

OFFICE OF THE SENATE ETHICS OFFICER



Inquiry Report

**under the *Ethics and Conflict of Interest Code for Senators*
concerning Senator Don Meredith**

March 9, 2017

REQUEST FOR INQUIRY

By way of a letter dated June 18, 2015, Senator Leo Housakos (“Senator Housakos”)¹ made a request under paragraph 47(2)(b) of the *Ethics and Conflict of Interest Code for Senators* (the “Code”) that I conduct an inquiry in order to determine whether Senator Don Meredith (“Senator Meredith”)² had complied with his obligations under the *Code*.

Senator Housakos’ request was based on information contained in an article published in the *Toronto Star* on June 17, 2015, which was enclosed with his letter. This article alleged that Senator Meredith had engaged in an inappropriate sexual relationship with a teenage girl over a period of two years. Senator Housakos’ view was that the conduct described was in and of itself incompatible with the position of Senator. Senator Housakos also suggested that Senator Meredith may have improperly used his position of trust and authority as a Senator.

Senator Housakos asserted that this conduct, if proven, would constitute a breach of subsections 7.1 (1) and (2) of the *Code*. Those provisions of the *Code* require that a Senator’s conduct uphold the highest standards of dignity inherent to the position of Senator³ and that a Senator refrain from acting in a way that could reflect adversely on the position of Senator or the institution of the Senate.⁴

PROCESS

The progress of this inquiry was affected by a number of complicating factors, which I describe below. At all times, I proceeded with this matter as expeditiously as possible, while ensuring that I respected my obligations, Senator Meredith’s rights under the *Code*, and the scope of the new *Code* provisions at issue, which have never previously been considered in a Senate Ethics Office proceeding.

Once I received Senator Housakos’ request for an inquiry, I forwarded this request to Senator Meredith on June 22, 2015, in accordance with paragraph 47(4)(b) of the *Code*. In a letter accompanying Senator Housakos’ request, I advised Senator Meredith that, pursuant to paragraph 47(2)(b) of the *Code*, I would be conducting a preliminary review of this matter in order to determine whether an inquiry was warranted. I also provided Senator Meredith 15 days within which to respond to the allegations, in accordance with subsection 47(7) of the *Code*.

By letter dated June 29, 2015, Senator Meredith’s counsel took the position that none of the allegations in the *Toronto Star* article pertained to any of the forms of misconduct regulated by the *Code*. On June 30, 2015, following a conversation with Senator Meredith’s counsel, I granted Senator Meredith an extension of time, under subsection 47(8) of the *Code*, in which to respond to the allegations.

Senator Meredith’s counsel provided me with a response on July 27, 2015. His extensive submissions concerned jurisdictional matters – namely, that the “obligations in section 7.1 [of the *Code*] do not apply to the personal lives of Senators” and, therefore, this section could not capture

¹ Appointed for the province of Quebec (Wellington).

² Appointed for the province of Ontario.

³ Subsection 7.1 (1).

⁴ Subsection 7.1 (2).

Senator Meredith's alleged conduct. As such, he took the position that I had no jurisdiction to conduct a preliminary review of this alleged conduct.

On July 27, 2015, the Standing Committee on Ethics and Conflict of Interest for Senators (the "Standing Committee") issued Directive 2015-02 (the "Directive"), pursuant to its authority under subsection 37(2) of the *Code* to issue general directives to me concerning the interpretation, application and administration of the *Code*. Among other things, the Directive stated that the "rules of general conduct" set out in section 7.1 "are applicable to all conduct of a Senator, whether directly related to parliamentary duties and functions or not, which would be contrary to the highest standards of dignity inherent to the position of Senator and/or would reflect adversely on the position of Senator or the institution of the Senate." The Standing Committee issued the Directive in response to a letter from me dated July 10, 2015, which I sent pursuant to subsection 20.5(3) of the *Parliament of Canada Act* ("P.C.A.") and subsection 40(1) of the *Code*, requesting clarification on the intent underlying this provision. The request I sent to the Committee was a general one that did not reference Senator Meredith's matter.

Senator Meredith's counsel sent me an additional letter, dated August 11, 2015, concerning the Directive. The submissions in this letter pertained to the temporal application of the Directive and the Standing Committee's jurisdiction to issue it. I responded to the concerns raised in this letter by way of correspondence dated September 22, 2015, in which I advised counsel of my view that the Standing Committee had properly exercised its authority in issuing the Directive. I further informed counsel of my conclusion that I had jurisdiction to proceed in this matter for the reasons outlined in that letter.

As part of my preliminary inquiry, on August 25, 2015, I met with the woman with whom Senator Meredith was alleged to have had an improper relationship. For the purposes of this report, I refer to this woman as "Ms. M". During my conversation with Ms. M, she provided information to me that ultimately gave me reasonable grounds to believe that Senator Meredith may have committed an offence under the *Criminal Code*. Pursuant to my obligations under subsection 52(5) of the *Code*, I notified Ottawa Police Chief Charles Bordeleau ("Chief Bordeleau") of this reasonable belief and the grounds for it during a meeting on September 16, 2015.

By letter dated September 28, 2015, Chief Bordeleau informed me that the Ottawa Police Service had opened a criminal investigation and requested that I suspend my review pending the conclusion of the investigation.

In a letter dated October 1, 2015, I advised Senator Meredith that I had suspended my preliminary review in light of Chief Bordeleau's request. I concluded that pursuant to subsection 52(1), it was in the public interest to comply with this request until this authority had completed its investigation.

On January 26, 2016, I received a letter from the Ottawa Police Service informing me that it had ceased its investigation into this matter without laying any charges. On February 4, 2016, I announced the resumption of my review of the complaint concerning this matter. At this time, I also engaged outside counsel to provide advice and assist with the conduct of the inquiry.

By letter dated June 1, 2016, I informed Senator Meredith and Senator Housakos that I had concluded my preliminary review, as required by subsection 47(5), and had determined that an inquiry was warranted pursuant to paragraph 48(2)(a). In that detailed letter, I provided the reasons

for my conclusion that section 7.1 was engaged by Senator Meredith's alleged conduct and explained that I had concerns about Senator Meredith's compliance with subsections 7.1(1) and (2) of the *Code*.

This inquiry then ensued. During the inquiry, my office separately interviewed both Senator Meredith and Ms. M twice under oath and with their respective counsel present.⁵ Senator Meredith's interviews were conducted in person at my office. My interviews with Ms. M were conducted over Skype, as Ms. M no longer resides in Ottawa.

Senator Meredith was interviewed on September 21, 2016. After this interview, my office then conducted an interview with Ms. M on October 6, 2016. Following this interview, Ms. M provided a significant amount of evidence to me, in the form of text messages, Skype, Viber and email exchanges with Senator Meredith. My office conducted a second interview with Ms. M on November 17, 2016. We then interviewed Senator Meredith for a second time on December 19, 2016. Either Senator Meredith or his counsel were unavailable on earlier dates. During this interview, we put to Senator Meredith information provided by Ms. M during her interviews; the various message exchanges Ms. M had provided my office; and information from Senate cell phone records my office had requested and received from the Senate Finance and Procurement Directorate.

