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Human Resource Risk Management
Workplace and Regulatory Investigations
Corporate Training
Psychological Safety

Investigation Report

Leduc Fire Services: Tamara Osmak

Complainant: Tamara Osmak
Respondent: Gerry Kelly

Date: December 9, 2021

Submitted by : **Patty McCallum and Barb Sexsmith**
Associate Investigators
Veritas Solutions

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1. EXECUTIVE SUMMARY

On June 7, 2021, Veritas Solutions was contracted to investigate allegations of sexual harassment, discrimination and harassment brought forward by the initial Complainants, Ms. Mindy SMITH, and Ms. Christa STEELE, against members of the Leduc Fires Services (LFS). During the investigation a witness, Tamara OSMAK, was interviewed and she revealed a sexual assault by a colleague that occurred on February 2, 2014. The matter was reported and attempted to be resolved by mediation. OSMAK was not satisfied with this resolution. The decision to resolve a sexual assault by mediation has continued to impact the current environment at LFS, particularly for women who have alleged a hostile work environment. This report will highlight the impact of the mismanagement of the complaint upon the employees of LFS. The details and number of witnesses warranted a separate report which is referred to as **Report #3-OSMAK**.

The Complainant, Tamara OSMAK, is referred to as OSMAK throughout this report.
The Respondent, Gerry KELLY, is referred to as KELLY throughout this report.

An investigation was conducted which included interviews of OSMAK, SKINNER and some additional witnesses.

Witness A, Rick Kamlah is referred to as KAMLAH throughout this report.

Witness B, Jay Cavanaugh is referred to as CAVANAUGH throughout this report.

Witness C, Jordan Hamm is referred to as HAMM throughout this report.

Witness D, Mike Skinner is referred to as SKINNER throughout this report.

Witness E, George Clancy is referred to as CLANCY throughout this report

Witness F, Chris Tobin, is referred to as TOBIN throughout this report.

Witness G, Bo Moore, is referred to as MOORE throughout this report.

The standard of proof utilized in this investigation is the 'balance of probabilities.'
A two-pronged test was administered:

- 1) Did the alleged misconduct occur - on the balance of probabilities?
- 2) If so, did the misconduct fall within the definitions as outlined by policy noted in this report.

Within this test it has been determined that the allegation sexual harassment, gender discrimination and the mismanagement of the sexual assault and refusal to provide the appropriate remedy by an investigation, is **FOUNDED**.

2. SCOPE AND MANDATE

2.1 This report documents the results of a formal investigation into allegations made by OSMAK of inappropriate and unwanted touching while attending a Leduc Fire Services Members' Night function at the Leduc Rugby Club on February 1, 2014. OSMAK contacted Chief George Clancy to report the sexual harassment/assault by SKINNER. The response by management in this matter was decided upon and carried out by Gerry KELLY, the Acting Chief, at the time of the incident. *OSMAK alleges that KELLY coerced her into mediation rather than investigate the matter as she requested.*

2.2 The objective was to conduct an impartial, fact-finding investigation into the allegations and to submit a report to the City of Leduc that would include conclusions and determinations of whether the evidence supports a finding that contravenes policies.

3. LEGISLATION - POLICY AND DEFINITIONS

To come to a conclusion on these allegations, it is necessary to define the terms used and link them to legal definition, policy, or interpretation, where possible. The following definitions will be utilized to assess any behavior that has been determined to have taken place.

The following definitions are taken from the Workplace Violence Prevention Policy and the Respectful Workplace Policy of the City of Leduc:

The Respectful Workplace Policy of the City of Leduc outlines the following definitions:

Disrespectful Workplace Behavior may include, but are not limited to:

Can be intentional or unintentional and is offensive and/or unwelcome. Disrespectful behavior(s) are reflected in employee conduct, attitudes, comments, actions, threats, or violence, and contribute to an uncomfortable and/or hostile work environment.

Examples of this may include but are not limited to:

- bullying
- workplace harassment
- sexual harassment
- discrimination
- sabotage
- damage to city property

Sexual Harassment is any unwelcome behaviour, sexual in nature that adversely affects, offends, or threatened to affect a person's job security, well-being, working conditions or prospects of for promotion or earnings, or access to the goods, services, or facilities of the City of Leduc. It is considered discrimination on the grounds of gender and is prohibited as per the Alberta Human Rights Act.

Sexual Harassment can take many forms. It can be subtle or obvious and may occur once or many times. Sexual Harassment can occur as behaviour between individuals regardless of whether they are the same or different genders.

Sexual Harassment may include but is not limited to:

- Unwanted sexual attention, advances and verbal/non-verbal communication or comments that are made by a person that knows, or reasonably ought to know, that such acts are unwanted;
- The promise of a reward or reprisal for the acceptance or refusal to comply with sexual requests or demands;
- Any form of unwanted physical contact such as touching, pinching, patting, rubbing, or leaning against;
- Displaying or distributing sexually explicit or sexually related materials, pictures, posters, or jokes.

Workplace Harassment: is defined as the abusive, unwelcome, unfair, or demeaning behaviour, including actions or gestures, towards a person or group that has the purpose or effect of interfering with a person's or group's dignity, wellbeing, status, or performance, or creating a hostile or intimidating working environment. Incidents of harassment may involve bullying, the abuse of power one individual has over another, or unwelcome conduct including threats of and/or acts of physical violence.

The Workplace Violence Prevention Policy of the City of Leduc outlines the following definitions:

Violence: whether at a workplace or work-related, means the threatened, attempted, or actual conduct of a person that causes or is likely to cause physical or psychological injury or harm.

Examples of these behaviours include:

- pushing, shoving, poking, hitting, slapping,
- assault - including sexual assault, psychological attacks, harassment, intimidation, fighting, forcible confinement, possession of a dangerous weapon, destruction of property, robbery, throwing objects at an individual, threatening behaviours or,
- uttering verbal threats of violence and domestic violence.

4. METHODOLOGY

- 4.1 The process utilized to conduct this investigation included interviews with OSMAC, KAMLAH, CAVANAUGH, HAMM, SKINNER, CLANCY, TOBIN, MOORE, and KELLY. Within the context of these interviews, the Investigators were also required to assess the credibility of the Complainant and the Respondent, particularly where viewpoints and perspectives differed between them. Credibility assessments are identified in this report as part of the analysis of information.
- 4.2 Also utilized in this process were original reports from February 2014 that Leduc Human Resources (HR) was able to locate and provide to the Investigators. In addition to the original complaint documents KELLY, supplied an email exchange between himself and Chief CLANCY on March 15, 2015. No other physical evidence was examined.
- 4.3 The original statements by the Complainant and Witnesses KAMLAH, HAMM and INGRAM and HR emails from the HR File were also utilized.

5. BACKGROUND

- 5.1 OSMAK is a paramedic/firefighter for the Leduc Fire Services (LFS). She initially started as an EMT and became a Paid-On-Call (POC) firefighter in January 2011. She became a full time member in 2014. She also acquired her Advanced Care Paramedic certification.
- 5.2 On February 1, 2012, OSMAK attended a LFS Members Night function. The Members' Night is an event to celebrate and award members for their work. Although it was an off-site event, it was sponsored by LFS and attendees were members of LFS. During the latter part of the evening/early morning hours of February 2, 2014, SKINNER groped OSMAK's breasts and put his hands down the back of her pants several times. KAMLAH, INGRAM and HAMM witnessed the behavior, intervened, and escorted SKINNER out of the facility.
- 5.3 OSMAK reported the matter to Chief George Clancy, (who was Deputy Chief at the time) and he recommended that the matter get reported to HR. Chief Clancy left for holidays and Acting Chief Gerry KELLY took over the complaint. KELLY and HR insisted on a written complaint, OSMAK was distrustful of that process and declined. Witness HAMM submitted a written complaint on her behalf, Witnesses KAMLAH and INGRAM submitted written eye-witness statements, and OSMAK also wrote a statement. KELLY proceeded without obtaining or reading any of the documents. He allegedly decided to resolve the incident with mediation. He allegedly coerced OSMAK into mediation with SKINNER using the LFS Chaplain as the mediator. No further action was taken by LFS or City of Leduc HR.

