

## **CAO 11-82**

### **HATEFUL CONDUCT**

#### **APPLICABLE TO**

This Canadian Army Order (CAO) applies to all Canadian Army (CA) personnel of the Regular Force at all times, the Reserve Force and the Canadian Rangers when subject to the Code of Service Discipline as per Section 60 of the *National Defence Act*.

It is expected that military members of the Canadian Army abide by the intent and spirit of this CAO by conducting themselves accordingly at all times, whether on or off duty. The standard of conduct for a CAF member is based on established military standards, and military members are always subject to DAOD 5019-0, *Conduct and Performance Deficiencies*, and DAOD 5019-4, *Remedial Measures*.

It is expected that civilian members of the Defence Team abide by the intent and spirit of this CAO. However, where the hate incident involves a civilian, the CO should refer to DAOD 5016-0, *Standards of Civilian Conduct and Discipline*, and liaise with their Labor Relations Advisor for guidance.

#### **REFERENCES**

- A. [DAOD 5019-0, Conduct and Performance Deficiencies](#)
- B. [CF Mil Pers Instruction 01/20, Hateful Conduct](#)
- C. [LFCO 11-04, Administrative Review](#)
- D. [DAOD 2008-3, Issue and Crisis Management](#)
- E. [DAOD 5012-0, Harassment Prevention and Resolution](#)
- F. [DAOD 5016-0, Standards of Civilian Conduct and Discipline](#)
- G. [DAOD 5019-2, Administrative Review](#)
- H. [DAOD 5019-4, Remedial Measures](#)
- I. [DAOD 1002-0, Administration of the Privacy Act](#)
- J. [DAOD 5050-0, Canadian Forces Personnel Records](#)
- K. [CANFORGEN 121/19 CMP 068/19, Direction and Guidance on Tattoos](#)
- L. [CAO 11-03, Significant Incident Reporting \(SIR\)](#)
- M. [3000-1 \(G33-2\), Comd Canadian Army \(CCA\) – Comd-Specific Reports and Returns, August 2020](#)
- N. [Duty with Honour: Profession of Arms in Canada](#)
- O. [Department of National Defence and Canadian Forces Code of Values and Ethics](#)
- P. [Canadian Human Rights Act](#)
- Q. [Criminal Code](#)
- R. [QR&O 4.02, General Responsibilities of Officers](#)
- S. [QR&O 4.11, Reports of Unusual Incidents](#)
- T. [QR&O 5.01, General Responsibilities of Non-Commissioned Officers](#)
- U. [QR&O 19.15, Prohibition of Reprisals](#)
- V. [QR&O 19.56, Report of Arrest by Civil Authority](#)
- W. [QR&O 19.61, Certificate of Conviction](#)

- X. [QR&O 19.62](#), *Action Following Conviction by Civil Authority*
- Y. [QR&O 19.75](#), *Relief from Performance of Military Duty*
- Z. [QR&O 101.09](#), *Relief from Performance of Military Duty – Pre and Post Trial*
- AA. [QR&O 106](#), *Investigation of Service Offences*
- BB. [QR&O 106.02](#), *Investigation Before Charge Laid*

## AIM

1. The aim of this CAO is to reinforce and amplify direction related to Hateful Conduct that is provided in DAOD 5019-0 and CF Mil Pers Instruction 01/20.

## DEFINITIONS

2. The following terms, which are defined at reference B, are pertinent to CAO 11-82:
  - a. Hate incident. A hateful incident is any allegation of hateful conduct that has been reported to, or documented by the Chain of Command (CoC);
  - b. Hateful Conduct. An act or conduct, including the display or communication of words, symbols or images, by a CAF member, that they knew or ought reasonably to have known would constitute, encourage, justify or promote violence or hatred against a person or persons of an identifiable group, based on their national or ethnic origin, race, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics or disability;
  - c. Harassment. Improper conduct by an individual that offends another individual in the workplace, including at any event or any location related to work, and that the individual knew or ought reasonably to have known would cause offence or harm. It comprises 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* (i.e. based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability, or conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered). Harassment is normally a series of incidents but can be one severe incident which has a lasting impact on the individual. Harassment that is not related to grounds set out in the *Canadian Human Rights Act* must be directed at an individual or at a group of which the individual is known by the harassing individual to be a member;

- d. Racism. Racism is prejudice, discrimination, or antagonism directed against a person or people on the basis of their membership in a particular racial or ethnic group, typically one that is a minority or marginalized;
- e. Discrimination. Discrimination is an action or a decision that treats a person or a group badly for reasons such as their race, age or disability. These reasons, also called grounds, are protected under the *Canadian Human Rights Act*. (source: [Canadian Human Rights Commission](#)); and
- f. Micro-aggression. A statement, action, or incident regarded as an instance of indirect, subtle, or unintentional discrimination or prejudice against members of a marginalized group such as a racial minority. (Termium Plus)

### **PROHIBITED BEHAVIOURS**

- 3. Ref B provides concrete examples of behaviours that are deemed hateful conduct, including:
  - a. engaging in hate propaganda offences as set out in the *Criminal Code of Canada*;
  - b. accessing information that promotes hate on the Defence IT infrastructure, except as required for CA work-related purposes;
  - c. being a member or otherwise participating in the activities of any organization or group which is known, or ought to be known by the CAF member, to promote or encourage violence, or hatred against a person or any identifiable group, based on a prohibited ground of discrimination;
  - d. making statements, sharing or endorsing information verbally, in writing, or online; that promotes violence or hatred against a person or any identifiable group based on a prohibited ground of discrimination;
  - e. acts of violence or intimidation stemming from hate against a person or any identifiable group based on a prohibited ground of discrimination; and
  - f. displaying tattoos that communicate, constitute, encourage, justify or promote violence or hatred against a person or any identifiable group based on a prohibited ground of discrimination (IAW ref K).
- 4. Organizations and Groups. To further clarify behaviours related to organizations or groups (para 3.c above), the following activities are considered hateful conduct:
  - a. becoming or being a member of the group or organization;

- b. encouraging membership or participation in the group or organization;
- c. making, publishing, distributing, displaying, sharing or issuing communications of the group or organization (e.g. including online);
- d. donating or raising funds for the group or organization;
- e. speaking or communicating on behalf of the group or organization;
- f. providing assistance in the form of goods, services, equipment or facilities to the group or organization;
- g. transporting personnel or materiel on behalf of the group or organization;
- h. displaying on a Defence establishment or in a public place any sign, emblem, symbol, tattoo or other paraphernalia representative of the group or organization;
- i. attending meetings or rallies for the purpose of supporting the group or organization; and
- j. running or holding office in the group or organization.