Following the completion of these interviews, I put further information arising from my review of Senator Meredith's Senate cell phone records to both Ms. M and Senator Meredith. Both Ms. M and Senator Meredith provided comments in response to this information.

The documentary evidence obtained during this inquiry was provided by Ms. M and the Senate Finance and Procurement Directorate, with records from the latter being requested pursuant to the authority given to me under subsection 48(4) of the *Code* to compel the production of documents. I also obtained through online searches biographical information concerning Senator Meredith and information about his involvement in striking a volunteer committee to recognize the contributions of African-Canadians to the Canadian Forces. No documentary evidence was provided by Senator Meredith, who told me during his first interview that "I don't keep records of you know, a text that I sent ... if somebody sends me a text it's deleted." In the same interview, Senator Meredith reiterated that he has deleted all of his texts: "Once I've communicated with someone, my stuff are deleted." Similarly, during his second interview, Senator Meredith explained that he did not recall having any email exchanges with Ms. M and that "I don't keep text messages, I don't keep Viber messages, I do not keep any sort of email correspondence with anyone." Senator Meredith testified that he had searched his email accounts and could not find any emails from Ms. M or her mother; he could only recall one email exchange with Ms. M regarding a scholarship of some kind for which she wanted a reference letter. However, he had no record of that exchange.

Throughout the preliminary review and inquiry processes, Senator Meredith was given numerous opportunities to make representations to my office. Both he and his counsel did so, orally and in writing, as described above. Evidence that I deemed to be relevant or potentially relevant was

⁵ I note that through the early stages of this inquiry, Ms. M was not represented by counsel. Given that it is abnormal for a person of this age to participate in proceedings conducted under the *Code*, I had concerns about her participating without the benefit of counsel. For this reason, my office took steps to facilitate her access to counsel, which she ultimately retained prior to my first interview with her during the inquiry.

either put to Senator Meredith during his interviews or at the time he reviewed the partial draft report.

In accordance with the usual practice of my office, at a meeting on March 2, 2017, Senator Meredith and his counsel were given an opportunity to review and comment on a partial draft of the inquiry report before it was finalized. Specifically, they were provided in draft form the sections entitled Request for Inquiry, Process, Preliminary Matter: Interpretation of New *Code* Provision, Findings of Fact, and Senator Meredith's Position. I gave Senator Meredith this opportunity in order to ensure that he was made fully aware of the facts and allegations against him, to give him a full opportunity to respond, and to ensure that I properly understood the evidence and submissions put forward on his behalf.

Some revisions were made to the draft as a result of Senator Meredith's comments at the meeting on March 2, 2017. Those revisions are included in this, the final version of the report. During the meeting, Senator Meredith's counsel took the position that the partial draft report contained an unnecessary level of detail, and that its inclusion is inconsistent with ensuring respect for reasonable expectations of privacy, as is reflected in subsection 2(3) and section 56 of the *Code*. With one exception, I have decided that the details should remain in this report. My reasons for this are fourfold: (1) the details are essential to understanding the narrative; (2) the details may be relevant to consideration of this matter by the Committee and the Senate as a whole; (3) in assessing "reasonable expectations of privacy", I have taken into account the fact that some of the underlying facts have been published in media accounts; and (4) there is a need to promote public confidence in the fact-finding process employed in this inquiry. I was also invited to prepare "public" and "private" versions of this report. I have decided against doing so. In my view, the interests of transparency dictate that there be a single, public report.

At the same time I gave Senator Meredith the opportunity to comment on the partial draft report, I also invited him to make a formal proposal on remedial measures that I should consider in fulfilling my duties under subsection 48(14) of the *Code*, were I to determine that he had breached his obligations under the *Code*. While I had previously conveyed to Senator Meredith's counsel that I did not see how remedial measures could be appropriate if I accepted the facts as alleged by Ms. M, I maintained openness to receiving and fairly considering any submissions from Senator Meredith on this issue and invited him to provide these to me.

PRELIMINARY MATTER: INTERPRETATION OF NEW *CODE* PROVISION

On June 16, 2014, the Senate adopted a revised and renamed *Code* – previously called the *Conflict of Interest Code for Senators* – that introduced section 7.1. The present matter is the first where I have had to investigate a potential breach of this new provision. It is also the first time that I have had to make a determination on the scope of this provision, which resulted in the exchange of extensive correspondence between my office and Senator Meredith's counsel on this issue. For these reasons, and to provide guidance for all Senators on a prospective basis, it is appropriate to elaborate on the proper interpretation of this provision.

Section 7.1 establishes a broad obligation for Senators to act with dignity, and to avoid conduct that could reflect adversely on the position of Senator or the Senate.

In his letter to me dated July 27, 2015, Senator Meredith's counsel took the position that the obligations in section 7.1 apply to Senators only in relation to the duties and functions of the office

of a Senator. This, in my view, is a narrow and incorrect interpretation; the scope of s. 7.1 extends beyond the duties and functions of the office of a Senator and encompasses all conduct of a Senator. I base this conclusion on a number of factors.

First, the Standing Committee's Directive, dated July 27, 2015, makes clear that this was the intended scope of section 7.1. The Directive states that this section sets out "rules of general conduct" that "are applicable to all conduct of a Senator, whether directly related to parliamentary duties and functions or not, which would be contrary to the highest standards of dignity inherent to the position of Senator and/or would reflect adversely on the position of Senator or the institution of the Senate." The Directive further states "[i]t is and has been the intent of the Committee, when it recommended the addition of section 7.1 to the *Code*, and of the Senate, when it concurred in the Committee's recommendation, that this provision be applicable to all conduct of a Senator."

While subsection 37(2) of the *Code* grants the Standing Committee the authority to issue the interpretive guidance contained in the Directive, more generally, under parliamentary privilege, the Senate has the authority to discipline its members for conduct outside the course of parliamentary duties and functions. As the Standing Committee notes in the Directive, "[a]s part of its parliamentary privileges, the Senate has the right to govern its internal affairs without outside interference and has disciplinary authority over its members ... The Senate's privilege to regulate the conduct of its members...includes all conduct of a Senator ... that could undermine the fundamental integrity, dignity and authority of the Senate."

Moreover, under subsection 20.5(3) of the *P.C.A.*, I am required to carry out the duties and functions assigned to me by the Senate, pursuant to subsection 20.5(1) of the *P.C.A.*, under the general direction of the Standing Committee. These provisions are mandatory on me, not permissive. As such, I am obligated to comply with a directive issued by the Standing Committee pursuant to its authority under subsection 20.5(3) of the *P.C.A.*

Further, an apt analogy can be drawn between the Standing Committee's ability to issue Directives and Parliament's ability to offer a binding interpretation of its own law by enacting declaratory legislation. Relying on this analogy, one could consider the Directive to be a declarative interpretation of section 7.1, an expression of the will of the Senate that should be given the same effect as a declaratory provision adopted by Parliament – that is, extending back to the date on which the provision it purports to interpret first came into force, with the interpretation so declared taken to have always been the meaning of the provision.⁶

Second, even if I were to have no regard to the Standing Committee's Directive, a textual, contextual and purposive reading of section 7.1 leads me to the same conclusion concerning its scope.

