for a better assessment of the scope of the problem of workplace conflict and harassment;
- improve the quality of harassment investigations and decision-making;
- improve understanding of roles and responsibilities for ensuring respectful workplace; and
- increase the transparency of the process and enhance the accountability of those charged with its management.⁶¹

56. *Ibid.* at 7-8.

57. *Ibid.* at 4-5.

58. Civilian Review and Complaints Commission, *Report into Workplace Harassment in the RCMP* (Ottawa: Ministry of Public Safety & Emergency Preparedness, 2017) at 20.

59. *Ibid.* at 3.

60. *Ibid.* at 21-28.

61. *Ibid.* at 36.

APPENDIX 4

Conduct Becoming, 2013

The Senate authorized the Standing Committee on National Security and Defence to examine issues of harassment in the RCMP.⁶² This report summarizes testimony from witnesses on a range of issues involving harassment, including sexual harassment. The list of witnesses is included in an appendix, some testified only in written submissions.

The Committee made 15 Recommendations to eliminate harassment in the workplace, protect whistleblowers, and induce a cultural transformation.⁶³

One of the Recommendations of the Committee was that the *Code of Conduct* be amended to explicitly identify harassment, that it be published on the website for easy access, and that violations of the Code be considered during any individual's promotion application.⁶⁴

The authors also explicitly denounced the RCMP's practice of transferring the perpetrator or the victim of harassment as means of avoiding dealing with the underlying disciplinary issues.⁶⁵

The calls for civilian oversight included (1) regular assessments by the Civilian Review and Complaints Commission to account for the RCMP's implementation of harassment-related programs and policies and (2) that the RCMP consider an Ombudsman.⁶⁶ The Committee highlights that these and other measures could address the public's doubts about the RCMP's commitment to transparency and change.⁶⁷

The authors end their report with a caution to RCMP leadership: "[there is] little margin for error in proactively addressing and resolving incidents of harassment in all its manifestations."⁶⁸

Addressing a Crisis in Leadership, 2014

The RCMP Veteran Women's Council opened their RCMP report with a warning that picked up on the Senate Committee's previously stated caution: "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." In other words, the crisis of sexual harassment was "an organizational, self-inflicted wound born out of decades of failure [...] of leadership."⁶⁹

The authors specify that the root causes of RCMP workplace dysfunction are: 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 rate for female members."⁷⁰

62. Standing Senate Committee on National Security and Defence, *Conduct Becoming: Why the Royal Canadian Mounted Police Must Transform its Culture*, (Ottawa: Government of Canada, 2013).

63. *Ibid.* at 5-6.

64. *Ibid.* at 11-12.

65. *Ibid.* at 13.

66. *Ibid.* at 13-14.

67. *Ibid.* at 15.

68. *Ibid.* at 16.

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

70. *Ibid.* at 4.

APPENDIX 4

Their four Recommendations were: (1) take steps to implement immediate cultural change from the top down; (2) eliminate the use of quotas in favour of new strategies to break down barriers for diversity; (3) implement exit interviews for means of continuing improvement; and (4) establish an Ombudsperson Office that reports to Parliament.⁷¹

Shattered Dreams, 2014

In 2014, Judy Sgro, Member of Parliament, and the Honourable Grant Mitchell, Senator, tabled a joint report following the conduct four roundtables on RCMP workplace issues across Canada.⁷² In addition to hearing from members, they also met with experts who offered perspectives on likely causes and solutions to the systemic issue of workplace harassment.⁷³

Their report emphasized the devastating effects of sexual harassment on the female membership: “the long-standing issue of sexual harassment within the ranks of the RCMP serves as an insurmountable distraction that harms individual personnel and group morale, and impinges upon the ability of the senior leadership to discharge their more fundamental operational and strategic responsibilities.”⁷⁴ They argued for a National Psychological Workplace Strategy, coordination of PTSD resources with the Canadian Forces or other policing organizations and, more generally, a recognition of the interaction of members’ mental health and workplace culture.⁷⁵

In all, they offered 13 Recommendations addressing a range of familiar topics: RCMP oversight, culture, member advocacy, leadership, mental health, and human resources (recruitment, promotion, and training). They also recommended the government establish an Ombudsman, in addition to binding resolution/grievance process that would be independent of the divisional chain of command.⁷⁶

Report on Explosives Training Unit, 2016

This report describes allegations of sexual harassment by two RCMP members (a S/Sgt. and CM) who worked at the Explosive Training Unit with the Canadian Police College.⁷⁷ These two men had been investigated at least twice by the RCMP. But at least one member wrote to the RCMP Commissioner concerned that the disciplinary action was inadequate. These men were transferred to supervise or work in proximity with victims and witnesses, after they had been disciplined.