5. These examples are not exhaustive, but are more than adequate for all CA members to understand the types of behaviours that are prohibited. There is zero tolerance for hateful conduct in the CA.

## **COMMANDER CANADIAN ARMY INTENT**

6. My intent is to eliminate racism, discrimination and hateful conduct in the CA. Racism exists in our ranks, in our practices, and in our biases. First and foremost, we need to decisively address hateful conduct as it has the potential to harm members that are being targeted by these behaviours and those who witness these acts. Within the Army, this reality has the potential to tear at our very fabric because it undermines CA morale, discipline and cohesion, which ultimately affects our operational readiness. Within the CAF, hateful conduct is contrary to Canadian military ethos and erodes our institutional credibility as the component of the force designed to operate within diverse populations with different gender, racial, religious and cultural identities across our nation and abroad; it calls into question the CAF's ability to act on behalf of the people of Canada, degrades its relevance, and breaks the public trust. Lastly, these behaviours are exploited by hostile actors and therefore represent a direct threat to our ability to fulfill our security and defence missions.

7. I expect CA members to conduct themselves in accordance with our *Code of Values and Ethics*, whether in or out of uniform, and on or off of duty. There is no place in the CA for racism, discrimination, or hateful conduct. I demand immediate and

decisive action be taken to eliminate these behaviours when they do occur. My intent will be operationalized through the following Lines of Effort (LoE):

- a. LoE 1 Prevention. First, we will focus our efforts on preventing these behaviours through concerted training and education. Combating these behaviours is a CoC responsibility, and an all ranks effort. Communicating with all ranks through professional training and education will assist in the effort to highlight the detrimental effects of these behaviours on our organization and its members. As this effort is the responsibility of all CA members, the CoC will facilitate focused awareness and bystander training, ensuring that our members recognize their responsibilities when incidents arise, including the repercussions for not addressing situations in a timely manner. Although this training and associated resources are still being developed, I expect the CoC to be proactive in developing vignettes and educating their members;
- b. LoE 2 Response. We will respond to all incidents related to hateful conduct. Enabled by strong leadership, we will hold our members accountable for their actions. CA members at all levels will be expected to intervene and report incidents, and where necessary, we will provide support to those affected by these behaviours. Failure to act is considered complicity in the event. Key to our ability to effectively respond is ensuring that CO's and unit command teams understand their responsibilities with respect to taking action. Our response will be fair and equitable, but decisive in time and appropriateness of reaction; and
- c. LoE 3 Assessment. Finally, the CA will contribute to the development of CAF-wide mechanisms (or develop internal CA mechanisms) to monitor, track and assess these types of incidents. Such mechanisms are essential in determining where we need to shape cultural and institutional change in order to achieve our objectives. Strong leadership and strong soldier understanding, coupled with persistent efforts towards the prevention, response and monitoring of incidents will enable the CA to eliminate this behaviour in our ranks, while increasing our operational effectiveness.

8. Collectively, these efforts will enable The One Army Team – Regular, Reserve, Ranger and Civilian; empowering all members of the Team to perform their role in achieving my intent.

## **LoE 1 – PREVENTION**

9. Description. The aim of this line of effort is to prevent acts of racism and hateful conduct by raising our collective situational awareness of hateful conduct. This is achieved not only through enhanced training, but by opening and maintaining a forthright dialogue across the One Army Team. In doing so, we will set the conditions for

an open, honest and welcoming environment where all persons are treated with dignity and respect.

10. Education and Training. Awareness of the CA's commitment to prevent and address hateful conduct requires education and training. All applicants for enrolment or re-enrolment must be informed that the CA does not tolerate hateful conduct. Awareness training and activities on the CAF policy of the prohibition for hateful conduct must be provided to CA members. Bystander intervention training will be key in our efforts to eliminate hateful conduct, because we all have a responsibility to act and respond if we witness hateful conduct and associated incidents. Specific details in relation to education and training will follow in subsequent direction, as Directorate of the Defence Ethics Program will develop mandated training requirements and associated training materials. CA HQ staff are developing training materials which will be promulgated across the CA. These training materials will be vignette-based, ensuring that we provide our members clear examples of the expectations that we have from all of our teammates whether it be the CoC and/or bystanders. The CoC is also invited to be proactive in developing training opportunities.

11. Commanding Officers (COs) or their delegates must deliver hateful conduct training and education, as a minimum, on an annual basis using training resources that will be provided by the Directorate of the Defence Ethics Program. It is also expected that leaders at all levels will continue to enforce the expectations, and responsibilities by seizing opportune and teachable moments; our efforts will require consistent and on-going reinforcement. Our training and education should aim to achieve the following objectives:

- a. increasing awareness of what behaviours constitute hateful conduct and possible warning signs;
- b. promoting discussion on any hateful conduct or conflict situations that may occur and explore approaches to address them;
- c. promoting positive behaviours and perspectives that are in line with *Duty with Honour: The Profession of Arms in Canada*;
- d. advising CA members on their responsibilities under this order;
- e. identifying mechanisms for resolving conflicts where hateful conduct may be involved; and
- f. facilitating access to related resources.

## **LoE 2 – RESPONSE**

12. Description. The CA must respond to incidents of hateful conduct in an appropriate, timely and decisive manner. We understand that awareness of such

incidents may come from a number of sources, such as grievance mechanisms, direct observation, media reports, or reports from the public. Though the reporting of incidents may not be as standardized as we would expect, we must nevertheless act. With a shared understanding of what constitutes hateful conduct, all members of the CA will recognize when these acts occur and take immediate action, including speaking out against them where they feel safe to do so and reporting the act(s) to their respective CoC. Once reported, we will promptly and thoroughly investigate and take swift and decisive action as deemed appropriate, following all policies and procedures. A flowchart of the Hateful Conduct Incident Management Decision Tree is enclosed at Annex A.