The text of section 7.1 does not limit the scope of its application to Senators' fulfillment of their parliamentary duties. The term "conduct" in subsection 7.1(1) of the *Code* is not qualified in any way, nor is the phrase "refrain from acting in a way" in subsection 7.1(2).

In addition, section 7.1 is unlike section 7.2, which was adopted at the same time as section 7.1, and states, "A Senator shall perform his or her parliamentary duties and functions with dignity, honour and integrity." [Emphasis added] Reading section 7.1 as only addressing conduct by a

⁶ *Régie des rentes du Québec v. Canada Bread Company Ltd.*, 2013 SCC 46 at paras. 26, 28.

Senator in carrying out her or his duties and functions of a Senator, as Senator Meredith's counsel encouraged me to do, would render it redundant to section 7.2. This would run counter to the principle of statutory interpretation that the legislator does not speak in vain.⁷ The presumption is that the legislature "does not pointlessly repeat itself."⁸ If section 7.1 were interpreted as applying only to conduct in which a Senator engages when fulfilling his or her parliamentary duties, it would render unnecessary and devoid of independent meaning section 7.2, which requires Senators to "perform [their] parliamentary duties and functions with dignity, honour and integrity."

The general purposes and principles of the *Code*, which predate the adoption of section 7.1, are not inconsistent with the notion that section 7.1 was intended to encompass the conduct of a Senator in his or her private life. Paragraph 1(a) of the *Code* states that one of its purposes is to "maintain and enhance public confidence and trust in the integrity of Senators and of the Senate." Paragraph 2(2)(b) sets out that Senators are expected "to fulfil their public duties while upholding the highest standards so as to avoid conflicts of interest and maintain and enhance public confidence and trust in the integrity of each Senator and in the Senate." And though, in his letter to me dated July 27, 2015, Senator Meredith's counsel argued that paragraph 2(2)(b) speaks only to the expectations of Senators in "fulfil[ing] their public duties", I do not read this provision as being so limited. In my view, this provision creates an expectation that Senators uphold the highest standards of conduct (whether in their *public* or *private* lives) in order (a) to avoid conflicts of interest (a concept which necessarily relates to a Senator's *public* life) and (b) to maintain and enhance public confidence and trust in the integrity of each Senator and in the Senate (concepts which are not necessarily limited to a Senator's *public* life, but may also relate to a Senator's conduct in his or her *private* life), while at the same time fulfilling their public duties. In other words, while a Senator holds office, he or she is expected to uphold the highest standards of conduct, both in his or her public life and private life.

Section 7.1 is also unlike virtually all of the provisions of the *Code* cited by Senator Meredith's counsel in his July 27, 2015 letter to support his submission that the structure and content of the *Code* are aimed at public duties, which he said in turn means section 7.1 must also be aimed at this. The general language of section 7.1 stands in contrast to these more specific provisions, which suggests its scope is broader than simply regulating the conduct of Senators in relation to their parliamentary duties. This expansion of the scope of the *Code* in adopting section 7.1 is also reflected in the change of title of the *Code*. When section 7.1 was adopted by the Senate in June 2014, the then-title of the *Code* – *Conflict of Interest Code for Senators* – was replaced with *Ethics and Conflict of Interest Code for Senators*. The addition of the word "ethics" is significant. The concept of "conflict of interest", by definition, involves a Senator's public duties and functions. By contrast, the concept of "ethics" is not so limited. The concept of "ethics" could potentially relate to conduct that falls outside a Senator's public duties and functions.

For these reasons, I have concluded that the scope of section 7.1 does in fact extend beyond the parliamentary duties of Senators and into the realm of Senators' conduct outside of these duties.

I note that the obligations section 7.1 places on Senators are not unusual in the context of rules relating to the regulation of professions, particularly those that engage a public trust. For example, statutes and regulations pertaining to lawyers and physicians in jurisdictions across the country

⁷ *Quebec (Attorney General) v. Carrières Ste. Thérèse Ltée*, [1985] 1 S.C.R. 831 at 838.

⁸ Ruth Sullivan, *Sullivan on the Construction of Statutes*, 6th ed. (Markham, Ont.: LexisNexis Canada Inc., 2014) at 211 and authorities cited therein.

prohibit conduct unbecoming a licensee.⁹ Having examined a number of these, as well as the cases interpreting and applying them,¹⁰ I am satisfied that they generally establish that “conduct unbecoming” is not a freestanding label to be affixed to behaviour bearing absolutely no connection to the licensee’s professional duties or the profession to which she or he belongs. Rather, a finding of conduct unbecoming will result where the conduct has some connection to the individual’s continued suitability to perform his or her professional duties or to public confidence in the profession to which she or he belongs.

I find that given the similarities between these “conduct unbecoming” standards and the standards of conduct set out in section 7.1 of the *Code*, the guidance provided in these sources will be useful in informing an assessment about whether the standards set out in section 7.1 have been met. Section 7.1 advises Senators that not only their professional conduct, but also their personal conduct may be subject to scrutiny when that conduct (a) undermines the standards of dignity inherent to the position of Senator, such that, for example it impacts a Senator’s professional reputation, integrity or trustworthiness, or (b) may have an adverse impact on the reputation of the office of Senator or the Senate as an institution.

Given that the conduct at issue here began before June 16, 2014, there was an issue as to the temporal application of section 7.1; in other words, whether it could have retroactive or retrospective effect, such that conduct before this date could be found to violate this provision. I am of the view that conduct engaged in prior to June 16, 2014 – the date on which the Senate adopted section 7.1 – cannot form the basis of a finding that this provision was breached. However, I conclude that section 7.1 permits me to consider conduct predating June 16, 2014 in order to provide context for assessing whether conduct after this date may constitute a breach of the *Code*.

This approach is consistent with established jurisprudence concerning the temporal application of legislation.¹¹ In the present inquiry, considering Senator Meredith’s pre-June 16, 2014 conduct in this manner can be characterized as an immediate application of the provision, given that his alleged conduct could be considered to constitute one ongoing factual course of conduct. At the

⁹ See, for example, *Law Society Act*, R.S.O., 1990, c. L-8, s. 33 and Law Society of Upper Canada, *Rules of Professional Conduct*, ss. 1.1-1, 2.1-1, Commentary 3 to s. 2.1-1 (Ontario); *The Legal Profession Act*, 1990, c. L-10.1, s. 2(1) (Saskatchewan); *Legal Profession Act*, S.B.C. c. 9, s. 1(1) (British Columbia); *Health Professions Procedural Code*, s. 51(1)(c), Schedule 2 of the *Regulated Health Professions Act*, 1991, S.O. 1991, c. 18, and O. Reg. 856/93: Professional Misconduct, s. 1(1)34 (Ontario); *Registered Nurses Regulations* made under s. 8, of the *Registered Nurses Act*, S.N.S. 2006, c. 21 O.I.C. 2009-133 (March 17, 2009), N.S. Reg. 65/2009, ss. 2(2)(a), 81 (Nova Scotia).