6. ALLEGATIONS

- 6.1 OSMAK alleges that the mismanagement of the incident constitutes sexual harassment and discrimination based on gender. In her formal original complaint to Chief Clancy of the LFS, OSMAK outlined that she felt *intimidated, coerced, and harassed* in the form of *rude commentary that made her feel that she had no choice but to comply with the mediation for fear of not getting a full-time position*. OSMAK outlined her concerns relating to the Respondent's *behaviour and attitude that created fear. It was a continued pattern of disrespect and extreme anxiety-inducing experience*. OSMAK's concerns relate to definitions outlined in the City of Leduc's Respectful Workplace Harassment and Discrimination and the Workplace Violence Prevention Policies.
- 6.2 The allegations formally made by OSMAK, described above, include sexual harassment and discrimination based on gender.

7. SOURCES OF INFORMATION

Appendix #	Reference
Appendix 1	City of Leduc Respectful Workplace Policy
Appendix 2	City of Leduc Workplace Violence Prevention Policy
Appendix 3	Interview Notes of Complainant Tamara OSMAK by Investigator Sexsmith

Appendix 4	Interview Notes of Complainant Tamara OSMAK by Investigator McCallum
Appendix 5	Interview Transcript of Complainant Tamara OSMAK
Appendix 6	Interview Notes of Witness A Rick KAMLAH by Investigator SexSmith
Appendix 7	Interview Transcript of Witness A Rick KAMLAH
Appendix 8	Interview Notes of Witness B Jay CAVANAUGH by Investigator SexSmith
Appendix 9	Interview Transcript of Witness B Jay CAVANAUGH
Appendix 10	Witness B Jay CAVANAUGH's notes as Union VP
Appendix 11	Interview Notes of Witness C Jordan HAMM by Investigator McCallum
Appendix 12	Interview Transcript of Witness C Jordan HAMM
Appendix 13	Interview Notes of Witness D Mike SKINNER by Investigator SexSmith
Appendix 14	Interview Transcript of Witness D Mike SKINNER
Appendix 15	Interview Notes of Witness E George CLANCY by Investigator SexSmith
Appendix 16	Interview Notes of Witness E George CLANCY by Investigator McCallum
Appendix 17	Interview Transcript of Witness E George CLANCY
Appendix 18	Email between CLANCY and KELLY dated March 24, 2015:
Appendix 19	Interview Notes of Witness F Chris TOBIN by Investigator SexSmith
Appendix 20	Interview Notes of Witness F Chris TOBIN by Investigator McCallum
Appendix 21	Interview Transcript of Witness F Chris TOBIN
Appendix 22	Interview Notes of Witness G Bo MOORE by Investigator SexSmith
Appendix 23	Interview Notes of Witness G Bo MOORE by Investigator McCallum
Appendix 24	Interview Transcript of Witness G Bo MOORE
Appendix 25	Interview Notes of Respondent Gerry KELLY by Investigator SexSmith
Appendix 26	Interview Notes of Respondent Gerry KELLY by Investigator McCallum
Appendix 27	Interview Transcript of Respondent Gerry KELLY
Appendix 28	2014 Incident (Original complaint, witness statements and email exchange between HR, the Chaplain and CLANCY)

In the process of this investigation, the following persons were interviewed:

Interviewee Role	Name	Interview Type
Complainant	Tamara OSMAK	Joint virtual interview
Witness A	Rick KAMLAH	Virtual interview
Witness B	Jay Cavanaugh	Virtual interview
Witness C	Jordan HAMM	Virtual interview
Witness D	Mike SKINNER	Virtual interview
Witness E	George CLANCY	Virtual interview
Witness F	Chris TOBIN	Virtual interview
Witness G	Bo MOORE	Virtual interview
Respondent	Gerry KELLY	Virtual interview

8. INVESTIGATION INTERVIEWS & CREDIBILITY ASSESSMENTS

Overview of the Interviews

Over the course of this investigation seven people were interviewed: OSMAK, KAMLAH, CAVANAUGH, SKINNER, HAMM, CLANCY, and KELLY; the Complainant, Respondent and five witnesses were identified by the Investigators. All seven interviews were conducted by Zoom virtual interviewing. INGRAM was not available for an interview.

Each of the interviewees was provided a preamble to the interview and was invited to provide an initial free narrative of their concerns/perspective. This would be followed by a focused discussion on a range of specific questions led by the Investigators. The interview would conclude with the interviewee being invited to share any concluding thoughts, reflections, or concerns or to address any important topic yet unaddressed. Interviewees were informed that they could take a break at any time during the interview. Interviewees were also instructed to keep the contents of the interview confidential to protect the integrity of the investigation.

The following synopsis of these seven interviews will use bullet points to highlight specific information provided by the persons interviewed.

Each summary will include a) background, b) summary of the interview, and c) evaluation of the credibility of the Complainant and Respondent interviewees.

To come to a finding on the balance of probabilities, it is necessary to assess the credibility of the persons interviewed. This is particularly important where there is no independent or corroborative evidence available and there is a discrepancy between witnesses.

Credibility is assessed with respect to the evaluation of two basic concepts: honesty and reliability. Honesty concerns *whether the interviewee is likely to share what they believe to be true*. Reliability concerns *whether the interviewee's belief regarding what is true is likely to be accurate*. Note that reliability can be undermined either by rebutting evidence (i.e., grounds to believe the interviewee is unreliable) or by undercutting evidence (i.e., lack of grounds to believe the interviewee is reliable).

Credibility Assessments

Credibility assessments are completed for the Complainant, Respondent and Witnesses according to the following twelve hallmarks as a guide to evaluate the credibility of all interviewees with respect to honesty and reliability:

- a. **Initial Credibility:** Did the interviewee impress as one who was telling the truth?
- b. **Motive to Deceive:** Did the interviewee have any particular reason not to tell the truth? Do they have a motive to falsify, exaggerate or deny the incident(s)? Do any of the interviewees have a special loyalty to - or grudge against - any of the individuals involved?
- c. **Personal Interest:** Did the interviewee have a personal interest in the outcome of the case which could skew their perspective?
- d. **Accurate Memory:** Did the interviewee seem to have a good memory? Did the interviewee have the opportunity and ability to recall accurately the things he or she testified about?
- e. **Comprehension and Directness:** Did the interviewee appear to understand the questions clearly and answer them directly? Did they exhibit frankness in their responses or were they evasive?
- f. **Specificity and Detail:** How general or specific was each person's statement? If an interviewee gave a detailed statement, were those details supported by other evidence? Did the Respondent deny the allegations in detail or generally?
- g. **External Corroboration:** Are there witnesses or documents that support one side of the story? Does the evidence contradict one person's statements? Do the witnesses support the person who proposed that they be interviewed? If there are conflicts, are those conflicts minor or significant?
- h. **Stability of Testimony:** Was each person's story consistent throughout questioning or on second telling? Did any of the interviewees contradict themselves during the interview? If so, did the change involve a minor issue or a matter of substance?
- i. **Appropriateness of Affect:** How did the interviewee present or act during the interview? Was their effect appropriate to the subject matter?
- j. **Notable Omissions:** Did anyone leave out important information during the interview? Is there a sensible explanation for the omission? Did the respondent or JONES(s) admit an important detail only after being confronted with it?
- k. **Nuanced Analysis:** Did the interviewee include nuance in their descriptions which does not necessarily support their case? Did they include embarrassing details (i.e., criterion of embarrassment) which may testify to a nuanced recall committed to accuracy and truth?