13. Reporting of Hate Incidents by CA Members. To ensure that incidents of hateful conduct are addressed in a timely manner, the CoC must be made aware of hate incidents involving a CAF member, both Regular and Reserve. In accordance with QR&O article 19.56, Report of Arrest by Civil Authority, QR&O subparagraph 4.02(1)e, General Responsibilities of Officers and QR&O paragraph 5.01e, General Responsibilities of Non-Commissioned Members; every CAF member is required to report to the proper authority, as applicable:

- a. a hate incident of another CA or CAF member whether performed individually or in association with a hate group; or
- b. their own arrest by a civil authority.

14. CA members can comply with this requirement by reporting to:

- a. the CA member's CO through the CoC;
- b. the Military Police; or
- c. Assistant Deputy Minister (Review Services), Director of Special Examinations Inquiries, as applicable

15. Notification of the CoC. The CoC may become aware of hate incidents through other means. As per reference M, this constitutes a Commander of the CA (CCA) CCIR, which requires immediate command engagement, up to CCA level. An officer commanding a command must report hateful conduct, suspected or confirmed, in accordance with QR&O article 4.11, *Reports of Unusual Incidents*.

16. Proactive Response. IAW reference B, the CoC is directed to take a proactive response to concerns of hateful conduct and does not need a written complaint to investigate any concerns. As soon as a member of the CA is witness to or notified of an alleged incident, the CoC is responsible to gather the facts and engage the Military Police in order to receive advice on the type of investigation(s) that needs to be initiated. As soon as the CoC is notified of an incident related to hateful conduct, the CO has the obligation to consider the necessity of temporarily relief of the accused perpetrator from

military duty. Following due process, QR&O articles 19.75 *Relief from Performance of Military Duty*, and 101.09, *Relief from Performance of Military Duty – Pre and Post Trial*, must be closely adhered to in order to ensure that the accused perpetrator is provided with reasonable opportunity to make representations.

17. Initial Incident Reporting and Tracking. To monitor and assess the effectiveness of initiatives, training and communications products to prevent and address hateful conduct in the CAF, all hate incidents are to be reported and tracked. Regardless of how it becomes aware of the incident, the CoC will take the following actions:

- a. as soon as possible after the incident, submit a CCIR so that the CCA may anticipate decisions that he may have to make, as outlined in reference M;
- b. as soon as possible, but within 24 hours, submit to the Canadian Forces Integrated Command Centre (CFICC) and the Director Professional Military Conduct (Operation HONOUR) (DPMC-OpH) (Info to DMCA 2), a Significant Incident Report (SIR) as outlined at reference D when the hate incident involves the following:
  - (1) acts by formation commanders, COs, and their chief petty officers 1st Class/chief warrant officers; or
  - (2) a CA member who has been taken into custody or against whom charges have been laid; or
  - (3) potential significant media interest which could cause discredit to the CA or CAF; and
  - (4) a breach of this policy that prevents Commanders from achieving their mission;
- c. all reported hate incidents, regardless of whether or not an SIR was generated, will be entered into the Hateful Conduct Incident Tracking System (HCITS) within 48 hours, and will be continuously updated as new information becomes available until the incident has been concluded or resolved. A CA Standard Operating Procedure on HCITS is enclosed at Annex B. NOTE: At this time, only CA G1 staff have access to HCITS. L2s are required to liaise with G1 Ops staff to coordinate HCITS tracking requirements; and
- d. once a hate incident has been concluded or resolved, the CO must ensure all records pertaining to the member's conduct - including all records pertaining to investigations, as well as any disciplinary, criminal or administrative actions that may have been taken - are distributed to the office responsible for the maintenance of that member's personnel record



file. It is important that the member's personnel file accurately reflect any disciplinary, criminal and administrative action related to hateful conduct. Additional information with respect to procedures for maintaining permanent records is set out in DAOD 5050-0, *Canadian Forces Personnel Records*.

18. Actions Following Initial Reporting. After the initial reporting is complete, the CO or CoC must ensure that the hate incident is appropriately addressed irrespective of how it was reported. The next steps should be as follows:

- a. conduct an assessment to determine if the information provided by the report or notification of a hate incident is factual and accurate;
- b. consult a human resource advisor, adjutant or equivalent, as required, to obtain information concerning applicable military personnel policies, directives and resources;
- c. consult with the Unit Legal Advisor, as required, to obtain advice throughout the process;
- d. consider the requirement to recommend or apply temporary relief of the accused perpetrator from their performance of military duty until the appropriate investigation or follow up has concluded. This includes considering the requirement to relieve the member from supervisory, instructional or command positions, in order to provide safety and security to the unit and to all other CAF members; and
- e. ensure that the alleged victim is made aware that chaplaincy and mental health services are available to them. Other support is also available through the five Defence Advisory Groups (DAG):
  - (1) Defence Women's Advisory Group;
  - (2) Defence Aboriginal Advisory Group (DAAG);
  - (3) Defence Visible Minorities Advisory Group (DVMAG);
  - (4) Defence Advisory Group for Persons with Disabilities (DAGPWD); and
  - (5) Defence Team Pride Network (DTPN).

19. CoC Considerations. The CO or an officer in the CoC must determine whether they can adequately deal with the matter, in accordance with QR&O article 4.02. If an officer determines that they cannot deal adequately with the matter, they are not to conduct an investigation until it is clear that all police with jurisdiction have declined to

investigate. The CO or officer in the CoC will consult their legal advisors where the incident is complex.

20. The determination of whether the CO or officer in the CoC can adequately resolve the matter involves an exercise of discretion. It requires that an officer act in good faith in order to achieve the strategic intent of this policy. All relevant factors must be examined, including but not limited to the following:

- a. Safety concerns such as possible reprisals against the individual who reported the hate incident or the alleged victim of that hate incident;
- b. The need to ensure the operational readiness and effectiveness of the CAF;
- c. The safety of CAF members and the public;
- d. The gravity of the hate incident identified;
- e. The disciplinary interests of the respondent's unit; and
- f. Whether the resources are in place to implement the necessary measures.

21. Where and when a unit disciplinary investigation is deemed necessary in accordance with article QR&O 106.02, *Investigation Before Charge Laid*, such an investigation may only be conducted once it is determined that all police with jurisdiction to investigate the matter have declined to investigate. Before proceeding to investigate, the Unit Legal Advisor should be contacted.