¹⁰ See, for example, *Re Cwinn and Law Society of Upper Canada* (1980), 28 O.R. (2d) 61 (H.C.J. Div. Ct.) (The Court upheld the disbarment of a lawyer who had systematically sexually preyed on young women – conduct that “seriously reflect[ed] upon and shatter[ed] his professional integrity to the point where the protection of the public [was] involved.”); *Law Society of Upper Canada v. Peter Brian Budd*, 2011 ONLSAP 2 at para. 37, aff’d 2012 ONSC 412 (Div. Ct.) (In upholding the revocation of a licence where the solicitor had been convicted of sexual offences involving underage females, the Appeal Panel noted that “one of the purposes of disciplining a lawyer for ‘conduct unbecoming’ is to maintain the public’s confidence in the integrity and trustworthiness of the profession.”); *Sazant v. College of Physicians and Surgeons of Ontario*, 2012 ONCA 177 (The Court noted that the inclusion of, for example, “conduct unbecoming a physician”, in the scope of “professional misconduct” indicated “the aim of this broad definition is to ensure that members are, and remain, fit to carry out their practice according to the standards the profession sets for itself. Fitness in this context includes conduct in the physician’s private life that reflects on his or her integrity.”); *Rathe v. College of Physicians and Surgeons of Ontario*, 2013 ONSC 821 (Div. Ct.) (In upholding a decision that a physician had engaged in “conduct unbecoming a physician” because of his behaviour at a school concert, a majority of the Court concluded that “[a]s a family physician, [the member] had a responsibility to control his anger so as not to subject members of the public to verbal abuse.”).

¹¹ *Épiciers Unis Métro-Richelieu Inc., division “Éconogros” v. Collin*, 2004 SCC 59 at para. 46.

time section 7.1 was enacted, it appears that an alleged “situation” or course of conduct – a sexual relationship with a teenage girl, which may have been initiated and continued by drawing on the weight of the office of a Senator and using Senate resources – was “under way”. Applying the guidance of the Supreme Court, it appears that the nature of the misconduct alleged here attracts an immediate application of s. 7.1 to the events occurring before and after its adoption, with the former being considered in assessing whether the latter constituted a breach of the provision.

FINDINGS OF FACT

Assessment of Credibility

During the course of this inquiry, it became clear that there were some significant differences in the sworn testimony of Senator Meredith and Ms. M concerning the events alleged to have taken place between them, and to which there was no other witness. In many instances, their testimony on key matters directly conflicted. This required me, in order to make findings of fact, to assess the relative credibility of Senator Meredith and Ms. M. In doing so, I have been mindful of the

courts' guidance on this task, particularly the leading decision of *Faryna v. Chorny*.¹² I have also taken into account the standard judges' jury instruction on credibility assessment.¹³

I found Ms. M to be a credible witness. She generally had clear recollections of the interactions she had with Senator Meredith between 2013 and 2015. She was forthcoming in attempting to answer all questions put to her fully and to the best of her ability. She was cooperative in locating and providing to my office all text messages, Skype, Viber and email exchanges with Senator Meredith that she had in her possession. She provided some of these to me during the course of my preliminary review of this matter. In response to a request I made during her first interview with my office, she provided a substantial amount of additional material. Specifically, Ms. M provided:

1. Text messages between herself and Senator Meredith sent in March 2013 and between February 2014 and February 2015;

¹² *Faryna v. Chorny*, [1951] B.C.J. No. 152 at paras. 10-12 (C.A.):

10. If a trial Judge's finding of credibility is to depend solely on which person he thinks made the better appearance of sincerity in the witness box, we are left with a purely arbitrary finding and justice would then depend upon the best actors in the witness box. On reflection, it becomes almost axiomatic that the appearance of telling the truth is but one of the elements that enter into the credibility of the evidence of a witness. Opportunities for knowledge, powers of observation, judgment and memory, ability to describe clearly what he has seen or heard, as well as other factors, combine to produce what is called credibility, and *cf. Raymond v. Bosanquet* (1919), 50 D.L.R. at p. 566, 59 S.C.R. 452 at p. 460, 17 O.W.N. 295. A witness by his manner may create a very unfavourable impression of his truthfulness upon the trial Judge, and yet the surrounding circumstances in the case may point decisively to the conclusion that he is actually telling the truth. I am not referring to the comparatively infrequent cases in which a witness is caught in a clumsy lie.

11. The credibility of interested witnesses, particularly in cases of conflict of evidence, cannot be gauged solely by the test of whether the personal demeanour of the particular witness carried conviction of the truth. The test must reasonably subject his story to an examination of its consistency with the probabilities that surround the currently existing conditions. In short, the real test of the truth of the story of a witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions. Only thus can a Court satisfactorily appraise the testimony of quick-minded, experienced and confident witnesses, and of those shrewd persons adept in the half-lie and of long and successful experience in combining skillful exaggeration with partial suppression of the truth. Again a witness may testify what he sincerely believes to be true, but he may be quite honestly mistaken. For a trial judge to say 'I believe him because I judge him to be telling the truth', is to come to a conclusion on consideration of only half the problem. In truth it may easily be self-direction of a dangerous kind.

12. The trial Judge ought to go further and say that evidence of the witness he believes is in accordance with the preponderance of probabilities in the case and, if his view is to command confidence, also state his reasons for that conclusion. The law does not clothe the trial Judge with a divine insight into the hearts and minds of the witnesses. And a Court of Appeal must be satisfied that the trial Judge's finding of credibility is based not on one element only to the exclusion of others, but is based on all the elements by which it can be tested in the particular case.

¹³ The Honourable Mr. Justice David Watt, *Watt's Manual of Criminal Jury Instructions, Second Edition* (Carswell: Toronto, Ont., 2015) at 267-269. The list of factors to which the questions put to a jury refer includes: honesty; interest (not status) in the proceeding; accuracy and completeness of observations; circumstances of the observations; memory; availability of other sources of information; inherent reasonableness of the testimony; internal consistency and consistency with other evidence; and demeanour.

2. Viber messages between herself and Senator Meredith sent between July 2014 and May 2015; and
3. Emails between herself and Senator Meredith sent between May 2013 and July 2013.

While lines of text appear to be cut off in several of the screenshots Ms. M provided of these exchanges, from the content, it appears that Ms. M provided close to complete records of the messages she still had in her possession.

In an email to Ms. M's counsel in early March 2017, my office asked Ms. M whether she had deleted any messages she had exchanged with Senator Meredith. Ms. M informed me that she "often" deleted messages exchanged with Senator Meredith because of her fear that these might be seen by someone else and because she wished to ensure their relationship was kept private. She further informed me that she had not deleted any messages since this matter was first reported in the *Toronto Star*.

I have considered the issue of deleted messages in my assessment of Ms. M's credibility. I accept her explanation for why she deleted these messages and consider it to be reasonable in the circumstances. I do not consider that she deleted these messages for any improper purpose. Importantly, I also accept that during the course of this inquiry, she did not delete any messages exchanged with Senator Meredith.