- I. **Coherence or Collusion:** Did the interviewee's testimony exhibit a natural fit with the testimony of other interviewees? That is, did that testimony cohere on the main relevant points while exhibiting a distinct perspective, interest, and emphasis? Or did that testimony exhibit an unnatural fit? That is, did that testimony cohere both on main points as well as perspective, interest, and emphasis in a way that was suggestive of collusion or coordination of testimony?

8.1 Summary of Interview with Complainant Tamara OSMAK (OSMAK)

a) Background

Date: August 17, 2021

Time: 9:45 to 11:12 am

Location: Zoom virtual interview

Interview Notes by Investigator Sexsmith: **Appendix 3**

Interview Notes by Investigator McCallum: **Appendix 4**

Interview Transcript: **Appendix 5**

b) Interview Summary

- OSMAK is an ACP/Firefighter with LFS and has been since she was hired as a Paid, On-Call (POC) member in January 2011 before becoming a full-time member in 2014.
- Unsure of date (but may be able to obtain her written complaint at the time)
- "Members Night" which took place at the local Rugby Clubhouse, an annual event (that no longer occurs) that is meant to recognize and award members.
- Always involves alcohol.
- Sometime after midnight Mike Skinner, another firefighter, approached her in front of people and stuck his hand down the back of her pants, into her underwear and having "skin on skin" contact.
- Shortly after the event, someone told Chief Clancy (at the time was DC Clancy). Clancy met with her and encouraged her to make a complaint.
- Clancy went on holiday shortly after, so she complained to DC Gerry Kelly, who was the Acting Chief in Chief Clancy's absence. She submitted a written statement to then HR manager named Hegg, and to DC Kelly, asking for an investigation. (Heard from other witnesses that this HR person was either asked to leave or quit and shredded multiple paperwork before she went. OSMAK believes that her complaint was shredded.)
- OSMAK met several times with DC Kelly who wanted her to engage in a mediation rather than going through with an investigation. She told him several times she did not want a mediation; she wanted an investigation.
- OSMAK recalled asking A/Chief KELLY if his wife came to him with a similar complaint, what would he do. His response was, "I would fucking kill him!" OSMAK said then why would you expect me to accept mediation for this. OSMAK does not recall what he said to that.
- The final time OSMAK said "no" to a mediation and A/Chief KELLY said, "you are this fucking close to getting a full-time job, do you really want to fuck it up now?" (She showed a hand gesture of index finger almost touching thumb to describe 'this close').

c) Credibility Assessment

- a. **Initial Credibility:** OSMAK appeared to be honest and forthright. The initial purpose was to gather information from her on other female complainants of the LFS. OSMAK then shared her own situation that occurred in February 2014.
- b. **Motive to Deceive:** OSMAK has no motive to lie. Her specific matter was reported to the Interim Chief CLANCY and dealt with by means of mediation; she understands that nothing more will ever come of it.
- c. **Personal Interest:** OSMAK had no belief that by sharing her event, she would gain any benefit from talking about it years after the fact .NB: The Investigators asked her to be the complainant in this matter so that this could be highlighted as an example of how past decisions still impact the current environment at LFS.

[NB: The Investigators asked OMAK to be the complainant in this matter so that this could be highlighted as an example of how past decisions still impact the current environment at LFS.]

- d. **Accurate Memory:** OSMAK could not recall the date and in fact, she thought the event occurred in February rather than September. Most of her facts were substantiated by other witnesses. (She was able to locate her statement, which included the actual date.)
- e. **Comprehension and Directness:** OSMAK understood the conversation and her responses during the interview never changed from discussing her colleagues to discussing her situation. OSMAK was thoughtful in her answers.
- f. **Specificity and Detail:** OSMAK seemed a little apprehensive at first, never experienced an investigation where she was required to provide insight into other members of LFS. OSMAK's recall of whether SKINNER put his hands in the front of her pants or the back, she did not offer initially but she did not hesitate when asked for clarification.
- g. **External Corroboration:** OSMAK did not inform the Investigators of SKINNER grabbing her crotch or her breasts, but this detail was offered by an independent witness.
- h. **Stability of Testimony:** The witnesses outlined the seriousness of the unwanted touching.
- i. **Appropriateness of Affect:** OSMAK was what the Investigators observed as stoic during the interview. She did not demonstrate much emotion, although the Investigators detected some anger that the matter was not appropriately handled by LFS leaving OSMAK with trust issues about any future incident.
- j. **Notable Omissions:** The omissions heard from other members relates to the specific of the assault, i.e., the touching of her crotch and her breasts.
- k. **Nuanced Analysis:** Nothing observed.
- l. **Coherence or Collusion:** OSMAK's testimony exhibited a natural fit with the testimony of other witnesses.

8.2 Summary of Interview with Witness A: RICK KAMLAH (KAMLAH)

a) Background

Date: August 29, 2021

Time: 3:30 to 4:25 pm

Location: Zoom virtual interview

Interview Notes by Investigator SexSmith: **Appendix 6**

Interview Transcript: **Appendix 7**

b) Interview Summary

- KAMLAH has been a Medic/Firefighter with LFS for 18 years; he currently occupies the role of Quality Assurance officer.
- KAMLAH recalls approximately five years ago at a member's dinner at Leduc Rugby Clubhouse.
- Only one of the dinners was held there
- Rick was standing behind the bar, very few people left
- Mike Skinner very intoxicated
- Saw him very aggressively grabbing Tamara's crotch, butt, and breasts
- Tamara saying "no, no, no, no, no" repeatedly, trying to grab his hands and get away from him.
- Intervened (verbally) and told Mike to leave
- Tamara was very upset; he thinks she left shortly after.
- Tamara told him she reported it to DC Gerry Kelly, asked him to write a statement
- States he submitted it to HR but can't recall if he gave it to Tamara or to HR or emailed it.
- Thinks that HR Director "Greta" (maybe) was terminated over the way she handled this.
- No one contacted him either from HR or from Leduc Fire Services.
- Asked Tamara maybe 2-3 weeks later what happened, she was upset and said: "swept under the rug."

8.3 Summary of Interview with Witness B: Jay CAVANAUGH (CAVANAUGH)

a) Background

Date: Monday, August 23, 2021

Time: 1:00 pm

Location: Zoom virtual interview

Interview Notes by Investigator SexSmith: **Appendix 8**

Interview Transcript: **Appendix 9**

Jay CAVANAUGH's Notes as Union VP: **Appendix 10**

b) Interview Summary

- Cavanaugh was the Union VP at the time OSMAC came to him about the incident at the Member's Night.