22. Relief from Performance of Military Duty. Given the gravity of such incidents and the impacts on affected individuals and unit cohesion, in accordance with QR&O articles 19.75 and 101.09, the designated authority may consider the relief from performance of military duty of a CAF member. In so doing, the designated authority should consider relief of a member only after concluding that other administrative measures are inadequate in the circumstances. In determining whether to relieve a member, an authority must balance the public interest, including the effect on operational effectiveness and morale, with the interests of the member. A commanding officer must monitor each case to ensure that appropriate action is taken if there are changes in the circumstances on which the decision to relieve a member was based.

23. In accordance with QR&O articles 19.75 and 101.09, prior to determining whether to relieve an officer or non-commissioned member from the performance of military duty while an investigation is ongoing, the authority will provide the member with the following:

- a. the reason why the decision to relieve the member from the performance of military duty is being considered; and
- b. a reasonable opportunity to make representations.

24. The authority who relieves an officer or non-commissioned member from the performance of military duty will, within 24 hours of relieving the member from the performance of military duty, provide the member with written reasons for the decision.

25. Health and Safety of Affected Members. If a member of the One Army Team is affected by hateful conduct, the CoC must immediately ensure the safety and security of that team member. Unit command teams must take action. This could include, but is not limited to, the temporary re-assignment of their place of duty and/or the separation of the affected team member from the accused perpetrator or perpetrators, where doing so will not further marginalize that person. It is important to maintain contact with, and follow-up on the well-being of, members who have been affected by hateful conduct. As mentioned in para 18.e, members should be made aware of support that is available through the chaplaincy, mental health, or other groups.

26. Reprisals. QR&O article 19.15, *Prohibition of Reprisals*, prohibits the taking of reprisals against any person who has, in good faith, reported to a proper authority any infringement of the pertinent statutes, regulations, rules, orders and instructions governing the conduct of any person subject to the Code of Service Discipline, made a disclosure of wrongdoing or cooperated in an investigation carried out with respect to such a report or disclosure. The CO must investigate any reports of threatening, intimidating, ostracizing, or discriminatory behaviour taken in response to a hate incident report. Any CAF member participating in such behaviour will be subject to administrative or disciplinary action, potentially both.

27. Administrative Action and Disciplinary Action. When a determination is made that a hate incident meets the definition of hateful conduct, a spectrum of administrative and disciplinary actions may be taken against the member. Consultations may be required with legal, military police and career management subject-matter experts to determine the best approach. Where this approach involves secondary or tertiary intervention, all potential resources, both internal and external to the CA should be explored (for example, the Canadian Forces Health Services Group or the Royal Canadian Chaplain Service).

28. The CO may pursue one or more of the following options, as appropriate:

Options	CO Actions
Administrative Actions	<ul style="list-style-type: none"> <li>▪ Initiate an AR under DAOD 5019-2;</li> <li>▪ Issue remedial measures in accordance with DAOD 5019-4;</li> <li>▪ Where a CO recommends release, the file is to be forwarded to DMCA for completion of the AR; and</li> <li>▪ As context requires, forward the Commander's Critical Information Requirements (CCIR) to the Personnel Security</li> </ul>

	Screening Officer (PSSO).
Disciplinary Actions	<ul style="list-style-type: none"> <li>▪ Contact the military police as required; and</li> <li>▪ Conduct a unit disciplinary investigation in accordance with QR&amp;O Chapter 106, <i>Investigation of Service Offences</i>;</li> </ul>
Criminal Investigation	<ul style="list-style-type: none"> <li>▪ Contact the military police.</li> </ul>

29. Service Tribunal or Civilian Court Proceeding. If a CAF member is charged with an offence with respect to a hate incident, the CO must obtain and keep on file as part of their investigation, upon the conclusion of the service tribunal or criminal court proceeding, the documents listed as follows:

If the CAF member is ...	the CO must obtain...
<ul style="list-style-type: none"> <li>• found guilty</li> </ul>	<ul style="list-style-type: none"> <li>• Any documented order issued by the court which may include but are not limited to the following: <ul style="list-style-type: none"> <li>○ sentencing order or court transcript;</li> <li>○ probation order, if any;</li> <li>○ prohibition order, if any; and</li> <li>○ certificate of conviction and conduct sheet (see QR&amp;O article 19.61, <i>Certificate of Conviction</i>, and QR&amp;O article 19.62, <i>Action Following Conviction by Civil Authority</i>).</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• discharged or found not guilty</li> </ul>	<ul style="list-style-type: none"> <li>• court transcript; and</li> <li>• the decision of the court.</li> </ul>

30. Administrative Action – Post-Disciplinary Proceeding. If the member was found not guilty of a charge, was discharged, or charges were not proceeded with, a review of the facts of the case is still required by the CoC to determine whether there is reliable evidence that establishes on a balance of probabilities that hateful conduct has occurred. A guilty finding is not required to recommend release or impose other administrative actions.

31. Notwithstanding any other provision of DAOD 5019-2 or 5019-4 and in order to ensure consistent CAF-wide application of this instruction, the CO of any member convicted of an offence motivated by hate either by summary trial, court martial or criminal court—must consult DMCA 2, at [++DMCA 2 - 2 DACM@CMP DMCA@Ottawa-Hull](mailto:++DMCA 2 - 2 DACM@CMP DMCA@Ottawa-Hull), to determine if a Notice of Intent (NOI) to recommend release should be issued by the unit CO. DMCA 2 will conduct an AR in accordance with DAOD 5019-2 if a NOI to recommend release is issued.

32. Privacy Considerations. The CAF must only collect personal information for which it has a demonstrable need. All parties involved in the handling of personal information related to hateful conduct must limit the discussion and dissemination of this information to those who have a need to know. If possible, personal information must be collected directly from the individual to whom it relates. All personal information collected, used, disclosed and retained by the CAF must be dealt with in accordance with the *Privacy Act*. Commanders at all levels must treat information regarding hateful conduct in a discreet and sensitive manner and in accordance with the proper handling

of personal information, in accordance with DAOD 1002-0, *Administration of the Privacy Act*.

### **LoE 3 –ASSESSMENT**

33. Description. The objective of this line of effort is to effect the necessary change in our culture and continue to advance towards the elimination of hateful conduct within the CA. LoE 3 will build on the work done to implement LoE 1 (Prevention) and LoE 2 (Response); additional details will be provided in future direction.