Ms. M's testimony was consistent with and often directly supported by these exchanges with Senator Meredith, as well as with Senator Meredith's Senate cell phone records. On one occasion, her testimony was potentially contradicted by a cell phone record – testimony that a sexual encounter happened in July 2013 when the record showed Senator Meredith was in different city for almost the entire month. When this potential contradiction was put to Ms. M, she acknowledged that she had not provided the correct date. She refreshed her memory and provided an exact date – August 13, 2013 – on which that encounter had most likely happened. Senator Meredith's Senate cell phone records – which were not provided to Ms. M – showed that Senator Meredith was in Ottawa on that date and that he had, in fact, made five phone calls to Ms. M's cell phone from August 12-14, 2013.

Conversely, I did not find Senator Meredith to be credible in his testimony. On many occasions, Senator Meredith was unable to recall interactions that Ms. M described during her interviews and that were subsequently put to him. On others, he denied that certain interactions occurred, asserting that Ms. M was lying about events the documentary evidence before me suggested had actually occurred. Often – and especially during the course of his second interview – Senator Meredith simply stated that he had "no comments" on evidence that was put to him or that he could not recall anything about the interactions. On other occasions, Senator Meredith went to great lengths to explain away or contradict Ms. M's testimony. At times his own testimony was also internally inconsistent. For example, at one point he said he had no physical sexual encounters with Ms. M before she turned 18, but at another point, he said that if a sexual encounter did happen, it could not have been in a specific month (July 2013).¹⁴ Senator Meredith provided no documentary

¹⁴ During the meeting in which the partial draft report was reviewed, his counsel disagreed that there was an inconsistency and submitted that Senator Meredith had admitted that physical sexual encounters did occur before Ms. M turned 18, but that there was no penetration. The transcript of Senator Meredith's testimony reflects the following exchange:

evidence – text messages, email exchanges or otherwise – concerning his communications with Ms. M, stating that he had not kept any of them.

For these reasons, where their testimony conflicted – which it did on a number of controversial issues – I have generally preferred Ms. M’s testimony to Senator Meredith’s.

Biographical Background: Senator Meredith and Ms. M

Senator Meredith was born in Jamaica on July 13, 1964. He was appointed to the Senate on December 18, 2010. He describes himself as a “businessman, community advocate, and a devoted champion of youth empowerment.”¹⁵ Prior to his appointment to the Senate, Senator Meredith co-founded the Greater Toronto Faith Alliance Learning Centre (“GTA Faith Alliance”), which is a non-profit organization supporting at-risk youth, families and newcomers. He continues to serve as volunteer Executive Director of the organization.¹⁶ Senator Meredith told me he was a Pentecostal pastor with the Pentecostal Praise Centre Ministries in Maypole, Ontario, but that he had suspended his activities as a pastor at the time of his first interview. He also confirmed that as a Senator, he has strived to advance the interests of youth, saying “it’s been in my heart and engrained within me and will [be] with me until I die, to see how we can empower not only youth of this nation, but the youth of other nations.”

Ms. M was born in December 1996.¹⁷ Between 2013 and 2015, she was a university student living in Ottawa. At that time, one of her brothers also lived in Ottawa, while her parents lived in a foreign country.¹⁸ As of early 2013, Ms. M had been living in Canada for roughly a year and a half.

Excerpt from Senator Meredith’s first interview:

BY MS. RICARD:

Q: [Ms. M] told us that this form of physical intimacy[,] kissing and intimate touching, occurred before she turned eighteen.

A: It was after that.

Q: After?

A: After she turned eighteen, yes.

Excerpt from Senator Meredith’s second interview:

MS. RICARD: [Ms. M] provided us additional details of the sexual encounters she said she had with you prior to turning 18, so we wish to put these details to you to give you an opportunity to comment on them.

You previously told us that you did not engage in physical intimacy and intimate touching with [Ms. M.] before she turned 18.

MS. PALUMBO: So this is Document 2. This goes back to your testimony, [Senator Meredith], at page 48, lines 16-21.

Do you maintain this position?

MR. M: Yes, I do.

[...]

MS. RICARD: So are you saying this could have happened but not in July?

MR. M: I’m saying nothing happened in July because I’m not here in July. I’m saying if anything happened it may not have been in July.

¹⁵ Senate of Canada, Biography of Senator Don Meredith. Accessed February 5, 2017: <https://sencanada.ca/en/senators/meredith-don/>.

¹⁶ Senate of Canada, Biography of Senator Don Meredith. Accessed February 5, 2017: <https://sencanada.ca/en/senators/meredith-don/>.

¹⁷ I have chosen to omit the date of Ms. M’s birthday in order to preserve her anonymity.

¹⁸ I have chosen to omit the exact location of Ms. M’s parents in order to preserve her anonymity.

Factual Findings – Conduct Prior to June 16, 2014

In February 2013, Senator Meredith (then 48 years old) first met Ms. M (then 16 years old) during a function for Black History Month held at a church in Ottawa.¹⁹ Senator Meredith was a speaker at that event. After the event, Ms. M approached Senator Meredith with the intention of getting his photograph and shaking his hand. Although Senator Meredith told me under oath that he did not ask Ms. M to wait for him while he spoke to others, I accept Ms. M's testimony that he did. Senator Meredith eventually gave Ms. M his business card, on the back of which he had written his Senate cell phone number, which Senator Meredith acknowledged could have been his personal cell number.²⁰ Despite Senator Meredith's assertion that he did not ask Ms. M to call him, I accept Ms. M's testimony that he did.

It was Ms. M's evidence that after this initial meeting, she texted Senator Meredith her phone number. Senator Meredith and Ms. M began communicating by text message, phone and email. In his first interview, Senator Meredith denied that he engaged in communications with Ms. M on his Senate cell phone, saying that they were all on his private cell phone. After this interview, I reviewed Senator Meredith's Senate cell phone records, which show that he called Ms. M's cell phone number at least 29 times between February 14, 2013 and October 1, 2013. During his second interview, I put to Senator Meredith that these records showed he had contacted Ms. M a number of times using his Senate cell phone. He agreed that he had obviously communicated with Ms. M on his Senate cell phone, but asserted that he did not recall doing so at the time he first testified. At the meeting in which the partial draft report was reviewed, Senator Meredith's counsel submitted that in using his Senate cell phone to call Ms. M, Senator Meredith was acting in a manner that was consistent with how he acted when communicating with others.

I accept Ms. M's testimony that shortly after their initial meeting, Senator Meredith invited Ms. M to dinner on Valentine's Day 2013. I do this despite Senator Meredith's express denial in his first interview. Senator Meredith's Senate cell phone records show that he placed a call to Ms. M's cell phone the evening of February 14, 2013. Ms. M told me she declined Senator Meredith's invitation; she said, "something about it just didn't feel right to me, so I consulted my family and they said I shouldn't go." I accept this evidence.