- CAVANAGH was not at the event/ party this occurred, and he does not recall dates but says he did make notes at the time, the notes stay with the union, and he believes Doug Britton should be able to find them.
- CAVANAGH says he would not normally have dealt with the complaint, but Doug was at a conference, so he began the process. Britton took over at some point when he returned.
- Tamara brought the complaint to him, he told her he had never done anything like that but would do his best.
- Union President (Doug Britton) and Union lawyer (Sean McManus) were at a conference.
- He called both Britton and McManus. They told him to take it to the Chief, Chief was on holidays, he took it to Acting Chief Gerry Kelly.
- Sean told him that they should be getting an outside investigator.
- CAVANAGH understood that the reason was that an unbiased person should do it.
- He did tell DC Kelly that the recommendation was that an outside agency should do it.
- Subsequently called the Human Rights Commission and asked what he should do. They also advised that an outside investigator should be managing it.
- DC Kelly had an initial meeting with him and Tamara. Neither him nor Tamara were happy with the way it went.
- Said DC Kelly told them that he was doing it.
- In the initial meeting with Tamara and DC Kelly, DC Kelly was not interested in hearing her side. CAVANAGH stopped the meeting and said: "this isn't the way this is supposed to go." After that "everything calmed down and we had a productive conversation."
- CAVANAGH said, "for me, what seemed to be was the way in which that meeting started, it was more of a not let's hear your side of the story, it was more of this gonna get so ugly, you don't want no part of it kind of. Right. Not in those exact words. But that was the gist of it."
- In response to the question "Did you ask DC Kelly about it going to a third party?" CAVANAGH said: "Yeah. And they felt that he was obviously under the direction of the city and the city lawyer. I think that they felt that they could deal with this in house. And five years ago, I was just I was 2016. So, I was just becoming an officer then.
- And if we're not happy we can go because I did a lot of research into human rights through Alberta. And what they suggest I actually made phone calls to them trying to get as much information as I could for Tamara to find the right avenues and processes."
- CAVANAGH understood that they would do an investigation, he assumed that the investigation would have been done by the city lawyer.
- He was not in the meeting between Tamara and Mike, he does not know if Doug Britton was. CAVANAGH says: "But I do remember saying, if you & #39're very unhappy about it, then we can go to the next step, which is RCMP. I think I was more upset at the fact that if, if other employers have always, always gone ahead and third party this out, and why weren't we? That was my biggest question.

- CAVANAGH thought that whole thing should have been a third-party investigation all along." After we discussed if the collective agreement had a clause about sexual harassment and whether or not it required a 14-day time limit (he says 'no'), he says: "But I think at the end of the day, I mean, whether it's a policy or procedure or something like this, they've all got to be investigated properly."

8.4 Summary of Interview with Witness C: Jordan HAMM (HAMM)

a) Background

Date: August 31, 2021

Time: 5:15 to 6:00 pm

Location: Zoom virtual interview

Interview Notes of Investigator McCallum: **Appendix 11**

Interview Transcript: **Appendix 12**

b) Interview Summary

- HAMM is a POC member of LFS and has been since January 2012; he is a full-time member at the Calgary Airport.
- He was present at the Members' Night function; he was not drinking because he was a new recruit and several of his classmates were responsible for cleaning up and driving people home.
- HAMM said the evening consisted of poker, drinks, music, and there was a big turnout of LFS members.
- HAMM said that later on in the evening when people were getting drunk there was inappropriate touching. It was sometime between 11:00 pm and 1:00 am that Mike appeared to be bothering Tamara.
- HAMM admits that he did not see any actual inappropriate touching, but he thought that Tamara was uncomfortable from her facial expressions and her body language. Mike kept following her around.
- When it came time to drive Tamara and Mike home in his Ford truck, he put one in the back and one in the front because he thought there was something inappropriate happening so HAMM split them up.
- Sometime after the event, HAMM is not sure how long, but a Deputy Chief asked him for a statement, and he submitted it to the same Deputy. HAMM does not recall which Deputy he gave his statement to.
- HAMM believed that Moore was not there yet, Clancy was a DC then and Ernie Pilsom was the Chief at the time, and he did not provide a statement to Chief Pilsom.

8.5 Summary of Interview with Witness D Mike SKINNER (SKINNER)

a) Background

Date: September 7, 2021

Time: 9:00 – 11:05 am

Location: Zoon virtual interview

Interview Notes by Investigator SexSmith: **Appendix 13**

Interview Transcript: **Appendix 14**

b) Interview Summary

- SKINNER is a Firefighter/Paramedic; he previously worked for BC ambulance for about 7 years; then Edmonton for 11 years. He has been at Leduc Fire Services since 2010.
- SKINNER was questioned about the incident on Members' Night between February 1 and February 2, 2014. Incident occurred at work party on the night of February 1 and into the early morning February 2, 2014.
- SKINNER admits to his behaviour at the Members' Night event but suggests that it was okay because he and OSMAK had a previous sexual encounter a year prior.
- SKINNER admits that KELLY was finding a resolution that would not damage his career.
- SKINNER stated that KELLY was "a little forceful" with OSMAK.
- The allegation and investigation did not occur until April 2014.
- A previous incident involving Mike SKINNER as respondent took place September 29, 2012 that was not reported or investigated until April 2015.
- Therefore, the incident with the **Redacted** occurred about two years before the incident with Tamara OSMAK, but the reaction to the incident with the **Redacted** did not occur until after.
- Of Note:

A review of the HR file included:

- Regarding the Tamara OSMAK complaint, there was the complaint made by Tamara OSMAK, where statements were made by witnesses Rick KAMLAH, Fletcher HAMILTON, and Jordan HAMM.
- There is no evidence of a process, a timeline, how and to whom was this reported, interviews or discussions that occurred among the leadership, any offers of union or other support to any of the members. There were no notes or records of any meetings, no consent (to enter into a mediation), and no indication that anyone did anything. Those that submitted eyewitness statements of the incident have never been interviewed (until now). There was no mention of the response by the leadership. There was no discussion or assurance that the privacy of the members would be protected. There is strong evidence that information was shared throughout the organization, at all levels.
- Approximately a year after the incident, when there was a second incident with Mike SKINNER as the Respondent. It was only at that time that the Assistant Director of Human Resources, Kelly BULMAN, emailed the Chaplain Peter TUNINGA to send a note so she can "close the loop." She asked, "what meetings were held and what the outcome and resolution was." The response was a cursory summary indicating that a meeting was held, and that Mike had

apologized to Tamara OSMAK and said he would not do it again, and she accepted.

➤ The complainant indicated that her complaint was made to the acting Chief Gerry KELLY who treated her disrespectfully and threatened her with termination of her job. This was supported by the union representative who accompanied her to the meeting.

- SKINNER was informed that the mandate of the Investigators was not to reinvestigate the incidents, but to review the process and responses to complaints.
- Mike SKINNER is well spoken and articulate, which can be seen in his written response to the BELL allegations.
- He said he started the Alberta chapter of OSI Can (a community-based peer support program for first responders with PTSD). He said his motivation came from the lack of support and lack of resources available at LDF. Their funding comes from Canadian Mental Health.

8.6 Summary of Interview with Witness George CLANCY (CLANCY)

a) Background

Date: October 8, 2021

Time: 8:30 am to 12:30 pm

Location: Zoon virtual interview

Interview Notes of Investigator Sexsmith: **Appendix 15**

Interview Notes of Investigator McCallum: **Appendix 16**

Interview Transcript: **Appendix 17**

Email between CLANCY and KELLY dated March 24, 2015: **Appendix 18**

b) Interview Summary

- CLANCY was the interim Chief at the time of the incident involving SKINNER and OSMAK.
- CLANCY was informed by OMAK about the allegation, but she was afraid to make a written complaint, so Fletcher HAMILTON wrote out a statement on her behalf.
- CLANCY stated he told HR it should go to an outside investigation; says he was denied.
- Says HR said, 'that's your job.' Also thought from a union perspective it should be outside investigator.
- Said he was concerned about bias and 'told HR that' but she 'wouldn't budge.'
- Is the end the union president Doug Britton was representing Mike Skinner at that time.
- Jay Cavanagh represented Tamara
- "it was agreed that they would have a Chaplain, fire department Chaplain. Come in and have a conversation between the two."
- When he returned from vacation told Peg (HR) he was displeased with that.
- Also told Britton that he was displeased with that.
- "But they assume that they got the response they needed so from that perspective, that was done."