34. Performance Management. To achieve this objective, we will define performance and effectiveness indicators which, when combined with the data generated from our reporting and tracking of incidents, will allow us to measure our progress and identify areas that require additional leadership attention and focus.

35. Continual Improvement. We will leverage our analysis to identify trends with a view to improving the other lines of effort, completing the feedback loop and moving forward more effectively. Additionally, outside of using this analysis to understand our progress and areas of improvement, we will endeavour to predict future behaviour and set the conditions to address these behaviours before they happen.

36. Vulnerable and At-Risk Members. In keeping with the requirements of the CAF Intervention Framework (as described in reference B), LoE 3 will include the development of mechanisms to identify vulnerable and at-risk CA members who are, or may be leaning towards, a hateful ideology or who are exhibiting troubling conduct which may indicate an escalation of conduct along the hateful conduct spectrum (See *Annex C*). Where applicable, the CA will promote reintegration in the CAF through appropriate support, professional counselling and remedial measures.

37. Hateful Conduct Incident Tracking System (HCITS). This level of analysis can only happen if we rigorously report and track all incidents. We will utilize the information captured in this system of record to develop tools and analyze trends potentially involving rank, gender, age, unit, geographic location and other factors, to create and improve targeted programs and actions aimed at preventing and eliminating hateful conduct.

### **END STATE**

38. The following points describe the desired end-state of the CA Strategy on Hateful Conduct:

- a. CA Culture. All CA members act decisively to eliminate racism, discrimination and hateful conduct and assist in countering their spread, while recognizing that racism, discrimination and hateful conduct have no place in our institution. CA members understand that diversity and

inclusion are a strategic asset that benefits all aspects of CA business and decision-making;

- b. Incident Response. Incidents of hateful conduct that are reported to, or detected by, the CoC are consistently addressed in an appropriate, timely and decisive fashion;
- c. Support of Affected Members. The CoC ensures that any member who has been affected by hateful conduct is adequately supported, and their well-being is prioritized;
- d. Incident Reporting and Tracking. Incidents of hateful conduct, and their resolution, are duly reported and tracked so that CA leadership can maintain situational awareness and is in a position to intervene, where required; and
- e. Continual Improvement. The CA's performance is regularly measured, and the results of the assessment are actually used to improve CA policies, process and procedures, as well as inform the development of enabling CMP policy over time.

## **RESPONSIBILITIES ACROSS THE CA**

39. Army leaders at all levels are responsible for:
- a. complying with this order;
  - b. informing CA members of the CAF policies on discrimination, harassment, professional conduct and hateful conduct, and ensuring these are available to them;
  - c. ensuring that education and training with respect to hateful conduct is provided during DP1 training for CA members;
  - d. promoting and delivering hateful conduct related awareness education and training formally on an annual basis and informally during opportune times throughout the year;
  - e. promoting positive behaviours and positive perspectives about diversity and inclusion, such as demonstrating cultural sensitivity, addressing subtle behaviours in order to avoid potential escalation, and avoiding the use of derogatory statements and comments;
  - f. taking appropriate action(s) in response to non-compliance with this order by any member of the CA;

- g. fostering a command climate whereby hateful conduct is reported and addressed quickly and decisively;
  - h. officially reporting and tracking hate incidents in accordance with details provided in this order;
  - i. taking immediate steps to gather facts and consult with relevant advisors to determine appropriate actions;
  - j. taking all necessary and appropriate actions, to potentially include the use of disciplinary and/or administrative measures;
  - k. ensuring that all details and other relevant information on specific hate incidents are captured in HCITS in a timely manner;
  - l. collecting data, analysing it, and identifying trends that need to be specifically addressed with new, improved or amended programs and actions; and
  - m. taking swift and appropriate action to address negative trends and patterns.
40. CA members are responsible for:
- a. complying with this order;
  - b. actively participating in training, education and dialogue;
  - c. demonstrating positive behaviours, on and off duty, that foster an environment where hateful conduct is unacceptable;
  - d. reporting all incidents of hateful conduct to their CoC in a timely fashion; and
  - e. intervening and responding to incidents of hateful conduct, when it feels safe to do so.
41. CA G1 Staff are responsible for:
- a. ensuring that all hateful conduct reporting and tracking requirements as directed in this order are met;
  - b. collaborating with DPMC-Operation HONOUR to create analytical tools based on the data captured in HCITS; and

- c. providing timely and relevant information to CA leadership that enables rapid and informed decision-making and action.
42. Civilian members of The One Army are responsible for:
- a. conducting themselves in a manner that is consistent with the spirit of this CAO;
  - b. adhering to and respecting all elements of this CAO; and
  - c. demonstrating responsibility by taking part in addressing hateful conduct by their own actions.

## **CORE PRINCIPLES**

43. Core Principles. To combat these behaviours, the CA is committed to:
- a. respecting the dignity of all persons in accordance with the Canadian Military ethos as expressed in *Duty with Honour: Profession of Arms in Canada*;
  - b. respecting the equality of all people in their relationships with each other, with members of the public, and with all those they come in contact with as set out in the *DND & CF Code of Values and Ethics*;
  - c. targeting and rooting out systemic racism and discrimination where they are found to exist;
  - d. promoting diversity and inclusion in the CAF, as a reflection of a diverse Canadian society, and as an operational multiplier (as diversity augments creative thinking, recruitment, retention, and civil-military cooperation);
  - e. supporting, educating, and engaging all members in an effort to prevent and minimize occurrences of hateful conduct;
  - f. ensuring incidents of hateful conduct are addressed as soon as possible through the use of the most appropriate means; and
  - g. establishing corporate monitoring and tracking of incidents for the purposes of appropriate and relevant data collection and analysis.
44. To achieve meaningful, long-term effects, hateful conduct must be addressed as part of a comprehensive, overarching, and command-led effort to change behaviours in the CA. This will occur through education, engagement and reflection surrounding the issues of diversity, inclusion and systemic racism in relation to the four recognized employment equity groups (women, Indigenous Peoples, members of visible minorities



and persons with disabilities) as well as the Lesbian, Gay, Bisexual, Trans, Queer, Two Spirit (LGBTQ2) community.