Ms. M told me that three weeks after meeting Senator Meredith, Ms. M informed him that she was 16 years old. Senator Meredith told me that he could not recall when Ms. M told him her age; at some point, he learned that Ms. M was a student at the University of Ottawa and that her mother lived in a foreign country. I accept Ms. M's evidence that Senator Meredith knew three weeks after meeting her that she was 16 years old. Senator Meredith also told me that after learning of Ms. M's age, he "discouraged her from communicating with" him, telling her "you do not look your age" and "you know there is nothing that's going to happen here." Senator Meredith told me he frequently discouraged Ms. M from contacting him, saying to her, "you need to find individuals your age." Ms. M told me that he discouraged her from communicating with him only in September 2013 and May 2015. I accept Ms. M's evidence that Senator Meredith did not frequently discourage her; it was clear from the documentary evidence that they continued to communicate

¹⁹ Though I obtained further details of the time and location of this event during my investigation, I have chosen to omit them from this report in order to preserve the anonymity of Ms. M.

²⁰ When the partial draft report was reviewed, Senator Meredith's counsel submitted that it was the Senator's practice to hand out his Senate business card when meeting people. The point remains that, when they met, Senator Meredith identified himself to Ms. M as a Senator by giving her his Senate business card.

with each other and that Senator Meredith had sent Ms. M messages that actually encouraged her to communicate with him. For example, on March 9, 2013, Senator Meredith sent Ms. M text messages that said, “Knew there was. Something special about you. [sic]” and “Wow my head is swelling all these wonderful complimentary remarks. You are. Good for me[sic]”.

Ms. M testified that in March 2013, Ms. M and her brother met Senator Meredith for lunch at the Château Laurier. Shortly after this Senator Meredith invited Ms. M and her brother to meet his wife and his daughter at the Château Laurier in or around April 2013. The meeting lasted approximately 10 minutes. During his second interview with me, Senator Meredith told me he recalled only one brief meeting in the time following the event at the church in Ottawa where he first met Ms. M, and that it involved Ms. M and her brother meeting Senator Meredith and his wife, and perhaps his daughter, for snacks at the Château Laurier. I accept Ms. M’s recollection of these events.

According to Ms. M, at some point, likely in May 2013, Senator Meredith told Ms. M that he could “introduce [her] to people in the future.” Senator Meredith told me he would not characterize this as introducing her to anyone, but that he’s always looking out for “how we can help to promote our young people”; Senator Meredith said Ms. M may have misinterpreted this as something more specific.

Ms. M also told me that she began Skyping with Senator Meredith – mostly via video – sometime around May 2013. Senator Meredith had provided Ms. M his Skype ID, invited her to add him, which she did, and he then called her. This information was also contained in a July 29, 2013 email Ms. M sent to Senator Meredith. In it, she recounted that she had added him “after a short period of hesitation” and “he kept his promise and called [her] frequently.” Though Senator Meredith denied asking Ms. M to add him on Skype, I accept Ms. M’s evidence that he did. Ms. M told me she no longer had the history of her written conversations with Senator Meredith via Skype; nor did Senator Meredith have any such records.

Both Senator Meredith and Ms. M agreed that at some point beginning in 2013 or 2014, there had been communications between Senator Meredith and Ms. M’s parents concerning potential business dealings among them. Whether these communications were initiated by Senator Meredith or Ms. M’s parents is unclear. Ms. M told me that Senator Meredith wanted to investigate business opportunities with her parents; “He told me that he wanted to do business with my parents and I said: ‘Okay. I’ll give you the contact information’.” She could not remember exactly when this occurred, but guessed that it was around the fall of 2013. She told me that Senator Meredith had introduced himself to Ms. M’s mother via email and discussed conducting business with them. However, she was not sure of the nature of these potential dealings. She was clear in her testimony that her parents did not really need his help. She told me that her mother works for the government of a foreign country and her father works in the energy sector.

Senator Meredith said in his first interview that the contemplation of business dealings came upon meeting Ms. M’s mother (which was in April 2014) and that it was Ms. M’s parents who were looking for opportunities. Senator Meredith stated that the business interests were around energy. His testimony was that they discussed a number of issues concerning the advancement of the foreign country in which Ms. M’s parents resided and advancing business potential. However, Senator Meredith told me that nothing “concrete” materialized and that he did not pursue anything. Ms. M also agreed that these discussions did not go anywhere. I accept that Senator Meredith

raised the idea of exploring business opportunities with Ms. M's parents and that discussions took place between Senator Meredith and Ms. M's parents on this issue. I also accept that these conversations began taking place at some point in 2013; I note that in a July 29, 2013 email to Senator Meredith, Ms. M wrote "[y]ou have my blessings to be business partners with my parents, and please whatever you need ... communicate with them ...".

With respect to interactions between Ms. M and Senator Meredith, on June 26, 2013, Ms. M visited his Senate office at his invitation. This was the first time she had visited with him alone. Ms. M recalled that during this visit, Senator Meredith touched her, rubbed her knees, tried to get into her dress, and grabbed her buttocks. She told me that she repeatedly told him to stop, that he would briefly stop, and that he would then resume doing these things. Senator Meredith agrees that Ms. M visited his Senate office on June 26, 2013, but he emphatically denies that any of the subsequent events described above occurred. However, I accept Ms. M's testimony that they did.

Ms. M told me that during the visit, she asked him why he was doing these things, what was wrong with him and why he would want to cheat on his wife. She said he replied, "I'm a man." Ms. M told me that, in fact, on a number of occasions during their relationship, she asked Senator Meredith why a married man who was much older would want to be involved with her, and that he again replied "I'm a man." During his first interview, Senator Meredith told me that he said this as a way to dissuade Ms. M. However, Ms. M understood those words to mean that Senator Meredith would cheat on his spouse because he is a man.

Though Senator Meredith denies this, I accept Ms. M's testimony that when she visited his Senate office on June 26, 2013, he invited Ms. M back to his hotel room at the Château Laurier and promised that he would "only take off his socks". Ms. M declined this invitation; instead, she and Senator Meredith went out for dinner to a restaurant. While Senator Meredith did not deny that they went out for dinner, he denied that at the end of the evening he asked Ms. M for a kiss, but she refused. However, I accept Ms. M's testimony that he did.

On July 29, 2013 at 1:07 a.m., Ms. M sent Senator Meredith an email to his GTA Faith Alliance email address. On the evidence before me, that was the address Senator Meredith used to communicate with Ms. M. Senator Meredith told me during his first interview that he did not recall receiving this email; that the "first time" he ever saw it was when I presented it to him during that interview; further, he asserted that it was "completely fabricated". Ms. M provided my office a copy of this email. I accept that it is authentic.

Ms. M's July 29, 2013 email to Senator Meredith touches on a number of issues:

- It describes her early interactions with Senator Meredith. She wrote, "In June, 2013, you made it known to me that you had been drawn to me from the first day that we met [...] I had a bitter-sweet feeling. This is a married man, but I love him so much. We met at a church. I was confused, but happy."
- It describes Ms. M's June 26, 2013 visit to Senator Meredith's office, including his conduct during that visit. She wrote, "[c]uriosity was my main aim of going to see you on that day, as you had said that you still had more things to say concerning how you felt about me. Yes, I did get 'you mesmerize me', 'its not just a physical thing', 'I'm a man'. I don't really know what to sum this all up to, but the bottom line is that you still maintained that you

loved me. The main surprise that I got was sexual harassment.” She went on to write, “I believe that I made it clear enough that you angered me. However, most times, I feel I should have done something that made it clearer.”