- CLANCY stated he was no longer the Interim Chief, Gerry Kelly was; Darrell Melvie, the GM, rotated us from month to month. There was nothing more I could do, although I advised OSMAC to go to the police. CLANCY said he would never agree to mediation.
- When asked about a letter dated, March 24, 2015, whereby CLANCY sent an email to Gerry Kelly asking for a follow up on the subject of "Osmak/Skinner file" in which Kelly stated that the matter was mediated by the Chaplain and Skinner was advised to seek assistance from EAFP. The letter was signed by CLANCY as the Chief when he responded.
- CLANCY was reluctant to admit that his correspondence accepts that mediation in this matter was the outcome.

8.7 Summary of Interview with Witness F Chris TOBIN (TOBIN)

a) Background

Date: Wednesday, November 10, 2021

Time: 2:30 to 4:31 pm

Location: Zoom virtual interview

Interview Notes by Investigator SexSmith: **Appendix 19**

Interview Notes by Investigator McCallum: **Appendix 20**

Interview Transcript: **Appendix 21**

b) Summary of the interview

On handling complaints:

- CT: "Usually, I have a training and so it was very clearly mapped out there was a whole booklet, and people knew that they could make a complaint."
- Can be an informal complaint.
- "we will try and remedy that we would facilitate a conversation, that mediation between the complainant and the respondent, try and triangulate that conversation moved to where they would move into a contractual arrangement with each other that I undertake promise."
- If graver or more gregarious they can do an investigation.
- Complainant has to complete a form.
- He provides that to the respondent so they are fully informed.
- "in the interest of justice, procedural fairness, to operate in that fashion and try and professionalize that process."
- Weighs the merits of whether or not I am worthy of investigation.
- Considers possibility of bias in decision.
- Then outside investigation.
- Hired someone in the next allegation against SKINNER
- Hired Patricia Murray for that one, she had over 300 investigations.
- "the accusations were, to some degree, unfounded.
- Brought in an external for a recreation worker case.

- Was not happy with the call so ended up 'removing a number of people' as a result.
- He got the 'infamous title of the Terminator in that first year because of taking action against conduct that I thought was completely unacceptable and intolerable.'
- Asked about OSMAK SKINNER, talked about BRAUN instead.
- *Asked if a sexual assault occurred (such as OSMAK SKINNER) and it was handled the way it was, would there be an opportunity to review or reinvestigate?*
- TOBIN said: I don't see why it shouldn't be.
- Does not think anyone asked for a review or settle old matters, did say some have said to him "they are happy (he's) there and from that point forward things will be handled professionally and appropriately."
- Asked if Bo talked how Tamara came to him when he first arrived, said she was unsatisfied with the previous incident. And that he told Clancy about it and Clancy told Bo not to take things past him? "I honestly don't."
- Recalls Osmak came to him at one time and had a conversation.
- Told Bo and the Chief have different memories of that.
- Recalls Tamara telling him about the incident and told him she was not happy with the incident but did not say she wanted him to do anything about it.

8.8 Summary of Interview with Witness G Bo MOORE (MOORE)

a) Background

Date: Monday, October 18, 2021

Time: 1:00 to 5:48 pm

Location: Zoom virtual interview

Interview notes by Investigator SexSmith: **Appendix 22**

Interview notes by Investigator McCallum: **Appendix 23**

Interview Transcript: **Appendix 24**

b) Summary of Interview

Re: Chief requiring written complaints

- Says the Chief requires more formal complaints at times but other times "we need to chase things."
- Said he was told from before his time, he took it to Tobin and Tobin told Chief Clancy and "it didn't go well for me."
- The chief said, "it's not on paper, it's not happening."
- It was Osmak that brought the issue with Skinner to him because Skinner was applying for promotion to lieutenant, told Tobin who told Chief who said, "don't undercut me, if they aren't willing to put it on paper why are we chasing these things?"

8.9 Summary of Interview with respondent: Gerry KELLY (KELLY)

a) Background

Date: Thursday, Sept. 16, 2021

Time: 8:30 to 9:46 am

Location: Zoom virtual interview

Interview notes by Investigator SexSmith: **Appendix 25**

Interview notes by Investigator McCallum: **Appendix 26**

Interview Transcript: **Appendix 27**

c) Interview Summary

Allegation: Mismanagement of Ms. OSMAK's sexual assault complaint by Mike Skinner.

- KELLY began by saying he was "thrown in the deep end."
- Clancy left on holidays and said by the way Gerry, look after this for me and three weeks later I did not have all the details. KELLY said he received no direction from the Chief.
- KELLY was told by the Chief that HR had washed their hands of the matter because it was an external issue and did not occur at work. KELLY was told it was a criminal offence and not an operational matter.
- KELLY stated he was backed into a corner, abandoned.
- KELLY repeated several times that he had no idea what the allegations were because he had not read the complaint. He did say it was he said/she situation.
- States he never got a copy of the complaints or statements and to this day doesn't know the details.
- KELLY admitted that during the conversation with OSMAK he used the F-bomb out of frustration. Admits he asked her if she wanted to jeopardize her chance for upcoming full time position.
- KELLY sat down with both parties and offered mediation, the Chaplain came in. Later Tamara was up one side of me and down the other side, but I told her she could go to the police, (said "they are right down the hall") It was a criminal offence and not an operational matter.
- KELLY said that Tamara did not go to the police about this.
- Mediation was a resolution that KELLY chose, and he had no idea if the Chaplain was a qualified mediator, he was a neutral party therefore he was chosen. KELLY did not know why the mediation occurred at the Chaplain's home or who suggested it.
- KELLY said he thought that some resolution would save their careers. Tamara was the frontrunner for a full-time position, and this would tarnish her name.
- KELLY admitted to using profanity; he said, "You're this fucking close to getting the full-time position. Just do the fucking mediation." KELLY claimed that he did not use the matter of her getting the full-time position as a threat, it is not his style.
- KELLY said that this matter was a "hazard to her career" based on the culture where rumors spread and there is a lot of misinformation. He said that nothing materialized so he thought it was a good outcome.

- KELLY said he was not the lead on it, and he still does not know what the allegations are.
- KELLY explained to the Chief what had happened.
- KELLY believes that Tamara is out for a pound of flesh (by continuing to complain) and feels that now she is harassing him.
- KELLY stated that that matter would not be happening today based on what they have learned from the past.

Allegation: Profanity used by DC Kelly to Ms. OSMAC on the day Ft. McMurray photo.

- KELLY recalls the day at the station where a photo was taken to memorialize the members who were deployed to Fort McMurray.
- KELLY admits that he used profanity with Tamara in a private area between the office area and the bay.
- KELLY recalls that people were gathering for the photo, Tamara was there and the next minute she was nowhere to be found.
- KELLY admits that he told Tamara to "Get in the fucking picture" when she refused (because she was not deployed to Fort McMurray). Kelly said the comment was innocent, it was a figure of speech.
- KELLY denied saying, "Next time fucking listen." He said he was unaware that Tamara complained to the Chief. He did not believe the Chief spoke to him about it afterwards, KELLY said it was a complete fabrication.

d) Credibility Assessment

- Initial Credibility:** Kelly gave the appearance he was being truthful, but he did a lot of blaming and minimizing. He was upset with the allegations.
- Motive to Deceive:** KELLY has a motive to lie. He understood in the interview that the complaint from 2014 has resurfaced when he thought it was dealt with. He was not comfortable talking about the matter. He focused more on OSMAC and stated she was just "out for a pound of flesh."
- Personal Interest:** KELLY is trying to maintain his own image and reputation, so he blamed the Chief and HR for abandoning him and he felt cornered. He could also face some consequences.
- Accurate Memory:** KELLY prefaced the interview that he would be as precise and efficient as possible, but it was a long time ago. KELLY's recall was not accurate, he did not recall during a meeting with union representative, CAVANAUGH, him informing KELLY that there was advice from a couple people that an external investigation was warranted. KELLY did not recall the RIEMANN allegations, but he did provide a letter that was attached to RIEMANN's file. KELLY spoke to his wife about some details, and he called retired DC Shane Christiansen to help him with some details.
- Comprehension and Directness:** KELLY understood the questions and he answered some with blame, lack of recall, overall, he tended to be evasive and defensive. KELLY

answered the questions, but Investigators could tell he was feeling uncomfortable that his decisions were being questioned.