45. Diversity and Inclusion. As part of our efforts to eliminate hateful conduct, the CA will engage in education campaigns and communication to inform our members, in honest and frank discussions at all levels and take concrete actions to eliminate institutional biases and employment barriers experienced by all members of the CA. Moreover, the CA will not only promote diversity and inclusion with a mindset of eliminating negative behaviour, but will also positively promote diversity and inclusion as an operational asset for the CA. Direction with respect to these efforts will be promulgated separately.

## **CONCLUSION**

46. The One Army Team will work together to eliminate hateful conduct. Through our formal CoC and in our individual everyday interactions, we can signal that the CA is an institution that embodies Canadian values and promotes diversity and inclusion. We can do this by adhering to the direction contained within this CAO, which makes it clear that any form of hateful conduct will not be tolerated, and by treating all persons with dignity and respect. We can ensure all Canadians can be proud of our service; that our actions seek to bolster the best of what Canada is and should be. By being the best of what Canada has to offer, the Army can lead the way by demonstrating what “right” looks like. This will improve our operational readiness; increase the security and defence posture across our nation and around the world; and meet the expectations of our government, our citizens, and ourselves.

## **ANNEX**

Annex A – Hateful Conduct Incident Management Decision Tree

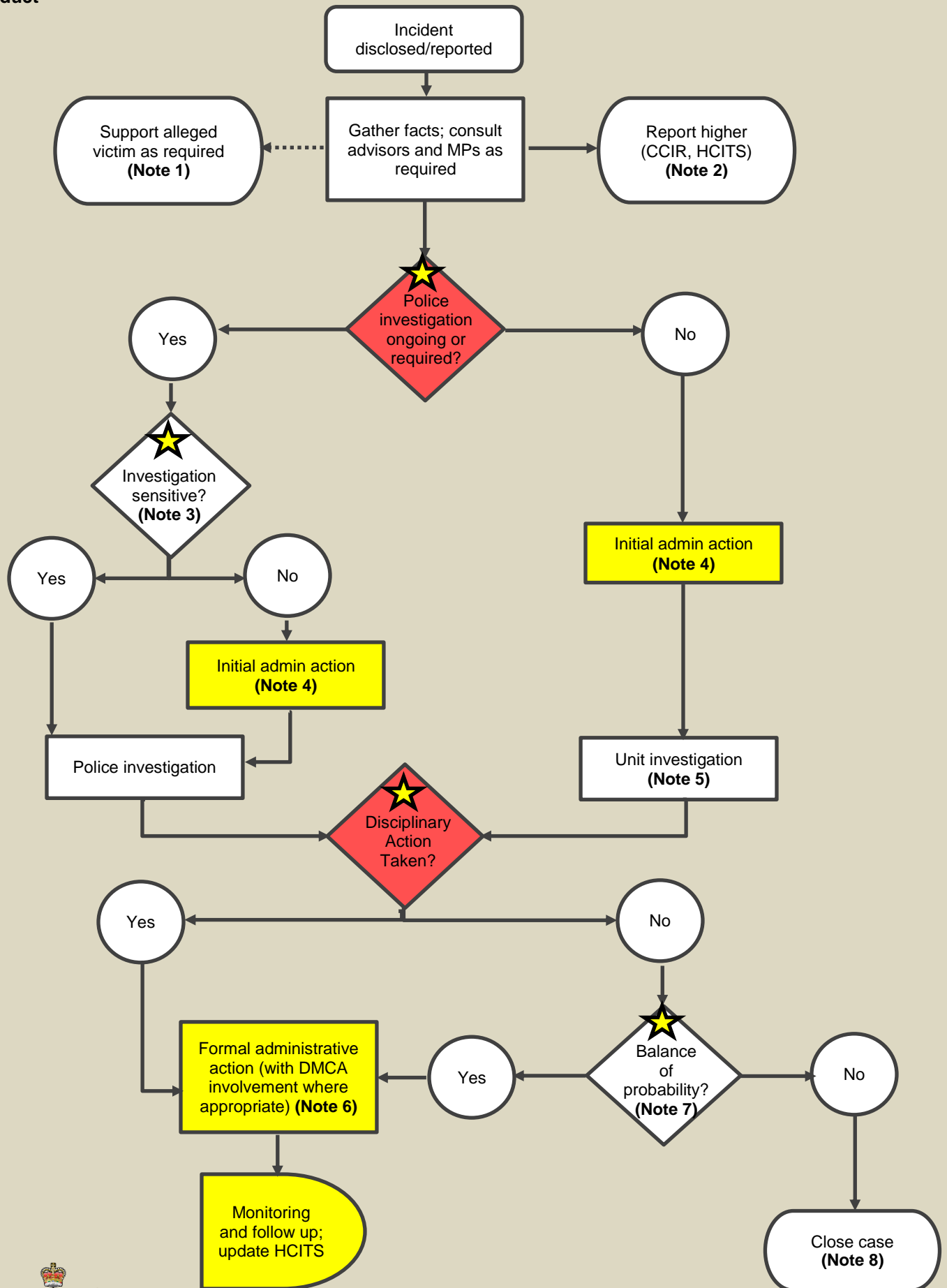
Annex B – Hateful Conduct Incident Tracking System (HCITS) – CA Implementation Standard Operating Procedure (SOP)

Annex C – Escalation of Conduct and Escalation of Response

**OPI: Policy – G1 Policy**  
**Reporting, Tracking – G1 Programs and Operations**  
**Grievances – G1 Grievances**  
**Education and Training – CADTC**