- It describes Ms. M’s response to a perception that Senator Meredith wanted her to date him. She wrote that, “[e]ven till now, I do not have the heart to accept your proposal and cross the bridge”; Ms. M told me she understood Senator Meredith’s proposal to be for her to date him. When asked about conversations they had had that would lead her to that understanding, Ms. M told me that from the end of April 2013 to around the end of June 2013, “he would say ... ‘you are special’ and ‘caring’ and how he would introduce me to contacts for the future, and stuff like that. Those kinds of things that indicated that he wanted me to date him.” In her email, she also wrote, “There was a great deal of trust lacking in the whole thing, as you talked a lot about sex (you watched movies; i.e., pornographic movies). What are you wearing? It fits? If we date, you’ll be jumping [...]” Ms. M told me during her first interview that Senator Meredith had verbally made the comments she described during the period of April 2013 to June 2013.
- It described her desire to end her intimacy with him. Although she wrote, “I love you”, “I was so much in love ... I showed you all this love”, and acknowledged “I am not your girlfriend and you are not my boyfriend”, Ms. M stated “the more I let you into my life, the more you hurt me.” Ms. M wrote, “The intimacy is over” and “its [*sic*] final, Mr. Senator”. She told me that by this, she guessed she was “just talking to him or me feeling like I was getting attracted to him and I wanted to, like, not have anything to do with him because I had kind of a bad feeling about the whole idea of being in a relationship with him, at the time, even though I wasn’t yet in a relationship with him.”

Ms. M testified that Senator Meredith called her in the morning about this email. He asked her why she had sent it and encouraged her to delete it. She also told me he said “do you know how many people would look at this”, given that it had been sent to his GTA Faith Alliance account. During his second interview, Senator Meredith told me he couldn’t recall whether he had such a phone call or the specifics of whether he responded to what he termed a “letter” but was in fact an email that she had sent him. He could not recall asking her to delete anything. I accept that this phone call happened as described by Ms. M. Senator Meredith’s Senate cell phone records show he called Ms. M three times on July 29, 2013, including a ten minute call at 7:43 a.m. – less than seven hours after the email was sent.

Senator Meredith testified that he generally discouraged Ms. M from wanting any kind of a relationship with him; he had not encouraged her in any way. Ms. M told me that Senator Meredith continually encouraged her to be in a relationship with him, especially in 2013, as he would call frequently and would constantly say things like she was “special”. When I put this testimony to Senator Meredith during his second interview, he called it “a gross lie” and said he had “no further comments.” I accept Ms. M’s testimony on this issue.

Ms. M’s initial testimony was that she began a physical relationship with Senator Meredith in July 2013, when they had a sexual encounter at her apartment in Ottawa. During his first interview, Senator Meredith told me that he and Ms. M engaged in physical intimacy, but that this did not happen until after Ms. M turned 18. Senator Meredith maintained this position – that they did not engage in physical intimacy and sexual touching before Ms. M turned 18 – during his second

interview. Ms. M's testimony was that Senator Meredith made it clear he did not want to have sex with her until she was eighteen and that he would say, "No, I am not going to lie down or anything." In his first interview, Senator Meredith denied saying these things, but I accept Ms. M's testimony that he did. When asked specifically about the July 2013 encounter during his second interview, Senator Meredith said "if anything happened it may not have been in July" as he was in Toronto and, to the best of his recollection, Ms. M was in her country of origin.

My review of Senator Meredith's Senate cell phone records showed that Senator Meredith was not in Ottawa for the vast majority of July 2013. When I put this information to Ms. M via email, after I had completed all of my interviews in this inquiry, she accepted that the encounter could not have happened that month. Rather, having refreshed her memory, she told me that it happened in August 2013 – likely on August 13, 2013. Senator Meredith's cell phone records – none of which were shared with Ms. M – confirm that the only days in August 2013 that Senator Meredith was in Ottawa were August 12-15. During that period, he made five phone calls to Ms. M. I accept that Ms. M was originally and unintentionally mistaken about the date on which her first sexual encounter with Senator Meredith took place, and that this encounter did take place on or around August 13, 2013.

Ms. M's testimony was that on the evening of her first sexual encounter with Senator Meredith, they went out for dinner and then returned to her apartment. They engaged in kissing and touching, but there was no sexual intercourse. Ms. M partially took her top off and Senator Meredith had partially taken off his trousers. Senator Meredith touched Ms. M's breasts and buttocks. Ms. M touched Senator Meredith's "private parts". When I put this testimony about the nature of the sexual encounter to Senator Meredith during his second interview, he said he had "no recollection of our exchanges and when they happened or how they occurred and so forth." I accept that the August 2013 sexual encounter happened as Ms. M described it.

Ms. M also told me that around July 2013 – "because that's when we kind of started the relationship" – Senator Meredith encouraged Ms. M not to tell her sister or anyone else about her relationship with him. Ms. M further told me that this is the reason she "never told anybody for a long time." In his first interview, Senator Meredith denied having said this. However, I accept Ms. M's testimony that he did, though he may have actually said this in August 2013, around the time of their first sexual encounter.

Ms. M stated that after this sexual encounter with Senator Meredith, he stopped communicating with Ms. M "for a while" because he thought it was "inappropriate." Senator Meredith denied saying that he thought what he and Ms. M were doing was "inappropriate". He testified that he only said this to Ms. M when the relationship ended in 2015. I accept Ms. M's evidence on this point.

Senator Meredith testified during his first interview that he basically severed communications with Ms. M in the summer of 2013 for two or three months; "it was more of a go summer what have you, there's nothing that's going to happen here." He recalled that in the fall of 2013, Ms. M got back in touch with him. Ms. M told me that Senator Meredith "got in touch with me during the fall when he had called it off, and the next year, I was the one getting in touch with him." Senator Meredith's Senate cell phone records show that he called her five times in August, once at the beginning of September and twice at the beginning of October 2013. During his second interview,

Senator Meredith told me that he did, in fact, call to check up on her and to say hello during this period.

Both the documentary evidence and testimony of Senator Meredith and Ms. M suggest that there was little interaction between the two of them between the summer of 2013 and February 2014. However, the evidence discloses that their relationship resumed and intensified beginning in February 2014. In a series of text message exchanges sent on February 21, 2014, Senator Meredith and Ms. M referred to one another as “uncle” or “daddy”, and “daughter”, respectively. This also occurred in other message exchanges between the two. Ms. M told us that this was a joke between them that she initiated; she used to do this during message exchanges any time she “wanted to make it seem like there was nothing going on between both of [them], and essentially he would do the same thing, too.” When I put the use of “uncle”, “daddy” and “daughter” to Senator Meredith during his second interview, Senator Meredith agreed that this was a joke that Ms. M had started and that it was a “running thing”. I also put to Senator Meredith that based on the information Ms. M had provided us, these messages were sent from his Senate cell phone; Senator Meredith denied this, saying these messages would have been sent from his own private phone. Senator Meredith added that apart from the phone calls documented in the Senate cell phone records, all communications with Ms. M were on his private cell phone. I accept that these particular messages in February 2014 were sent from Senator Meredith’s Senate cell phone. However, with the exception of a handful of messages sent in March 2013 and in January and February 2014, I have no reason to believe that other written communications between the two of them were not sent from his personal cell phone.