- f. **Specificity and Detail:** KELLY often said he did not recall details, but he admitted to many of the details. He claimed that he knew nothing of the allegations against SKINNER and he never knew what happened, however KELLY said at one point it was a case of "he said/she said."

The information not corroborated is that the Union VP, CAVANAGH, got advice from the Union lawyer and the Human Rights Commission, suggesting the matter should go to an external investigation. KELLY claimed to not know a lot, but he suggested to SKINNER that maybe he had PTSD. KELLY was behaving like he knew more and was making an effort to save his friend/colleague's career. KELLY could not recall any of the specific complainants of the Riemann issue. He was inconsistent and he denied outright some incidents and was adamant it did not happen.

- g. **External Corroboration:** There were five independent witnesses to the sexual misconduct by SKINNER, as well as his admissions of his actions, there was no doubt about SKINNER's behaviours. During the resolution phase, OSMAK's statement is corroborated by CAVANAGH, who was present during the meeting between KELLY and OSMAK. KELLY's version is minimized about how seriously he took the situation, and he was not unbiased in his approach.

He contradicts his own statements, for example, he was asked about comments he allegedly made while CS was off work on PTSD leave, he claimed he had no knowledge of why she was off and did not know that about anyone. He then said he removed her from the PARTY program after she returned from PTSD leave, because he felt she couldn't handle it (stress-wise). He further mentioned that when CS was delivering the program, he could hear her yelling at the participants, and said he thought her PTSD was being triggered.

- h. **Stability of Testimony:** The statements were all consistent. KELLY contradicted himself a couple of times when he continued to save his image and his actions. He still admitted to swearing at OSMAK. KELLY said that he was not "sweeping this under the carpet" but everything said suggests that he was. KELLY has said, "this could get ugly" meaning that he understood the seriousness and how bad it would be for SKINNER's career. Furthermore, KELLY knew that it was normal procedure to document something on SKINNER's file and he did not.

He contradicted himself as above in section "g" of this report. He did the same kind of thing in retelling his handling of the Osmak complaint: first he didn't know any details, had not read any witness statements, had not asked either of the people for details, but when talking to the respondent said: "I said to him: Mike, what are you doing?"

- i. **Appropriateness of Affect:** KELLY abdicated his responsibility for how he handled this allegation; he blamed CLANCY and HR for not doing anything to help him, nor did he have resources. KELLY deflected to OSMAK as just wanting a "pound of flesh." KELLY suggested that the means justified the end, when he said that everything worked out-

-SKINNER's career was intact and OSMAK got her full-time position so why is this being brought up again. KELLY continues to lack understanding on how this impacts future complainants and respondents.

At first he looked nervous (and admitted same), but seemed to be disingenuous for example, said he admitted he asked the sex assault complainant if she wanted to follow through with the report when she was close to getting full time, when he realized we questioned why he would feel like reporting a sex assault by a co-worker could negatively impact her chances of getting full time, then made it sound like his handling of the incident (by mediation) that it resulted in her getting full time, then stated "and I was delighted she did, she deserved it", but did nothing but speak disparagingly of her throughout the rest.

He also appeared very nervous and upset and also retracted some of his statements.

- j. **Notable Omissions:** KELLY did not mention that CAVANAGH was present during the discussion. It was an oversight on the Investigators' part to have not put that fact to him during the interview.

Re: Riemann, he produced a disciplinary letter placed on Riemann's file to prove he handled the complaint appropriately, but apparently had read the letter before. The writer questioned where the complaints were and he said there weren't any, but it was brought to his attention that the letter said, "available upon request", then he said "oh, they must be gone, I looked everywhere for them."

- k. **Nuanced Analysis:** KELLY claimed that he was not the "lead" in this matter, suggesting that Shane Christiansen initially took the complaint, but he had to finish it because CLANCY went on vacation. He holds the seat of the Chief; therefore, he is in charge of it.

As he kept talking he began to defend his decision to mediate the complaint, without knowing the details or investigating, because "Skinner had a wife and young family," which confirmed his biased position and an explanation why he didn't investigate, then paused and said, "and the complainant was a single mother," This statement appeared to the investigators that he was attempting to make it look like he was looking out for OSMAK's career and doing OSMAK a favor.

- l. **Coherence or Collusion:** KELLY was consistent in his attempts to minimize or excuse his behaviour during this situation. He, however placed blame back on Osmak for bringing this up again because she wants her "pound of flesh."

It appeared that KELLY was mimicking the respondents' statements in the Osmak incident...he couldn't remember any details or how everything progresses, but he remembered that he told Mike he thought he had PTSD (as an excuse to why he did not act), which is what the respondent told the writer earlier.

The investigators did not find KELLY credible for the above reasons.

9. INVESTIGATION ANALYSIS AND FINDINGS

9.1 Findings

Mismanagement of initial complaint

Interviews of OSMAK, KAMLAH, CAVANAUGH, HAMM, SKINNER, TOBIN, CLANCY, and KELLY with varying levels of information were conducted. The support and comments made by CLANCY to OSMAK suggested that the matter was being taken seriously and would be investigated. HAMM, KAMLAH and INGRAM encouraged her to make a complaint, but she was told by HR that it had to be in writing. She declined, as she was too uncomfortable and was distrustful of the process. HAMM made the formal written complaint in her stead, KAMLAH, INGRAM and OSMAK all gave written statements.

CAVANAGH was 'filling in' as a Union Representative in Union President Doug BRITTON's absence. He said he had no idea how to approach the situation, therefore he contacted the Union lawyer Sean McManus and called the Alberta Human Rights Commission, and both sources advised him to request an external investigator. CAVANAGH explained this to KELLY, KELLY chose to proceed without one. (KELLY stated that HR refused to assist him and engaging an external investigator would be under their authority only. CAVANAGH's view of the initial meeting with OSMAK and KELLY was that KELLY was not interested in hearing her side. CAVANAGH said when KELLY yelled at her he stopped the meeting and said: "this isn't the way this is supposed to go." After that "everything calmed down and we had a productive conversation." CAVANAGH and OSMAK met with KELLY who wanted the matter to be done with and said that "this can get ugly." KELLY agreed that SKINNER would likely have been terminated for the sexual harassment of that seriousness. CAVANAGH recalled OSMAK asking KELLY what he would do in a similar situation if it was his wife complaining of the sexual assault and KELLY saying, "I would fucking kill him." Neither CAVANAGH nor OSMAK recall KELLY's response when OSMAK asked why he would think she would think the mediation was okay.

Union President BRITTON returned to work, therefore CAVANAGH removed himself from the process. BRITTON represented SKINNER from that point forward, but OSMAK had no representative.