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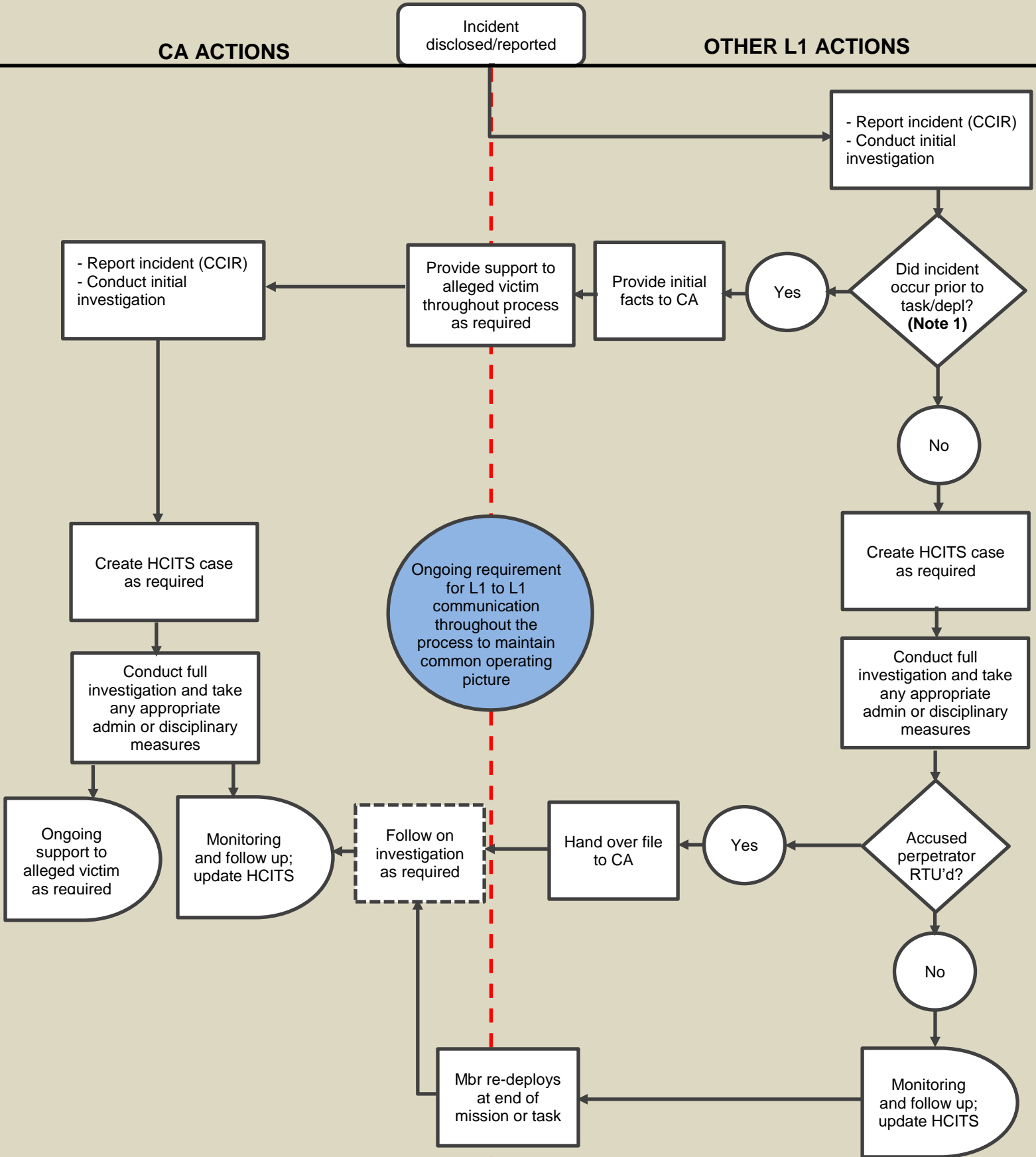
# Hateful Conduct Incident Management Decision Tree



# Management of Incidents Involving CA Members on Operation or Task with Another L1

## CA ACTIONS

## OTHER L1 ACTIONS



## **NOTES – Hateful Conduct Management Decision Tree**

1. In addition to the general support of the chain of command and peers, alleged victims should be made aware of other support resources including chaplains, mental health services, social workers, or other groups.
2. HCITS must be updated throughout the process as new information becomes available.
3. If the member implicated in the complaint is part of a larger investigation being conducting by CFNIS or CFNCIU, taking overt action against them may compromise that investigation. If this is the case, the chain of command should discreetly monitor the member to ensure the safety and security of others.
4. Initial administrative actions should be aimed at ensuring the safety and security of unit members, including the accused perpetrator, as well as protecting the integrity of the investigation. COs and chains of command should consider the requirement to recommend or apply temporary relief of the accused perpetrator from their performance of military duty until the appropriate investigations or follow up has concluded. This includes considering the requirement to relieve the member from supervisory, instructional or command positions, in order to provide safety and security to the unit and to all other CAF members.
5. The facts of the situation will influence what kind of investigation is appropriate. This could include disciplinary, summary, harassment, or informal investigations. Units should consult their legal, harassment, or other advisors if there is uncertainty regarding what type of investigation should be conducted.
6. All formal administrative measures must be applied and monitored IAW the applicable DAOD(s).
7. Regardless of whether disciplinary action was taken, including where charges were laid and an accused perpetrator was found not guilty, if the facts suggest that there is 'balance of probability' that the accused perpetrator engaged in hateful conduct, appropriate administrative actions should be taken, determined by the nature and severity of the incident.
8. If the original alleged victim or anyone else is not satisfied with this outcome, there are options including raising the complaint to the next level of the chain of command, filing a harassment complaint, contacting a local Conflict and Complaint Management Service (CCMS) Centre, or contacting the CAF Ombudsman.

## **NOTES – Management of Incidents Reported to Another L1**

1. There may instances where the complaint includes incidents alleged to have occurred both during the task and at mbr's home unit. In these instances, both the force employer and the home unit have a responsibility to investigate.

## Annex B to CAO 11-82

### **Hateful Conduct Incident Tracking System (HCITS) – Canadian Army Implementation Standard Operating Procedure (SOP)**

#### REFERENCES

- A. Defence Team Message (E-mail, CMP), 24 July 2020
- B. DAOD 5019-0 Conduct and Performance Deficiencies  
<https://www.canada.ca/en/department-national-defence/corporate/policies-standards/defence-administrative-orders-directives/5000-series/5019/5019-0-conduct-and-performance-deficiencies.html>
- C. CF Mil Pers Instruction 01/20 – Hateful Conduct [http://cmp-cpm.mil.ca/assets/CMP\\_Intranet/docs/en/policies/cfmilpersinstr/mil-pers-instruction-01-20-hc-w-crest-final.pdf](http://cmp-cpm.mil.ca/assets/CMP_Intranet/docs/en/policies/cfmilpersinstr/mil-pers-instruction-01-20-hc-w-crest-final.pdf)
- D. CANFORGEN 090/20 CMP 045/20 102330Z JUL 20 CAF ADMINISTRATIVE ORDERS AND INSTRUCTIONS ON HATEFUL CONDUCT  
<http://vcds.mil.ca/apps/canforgens/default-eng.asp?id=090-20&type=canforgen>
- E. HCITS Sharepoint <https://collaboration-admpa.forces.mil.ca/sites/DI/Organizations/Forms/AllItems.aspx?RootFolder=%2fsites%2fDI%2fOrganizations%2fcmp%2fHCITS&FolderCTID=0x01200065FDE7A108065746B9B247B8C89327F6>
- F. Commander Canadian Army Message on Hateful Conduct (E-Mail, DComd CA), 14 July 2020

1. Hateful conduct incidents will now be recorded and tracked using the HCITS application. This application, similar to the Operation HONOUR Tracking and Analysis System (OPHTAS) many of you are familiar with, is in its early stage of implementation and consolidated direction has not been received yet from Level 0. This document provides interim direction. It must also be noted that, as we are in the early stages of using this system, it must be expected the direction below will evolve, and this document will be updated as required.