This report summarizes the action taken against these men, identifies concerns with the overall process, and makes 27 Recommendations. Those Recommendations echoed many previous Recommendations for better education on identifying and preventing sexual harassment, better supervision, better responses from managers and preventing reprisals, better processes for investigating allegations, and better communication within the chain of command to identify problem members and effectively address problem units.⁷⁸ Those topics are not the exclusive list of subjects the report’s authors addressed.

71. *Ibid.* at 13.

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

73. See list of experts in Appendix III, *Ibid.* at 32-33.

74. *Ibid.* at 9; See also Testimony in Appendix II, *ibid.* at 23-31.

75. *Ibid.* at 11-13.

76. *Ibid.* at 10.

77. 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: <<https://www.rcmp-grc.gc.ca/en/report-allegations-harassment-and-sexual-misconduct-the-rcmps-canadian-police-college-explosives>>

78. *Ibid.* at 11-18.

APPENDIX 4

While this report is focused on a discrete part of the RCMP organization, the harassment described and the RCMP's response reflects familiar themes from the claim narratives revealed in the Merlo Davidson Settlement process.

Review of Four Cases of Civil Litigation against the RCMP on Workplace Harassment, 2017

In this report, former Auditor General Sheila Fraser presents her findings after reviewing four litigation cases brought by women against the RCMP alleging workplace harassment: Alice Fox, Catherine Galliford, Susan Gastoldo, and Atoya Montague.⁷⁹ Three of those women alleged sexual harassment, and one woman alleged harassment based on sexual orientation.

The government had tasked Fraser (in 2016) to provide advice on gaps or deficiencies in the policies, procedures, and legislative framework of the RCMP that applied to the women after they filed their civil claims. Specifically:

- the processes in place and how they were applied to each claim;
- the medical and employee support available or provided to the plaintiffs after filing their claims;
- the application of measures to prevent reprisals after the filing their claims; and
- their treatment in terms of fairness and impartiality, after the date of filing.⁸⁰

All the women reported to Fraser that they started lawsuits because they had no confidence in the internal redress mechanisms available to them.⁸¹ Fraser found that past RCMP grievance processes were too lengthy and the investigation of harassment typically took place within one's own division leading to perceptions of bias and conflict.⁸²

Ms. Fraser's considered review of only four cases of harassment revealed many of the same concerns with RCMP's internal investigation process that we heard during the Merlo Davidson claim process. Most of the issues she identifies are, again, loud echoes of the past decade of reports and Recommendations, including: a cultural predisposition to downplay problems or otherwise protect the RCMP image (para. 70), members' legitimate concerns about reprisals when reporting harassment (para. 63), poor investigation quality (para. 35), unreasonable delays (paras. 36-37), lack of objectivity of decision-maker (paras.42-43), inert sanctions (para. 49), and the conflict of interest set-up in how health services are accessed and delivered to members (paras.55-60).⁸³

CRCC, Workplace Harassment the RCMP, 2017

This report is the culmination of investigation by the Civilian Review and Complaints Commission into the adequacy, appropriateness and sufficiency of the RCMP policies and procedures on workplace harassment, and it examines their effectiveness. It also reviews the extent that the RCMP has implement the Recommendations made in the Commission 2013 *Public Interest Investigation Report into RCMP Workplace Harassment*, and identifies the role of work culture in perpetuating harassment.

79. Fraser, *supra* note 1.

80. *Ibid.* at paras. 9-12.

81. *Ibid.* at para.3.

82. *Ibid.* at paras. 34-47.

83. *Ibid.*

APPENDIX 4

The Commission's key findings include:

- (1) Abuse of authority is a significant problem;
- (2) RCMP has failed to address harassment;
- (3) Given (2), strong civilian oversight is required to ensure reform;
- (4) Overly complex and/or confusing guidelines for decision makers risk that meritorious complaints are dismissed;
- (5) The Office for Coordinate of Harassment Complaints carries out a limited role;
- (6) The practice of not screening harassment complaints may exacerbate workplace conflict;
- (7) The division of roles and responsibilities between investigator and decision-maker in harassment complaints is inappropriate and risks arbitrariness in decisions.
- (8) Decision makers routinely apply the wrong legal tests and take into account irrelevant factors, risking that complaints are wrongly determined to be unfounded.
- (9) Training for decision makers remains inadequate.⁸⁴