KELLY took over when CLANCY left for vacation. CLANCY (who was interim Chief at the time) did not give directions on how to proceed. the matter "getting ugly" indicates that KELLY did not want to take the matter to HR and investigate the incident formally. KELLY states that in his discussion with SKINNER, KELLY thought SKINNER was suffering from PTSD and SKINNER agreed.

KELLY and HR contacted OSMAK several times telling her to participate in a mediation to resolve the situation. She did not want to (she said she didn't want to be in the same room as SKINNER), however she relented to make them stop calling her. KELLY intimidated and coerced OSMAK into complying with his suggestion of mediating the matter with the Fire Services Chaplain. There is no evidence that the Chaplain had training or experience in mediation. There was no reporting on the interviews or mediation, and no follow-up for either the Complainant or the Respondent. There was no choice for either OSMAK or SKINNER; the advantage going to SKINNER as he avoided serious consequences had the allegations of sexual assault been founded.

OSMAK was not satisfied with the mediation and emailed Interim Chief Clancy while he was on holidays to inform him of the result. The Interim Chief's response was that he was "disappointed" and "disgusted," but no further action was taken by management. The experience for OSMAK has left her feeling a lack of trust that management will take these incidents seriously and take appropriate action. Furthermore, she made comments suggesting that OSMAK will take similar actions to the police.

Second Mismanagement – Osmak Seeking remedy/justice

Leduc hired Bo MOORE in September 2015 and TOBIN was hired in November 2015. OSMAK went to see MOORE first and shared her concern around the time of lieutenant promotions, which SKINNER was applying for. MOORE said he reached out to TOBIN and informed him that OSMAK was concerned that we are about to promote somebody into a leadership role. TOBIN, in turn, took the matter to CLANCY, and CLANCY told MOORE not to 'undercut him.' which created conflict between him and CLANCY, who was not happy that he went above him to TOBIN. CLANCY told MOORE "not to undercut (him)" and said: don't go around me. If they're not willing to put it to you on paper, then why are we chasing these things." Investigator's note: OSMAK states she told MOORE, MOORE states he told TOBIN, but TOBIN does not recall this. CLANCY denies this occurred.

OSMAK states she also approached TOBIN when he first arrived in Leduc, that she told him about the incident and the way it was resolved, and that she was unsatisfied with the results. She states his response was that the paperwork was lost and therefore there was nothing he could do. TOBIN recalls with clarity that OSMAK came to discuss how unhappy she was with the lack of an investigation but did not expect any further remedy. TOBIN recalls that she just wanted to tell him was glad that he was there now.

The Investigators prefer OMAK'S recollection of the discussions to those of TOBIN or CLANCY. It is agreed by all that OSMAK approached MOORE and TOBIN with her complaint, however it is not plausible that her intention in approaching TOBIN was for any reason other than seeking action and remedy for her complaint. OSMAK did not express hope that future complaints would be handled more appropriately as she stated that if anything similar happened to her she would straight to the police. The investigators also accepted that OSMAK had nothing to gain from her testimony, told the Investigators that until we asked her, she had been willing to give up and quit hoping for resolution. TOBIN and CLANCY are in positions where they would be looked at unfavorably in this situation. The Credibility Assessments completed on OSMAK, CLANCY and MOORE convinced the Investigators that the more credible person for several reasons was OSMAK.

Other investigation involving Skinner

During this investigation, it was learned that a similar incident occurred on September 29, 2012, approximately 17 months before the OSMAK incident, but a formal complaint was not made until approximately 13 months after the OSMAK incident. The incident occurred at Leduc Rugby Clubhouse venue on a Leduc Fire Service sponsored event called "Rookie Night," unlike the OSMAK incident, spouses/ partners and guests were in attendance. Paid-on-call (POC) Firefighter [Redacted] (who will be known as [Redacted] in this report) had organized the event and had brought his wife [Redacted] (who will be known as [Redacted] in this report). Both [Redacted]

Redacted and Redacted were interviewed on August 23, 2021. The summary of these interviews follows this summary.

Early in the morning of September 29, 2012, Redacted and his wife Redacted were waiting in front of the Rugby Clubhouse waiting for a ride from Redacted mother. Also waiting were Firefighter Mike SKINNER (who will be known as SKINNER in this report), and his wife. Redacted was very inebriated. Redacted left Redacted on the front steps of the venue and walked around the building to ensure all windows and doors were locked. When he returned to the front the building, he stated he saw SKINNER sitting on the steps immediately above Redacted and she was laying back, while SKINNER had lifted her shirt and was groping her breasts (on top of her bra). Redacted grabbed his wife out of SKINNER's grasp. Redacted stated he physically removed her from the steps, and away from SKINNER. Almost immediately their ride showed up. Redacted mother (the driver) offered SKINNER and his wife a ride home before Redacted could object, without discussing it at that moment. Redacted was shocked and unsure of action to take. Redacted admits to being intoxicated and did not immediately remember the details of the incident but reported that she does recall SKINNER squeezing her breasts.

Approximately two and half years later, Redacted stated he could not continue to work with SKINNER as he could not get over the incident. Approximately two months before Redacted made a formal complaint, he spoke to Chief George CLANCY who advised him to speak to co-worker/ Firefighter Jeff FOX, who was also an RCMP member. (This would not be appropriate advice because Jeff FOX was a co-worker). He eventually stated he asked Captain Rod INGRAM what he should do. He stated INGRAM advised him to make a formal complaint. (INGRAM has not been interviewed to date as he is on leave from LFS).

As a result, the City of Leduc contracted an outside investigator to review the allegations. Investigator Patricia MURRAY (Patricia MURRAY Consulting) investigated the incident and supplied a report.

She concluded:

"Findings:

Based on the balance of probabilities and having no independent witnesses this allegation cannot be supported. The victim did not recall the incident until prompted by her husband the next day. When I interviewed her, she showed no emotion when detailing the event nor did she appear to have any personal recollection aside from what had been alleged by her husband. All four witnesses depicted the victim as 'very intoxicated' and her version of the occurrence is not supported by fact."

It is the investigators view that Murray concluded this on an erroneous assumption that the victim should have behaved in a certain way:

"During the course of my career as a Police Officer with the City of Edmonton in particular having interviewed hundreds of sexual assault victims the interview with Redacted was remarkable in that she showed no emotion, complete lack of personal recollection and appeared to be 'reciting a prepared story.'"

The Investigators, professional opinions are; that it is well documented that there is no specific behaviour or common response that can conclusively identify if a sexual assault victim

is being truthful. For that reason, therefore Ms. MURRAY's conclusion is unsound. It is certainly acceptable (and recommended) to consider the credibility of those interviewed however Ms. MURRAY placed full weight on the credibility of the victim, based on a credibility standard not acceptable in law or in investigations of sexual assault victims.

Veritas Solutions has identified 12 hallmarks of credibility designed to measure credibility of Complainants, Respondents and Witnesses. "Appropriateness of affect" is only one of these. Further, the interview process requires credibility assessments on all interviewees, the most crucial being the interview of the Respondent, who is most motivated to deceive (which is another one of the twelve hallmarks of credibility). To discredit the credibility of one witness without an assessment of other witnesses suggests a bias.

In stating that "...her version is not supported by fact" indicates that this investigation identified fact(s), and that [Redacted] statement is contrary to the fact(s). Ms. MURRAY did not specify what the fact in this occurrence is, but it appears to the writer that [Redacted] 'version' is contrary only to Mike SKINNER's (and his wife's) version, and that Ms. MURRAY has concluded that the SKINNERs version is fact. This also suggests an apprehension of bias by the Investigator in favour of the Respondent.