2. As directed by MILPERSCOM, access to HCITS will be limited to Level 1. Subordinate formations and units will report new cases and update the information for these cases using separate correspondence. It is acknowledged this is not an ideal situation and we are in discussion with MILPERSCOM to decentralize the application.

3. Reporting and Updating.

- a. Significant Incident Report (SIR). The following incidents must be reported using a SIR in accordance with ref C. SIRs relating to Hateful Conduct must include the Canadian Forces Integrated Command Centre (CFICC) and the Director Professional Military Conduct (Operation HONOUR) (DPMC-OpH) (Info to DMCA 2) on distribution:

- (1) acts by formation commanders, COs, and their chief petty officers 1st Class/chief warrant officers;
- (2) a CAF member has been placed under custody or charges have been laid;
- (3) when there is potential for the nature of the situation to develop significant media interest and, or could cause discredit to the CAF;  
or
- (4) breach of this policy that prevent Commanders from achieving their mission.

Note. Even if an incident was reported through a Commander Critical Information Requirement (CCIR), a SIR is still necessary as the distribution of information is different.

b. HCITS Recording. All incidents reported to the Chain of Command will be recorded in HCITS (including those requiring a CCIR/SIR), specifically:

- (1) Responsibility for reporting. The unit where the incident is first reported is responsible to submit the HCITS report and becomes the primary case owner. While this will generally be the unit of incident, the incident could also be reported through a accused perpetrator's chain of command which may be different from the unit of incident. Incidents reported to investigating agencies which do not submit HCITS reports / updates (military police, civilian police, DGICCM) will be recorded by the first unit being notified of the situation.
- (2) The first HCITS case report will be completed using the form available at reference E. **NOTE THIS FORM MUST BE CIRCULATED USING ENCRYPTED E-MAILS**. The form will be circulated up the staff net, employing the same chain as for sexual misconduct incidents. If a SIR or CCIR was submitted for an incident, the SIR/CCIR must be included with the HCITS form.
- (3) Upon reception of the required information, the CA L1 Representative will create the HCITS case and circulate back to the concerned formation(s) the HCITS Case Number.

Note. In the circulation of the HCITS Case information, particular attention must be paid to the Chain of Command notification fields. While it is mandatory to report in HCITS the identity of both the accused perpetrator and alleged victim if they are known and 18 years old or more, there will be circumstances when the chain of command of these personnel will not be notified, or will not be notified immediately. In particular, an

accused perpetrator may not want their identity circulated to their unit if the incident is not reported through them. For the alleged victim, the investigating organization may not want the alleged victim or their chain of command to be made aware until some investigative steps are completed. It is crucial that the CoC notification be completed accurately and used to determine which organizations will be made aware of the case.

Note. Do not circulate information regarding accused perpetrators or alleged victims information if they are under 18 years old.

- c. HCITS updating. HCITS cases MUST be updated as new information becomes available, until the situation is resolved (either a determination that the allegation was unfounded, or the implementation of administrative or disciplinary measures). In order to maintain situational awareness in a system not visible to L2 to L4 organizations, all updates will be circulated through the case owner unit, which will send updates through their chain to the L1 representatives. These updates will be submitted by re-sending the initial report template with the additional information included. As new information in the form cannot be highlighted, the e-mail will list which sections have been updated. As an example:

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Capt X,

Attached is an updated HCITS report for case 1234. The following sections were updated:

- Investigation results; and
- Administrative action.

Regards,

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Note. Cases of alleged criminal conduct or requiring military or civilian trials may remain open for several years. It is essential that these cases be a part of the handover at the owner unit to ensure the follow-up is completed as required.

- d. Timelines. HCITS cases must be created within 2 business days of the moment at which the L4 chain of command is notified. It is therefore essential that the information be circulated in a timely manner and that OPIs at L1 to L3 who may be absent clearly identify to whom the information must be forwarded in their "out of office" while they are away.
- e. Legacy cases. Historical incidents that are either newly reported, or incidents that in hindsight have a hateful conduct nexus that wasn't previously report, should be reported the same as new hate incidents.

4. Information use. It must be noted that HCITS is a recording tool, not a reporting tool. It is designed to gather statistical information on occurrences of hateful conduct in order to better inform our leadership, future directives, orders and policies. Recording a case in HCITS does not replace normal chain of command notifications, administrative or disciplinary measures, where required. The information in the database will be employed at L0 to produce aggregated statistical reports without any identifying information. In particular, HCITS will not be used to take any measures, formal or informal, against an alleged victim.
5. ATIPs. All Privacy and Access to Information requests regarding information entered in HCITS will be referred to MILPERSCOM for their reply.
6. Disambiguation – Incidents overlapping Operation HONOUR and Hateful Conduct. Until further direction is provided by MILPERSCOM, any incident that has both an Operation HONOUR and Hateful Conduct nexus must be recorded in both OPHTAS and HCITS.
7. Contacts. As of September 2020, the contacts at the L1 Canadian Army are:
  - a. Primary (All HCITS new case recording and updates): Capt Geneviève Fortin-Ratté (G1 OPHTAS/HCITS);
  - b. Secondary: Maj Martin Coulombe (G1 Ethics); and
  - c. Supervisor: LCol Patrick Murphy (G1 Programs & Operations).
8. Closing remarks. HCITS is a new system and as such it is expected this SOP will require frequent updates as the system matures and improved methods are implemented. Formations are welcome to circulate recommendations to the Army L1 representative.



**ESCALATION OF CONDUCT AND ESCALATION OF RESPONSE**