The Commission made 10 Recommendations to address the deficiencies in the RCMP's response (see findings 1-9 *supra*). In its assessment, there are three reasons for the sustained failures to change.⁸⁵ First, the problem of harassment has been defined too narrowly. The significant and systemic problems of the organization structural support a dysfunctional workplace culture. Unless the larger organizational problems are tackled, harassment will never be addressed in a lasting way.⁸⁶ Second, senior RCMP leaders are not committed to systemic change required because they do not have the specialized expertise despite their administrative and management responsibilities.⁸⁷ There is no cultural of leadership as there is in the armed forces. And third, civilian oversight is absent. The absence of civilian oversight reduces public accountability.⁸⁸

Perhaps most telling, the Commission made the following strongly worded statement:

[...] the RCMP lacks both the will and the capacity to make the changes necessary to address the problems that afflict its workplace. 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.⁸⁹

84. Civilian Review and Complaints Commission for the RCMP, *Report into Workplace Harassment in the RCMP* (Canada: CRCC, 2017), at 5, online: <https://www.crcc-ccetp.gc.ca/pdf/harassmentFinR-eng.pdf>

85. *Ibid* at 7.

86. *Ibid.* at 7.

87. *Ibid* at 7-8.

88. *Ibid* at 8.

89. *Ibid* at 4.

APPENDIX 4

Auditor General of Canada, Report 4 – Mental Health Support for Members – Royal Canadian Mounted Police, 2017

The RCMP introduced a Mental Health Strategy in 2014. This strategy was not limited or designed for those suffering sexual harassment or discrimination. However, so many of the claimants in the Merlo Davidson Settlement process also reported mental health problems, this report provides important relevant context for my Recommendations.

In 2017, the Auditor General of Canada completed an audit to determine whether RCMP members had access to suitable mental support.⁹⁰ The audit examined whether specific programs, services and activities adequately supported early detection and intervention for mental health needs and how the RCMP was monitoring and evaluating those programs. This audit was not designed to examine the cause of members' mental health injuries or the complete slate of programs available to members.

The audit revealed significant deficiencies in the RCMP mental health support. While the RCMP was one of the first federal organizations to introduce a mental health strategy, it did not prioritize or commit necessary resources.⁹¹ There were serious gaps in access to care. For example, one in six members who sought mental health support did not receive easy and timely access to necessary services,⁹² and one in five members who sought out mental health support did not return to work or was discharged.⁹³

The audit found that the RCMP has no way to evaluate its Mental Health Strategy. Without systems and practices to measure, monitor, and report on performance, the RCMP does not know:

- How many members have received mental health services;
- What type of treatment each member has received;
- The total cost of treatment;
- The outcomes; and
- Whether members' needs have been met.⁹⁴

The Audit team set out seven Recommendations aimed at addressing the problems identified.⁹⁵

The RCMP agreed with each concern raised by the Auditor General and committed to solutions.⁹⁶

90. Auditor General of Canada. Report 4 – *Mental Health Support for Members – Royal Canadian Mounted Police* (Ottawa: Office of the Auditor General, 2017), online: https://www.oag-bvg.gc.ca/internet/English/parl_oag_201705_04_e_42226.html#hd3a

91. *Ibid.* at 4.19.

92. *Ibid.* at 4.48.

93. *Ibid.*

94. *Ibid.* at 4.99.

95. *Ibid.* See 4.43 (Prepare a business plan to guide Mental Health Strategy Implementation), 4.74 (Consider adopting national standards for health services delivery and best practices from divisions), 4.89 (Hire required number of disability management advisers, train adequately), 4.96 (assess managers and supervisors' support for mental health and include these assessments in performance reviews), 4.113 (develop and implement a monitoring and evaluation framework), 4.118 (develop and implement a measure if members are receiving timely support), 4.123 (continue to implement a national case management tool to monitor and manage cases).

96. *Ibid.* at "List of Recommendations"

APPENDIX 4

The deficiencies in the RCMP's mental health programs appear systemic because many of the same issues were flagged by the claimants (and previous reports) in relation to the RCMP's response to harassment: inadequate training, under-resourced and patchwork intervention programs, and a paucity of data. As the mental health audit suggests, without a concerted effort to gather information on the problem, the RCMP cannot know:

- How many women have experienced gender-based harassment;
- How many women have left the force because of gender-based harassment;
- The total cost to the force in short term and long-term sick leaves resulting from gender-based harassment or the opportunity cost of devoting years of time and resources to addressing gender-based harassment problems;
- The total number of members who harass women; and
- The total number of repeat offenders.

But the costs to the women and the public are escalating. Many women have paid with their careers. Over two decades the public has paid for (at least) 15 reports calling for changes to the RCMP, 2 class actions, and many more lawsuits from women. If the RCMP cannot change now, when can it?

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