Also of note, Ms. MURRAY did not consider the previously reported incident by Tamara OSMAC. She stated:

"Investigators' Note: Although there was a previous investigation and subsequent mediation involving Mr. SKINNER and another co-worker, after consultation with Ms. Bulman of HR it is considered immaterial to this inquiry."

The [Redacted] SKINNER incident occurred first but was reported second. The OSMAC/SKINNER incident occurred second but was reported first. The Investigators became aware that she was investigating a Respondent who was involved in not one, but two situations and the two incidents describe very similar behaviour, under very similar circumstances involving the same Respondent. The Investigators cannot unhear similar fact evidence of a sexual offence. Investigator MURRAY erred in her decision to deny a relationship between the two incidents.

Lastly, Investigator MURRAY made three recommendations, the first two essentially stating that the organization should supervise events that alcohol is present (which takes the responsibility off the individuals), the third states that:

"Mandatory Critical Incident and Stress Debriefing for First Responders."

This recommendation suggests that the Respondent's claim that the incident didn't happen, but also that he suffers from PTSD. Investigator MURRAY has implied, in making this recommendation, that she believes the incident would not have occurred if SKINNER's PTSD had been prevented through proper debriefings. This is contrary to her statement that it is unlikely the incident occurred.

Although this complaint was handled in a far more responsible manner than the OSMAC complaint, there were some obvious indicators that the investigation was neither thorough nor credible. The Investigators do not put weight on the investigation completed by Ms. MURRAY and question the process and the conclusion in the same manner as above.

Although it was a responsible decision to engage an outside investigator, the responsibility does not end with obtaining a report. There is a fiduciary duty on Leduc to ensure this type of behavior is not repeated. There is no indication that LFS has taken reasonable steps have been taken to prevent or reduce harm to other employees.

9.2 Standard of Proof (Balance of Probabilities)

The standard of proof in employment law is the “**balance of probabilities.**” This standard, in a case where there is one person’s word or version of events conflicting with another, is applied to determine what is most probable to have happened. The investigation revealed some specific incidents of behavior or comments alleged to have been made by the Respondent and are as follows:

- KELLY admitted to yelling at OSMAK and threatening that she would not get a fulltime position if she formally complained.
- KELLY admitted that he told SKINNER that he thought he had PTSD, and that part of his decision to not follow through with an investigation was to protect SKINNER’s career.
- KELLY admits that he did not read or have access to statements by witnesses, nor did he interview OSMAK about the incident.
- KELLY admits that he made the decision to resolve the situation by mediation and did not consider OSMAK’s response to this, nor did he offer an alternative resolution.

Discriminatory Action of OSMAK:

OSMAK was intimidated by KELLY’s attitude, actions, tone, and profanity that interfered with her dignity, her status within LFS. KELLY (and subsequently CLANCY) did not treat OSMAK with respect or dignity and her complaint of serious sexual misconduct by SKINNER was dismissed. In doing so, KELLY and CLANCY belittled and degraded during the process and her subsequent attempts to make a complaint. OSMAK stated she was made to feel felt like she was the bad guy and SKINNER was the victim. KELLY’s response to OSMAK’s complaint was well under expectations for an employer. He did not read statements or interview witnesses and did not ensure OSMAK had professional or personal obligation to ensure that OSMAK was protected against offensive behaviour. Firefighter CAVANAGH researched to find the most responsible action to take and advised KELLY of the recommendations by the Union lawyer and the Human Rights Commission. KELLY denied OSMAK the opportunity to a fair and respectful process.

Within the definition provided in this report there is a finding of mismanagement by KELLY and CLANCY. It is assessed that sexual harassment occurred and discriminatory action, including how the incident was handled by leadership, based on gender, the allegation is deemed **FOUNDED**.

Disrespectful Workplace Behaviour of OSMAK:

KELLY did not ensure OSMAK’s complaint was responded to in a fair and unbiased manner. Witnesses and witness statements were not considered. CLANCY did not take action upon his return to work, except to say that he was displeased with the manner the complaint was managed. CLANCY, TOBIN, and MOORE did not respond adequately to OSMAK’s subsequent requests for action. KELLY now states that OSMAK is harassing him, by reporting what she

feels was an unsatisfactory conclusion to the incident. The Investigators' credibility assessment places more weight on OSMAK's credibility.

Within the definition provided, in this report of the mismanagement of the original complaint and continued refusal to review or reopen the investigation constitutes Workplace Harassment. Therefore, this allegation is **FOUNDED**.

10. AGGRAVATING AND MITIGATING FACTORS TO BE CONSIDERED

During an investigation there are typically both aggravating and mitigating factors that present themselves during interviews and the evaluation of documentary evidence. For the employer to make the most informed decisions with respect to corrective action pertaining to a founded allegation, it is necessary for them to be aware of these factors as they weigh potential disciplinary sanction or exoneration.

10.1 Aggravating Factors

10.1.1 The approach taken by KELLY to offer mediation was not without conditions. KELLY's language and tone lead OSMAK to believe that if she wanted a full-time position with LFS she better agree to the mediation, which she did. OSMAK called Interim Chief Clancy to inform him what occurred, and he expressed disappointment, but did not act.

10.1.2 Management did not acknowledge that SKINNER's behavior was unprofessional and will not be tolerated. According to the Workplace Violence Prevention Policy "the CAO, General Managers, Directors, Managers and Supervisors will:

Ensure that when incidents of concerns arise, all employees for whom they are responsible are aware of and have reviewed this policy."

10.1.3 There is a systemic problem of apathy when it comes to concerns brought forth from members of LFS. There is not a consistent response by management to "take seriously and report as soon as possible, all incidents of workplace violence, harassment, or discrimination of which they become aware, formally or informally" [refer Workplace Violence Prevention Policy].

10.1.4 SKINNER stated that KELLY was trying to protect his career; KELLY also made that admission. To the Respondent, KELLY was respectful and supportive. It was KELLY who suggested to SKINNER that he has PTSD during his discussion about the incident. KELLY did not treat OSMAK in a similar, supportive, and fair manner. He yelled at her and threatened that her complaint would result in not getting a full-time position. He did not consider her emotional response to the incident or the process, he did not consider her allegation in a fair and responsible manner. KELLY's treatment of these two individuals was vastly different and biased.

10.1.5 Leduc Fire Services and HR personnel did not take the complainant seriously and found a resolution that was commensurate with the seriousness of the alleged behaviour by SKINNER.

- 10.1.5 The lack of support OSMAK received has severely damaged the trust OSMAK felt as a member of LFS. OSMAK stated she will not bring a concern like this to management again, instead she will go to the RCMP to report her case.

10.2 Mitigating Factors

- 10.2.1 SKINNER claimed that he was suffering from PTSD, although undiagnosed.
- 10.2.2 KELLY was truthful about several aspects of the situation, he admitted to swearing at OSMAK, and admitted that he threatened that she would not obtain full-time employment if she formally complained. Unfortunately, he falls short of recognizing the incongruence of the consequences to the issue of the allegation and continues to feel he was helping her.

11. OTHER

This report does not contain recommendations related to discipline sanction as it is beyond the scope and expectations of an objective investigator to do so. The Principal Director of Veritas Solutions, and Veritas Solutions resource associates, are available to the client to assist in risk management decisions, culture assessments and potential training in the areas of:

- There are three other investigation reports that are closely associated with this report. A final report "Systemic Issues/Concerns" will identify recommendations on steps the City of Leduc Fire Department can take, to ensure these serious issues/situations do not re-occur.

This report should be read in conjunction with Report #4 – Systemic Issues/Concerns

Submitted by:

Patty McCallum and Barb SexSmith
Associate Investigators
Veritas Solutions

Reviewed by:

Bob Stenhouse
Principal Director
Veritas Solutions

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