In March 2014, Ms. M initiated a meeting among her, her mother, her brother and Senator Meredith at Senator Meredith’s office in order to introduce her mother to Senator Meredith.

Ms. M told me that in early 2014, Senator Meredith sent her \$200 via Interac email transfer to straighten her hair. She told me the context in which he gave her this money was that Senator Meredith wanted her to straighten her hair and she had said, “If you really want me to change my hair, then you have to give me the money.” During his first interview, Senator Meredith told me that he did give Ms. M \$200 to straighten her hair, and that he thought this was in the summer of 2014, but that this was in the context of “the person says you know I need to get my hair done. I say okay here.”

Ms. M’s testimony was that beginning in April 2014, Senator Meredith and Ms. M began having sexually explicit chats over Skype. For example, it was Ms. M’s evidence that Senator Meredith asked her to take off her top – that this was “what adults do.” Senator Meredith was in a hotel room in a different country during this conversation.

Factual Findings – Conduct On and After June 16, 2014

After the first sexually explicit Skype chat, it became “normal” for Senator Meredith and Ms. M to have sexually explicit chats through May 2015. They began having these chats using Viber in the summer of 2014. During these chats, Senator Meredith progressed from merely “admiring” Ms. M to masturbating. In describing these interactions, Ms. M told me Senator Meredith “would be at his GTA Faith Alliance office and he would, like, be half-naked, essentially, and kind of masturbate if I took my top off.” During his second interview, Senator Meredith told me he had no comment on this statement when it was put to him. Ms. M also told me Senator Meredith engaged in these chats while at his hotel room at the Château Laurier, while away on Senate

business, and in his office in his house. Ms. M told me these chats made her “uncomfortable” and she felt it was “weird”, but that Senator Meredith told her this is “what adults do.” Ms. M told me that sometimes they wouldn’t talk for three weeks, but the time between their chats were not longer than that.

During his first interview, Senator Meredith denied asking Ms. M to remove her top and underwear or asking her to touch herself during these chats. He also denied telling Ms. M this is “what adults do.” He said he does not recall masturbating on camera, but if he did, “it was an interaction.” Senator Meredith characterized their chats as “infrequent” and that “weeks or months would go by without any interaction.” He agreed that sexually explicit chats happened “more than once.” I accept that these chats took place as Ms. M described them.

At the same time as they were having explicit chats on Skype and Viber, Ms. M said it became “normal” for her to send him explicit photos of herself, as “he was wanting me to send photos.” I also accept that this was the case.

Ms. M told me that she and Senator Meredith engaged in “sexually explicit” chats over fifteen times after mid-June 2014, especially by Viber and text message. During his second interview, Senator Meredith told me he did not recall how many times these chats took place when I put this number to him. Ms. M told me that he engaged in these sexually explicit chats in his GTA Faith Alliance Office up to ten times; at least five times at the Château Laurier; and perhaps three times at home. Senator Meredith masturbated on camera during these chats at least seven times; on about three of these occasions, he was in his GTA Faith Alliance office. During his second interview, Senator Meredith said he had no comment on this evidence when I put it to him. He also told me that he could not recall when and from where he had any sexually explicit conversations with Ms. M and that Ms. M does not know where and when he attended various events. He declined to comment when I asked him if he had any comment on Ms. M’s testimony that he usually masturbated on camera during these chats. I accept that these chats took place in the manner that Ms. M described.

I received evidence that at the same time these chats were happening, Senator Meredith was offering to use his connections to promote Ms. M. On September 11, 2014, Senator Meredith and Ms. M had the following Viber exchange:

Senator Meredith: “Will get you on a committee to recognize the 1st Black soldier to receive the Victoria Cross and I am workg [sic] to have a monument erected in their honour [...]”

Ms. M: “OMG Don!! I am so touched. Sounds good to me! Thank YOU. Looking forward to more follow up info [...]”

Ms. M: “Thank you, love:) So excited for the new opportunities that you want to give me!!”

Senator Meredith: “Just dont [sic] mess them up...”

I note that Ms. M was 17 years old at the time of this exchange. Senator Meredith was 50 years old.

Ms. M told me that the idea of placing her on a committee “came up randomly from him” and she was “excited”, but ultimately never heard anything back from the Senator on this. When this information was put to Senator Meredith during his second interview, he told me that he had struck this committee and was going to invite Ms. M to be part of it, but ultimately did not. He could not recall what he meant by telling Ms. M, “Just dont [*sic*] mess them up.” When asked whether he struck this committee in his capacity as a Senator, Senator Meredith said he struck this committee as an African-Canadian and that one can’t differentiate between his community responsibilities in advancing causes within the African-Canadian community. However, I find that Senator Meredith acted in his capacity as Senator, at least in part, to strike this committee. This finding is supported by the text of a November 11, 2013 address mentioning his work on this committee posted on his Senate website.²¹

Ms. M told me that shortly after this exchange, her second sexual encounter with Senator Meredith took place in October 2014 at her apartment. It involved kissing and touching. Ms. M was partially clothed; her bottom half was covered but she had partially removed her top and bra. Senator Meredith had partially taken down his trousers. Ms. M told me she couldn’t remember whether the touching was different from the first sexual encounter in mid-2013, but thought it was pretty similar in general – that he touched her breasts and buttocks – and that it lasted longer than the August 2013 encounter. When the evidence about this encounter was put to Senator Meredith during his second interview, his response was vague; he stated “I don’t recall when anything transpired at her apartment.” In both interviews, Senator Meredith told me he recalled visiting Ms. M’s apartment only once, either early in 2015 or late in 2014. When I told Senator Meredith during the second interview, “[Ms. M] has told us she recalls three sexual encounters with you at her apartment prior to turning 18”, Senator Meredith responded, “[Ms. M] seems to have a very, as I said, accurate records of transactions. I cannot recall.” I accept that a sexual encounter took place between Ms. M and Senator Meredith in October 2014 as Ms. M described.

Ms. M told me that the third sexual encounter with Senator Meredith took place in December 2014 at Ms. M’s apartment. This was a few days before Ms. M’s eighteenth birthday. Ms. M told me that Senator Meredith gave her what he called a “teaser”, not full intercourse. Ms. M stated that Senator Meredith penetrated her with his penis for about maybe a minute. Ms. M’s lower half was “definitely” naked, but she could not recall if both of them were completely naked.

In his first interview, Senator Meredith denied saying he would give her a “teaser”. He told me the reference to a “teaser” was in relation to a photo Ms. M sent to him of herself partially clad; he said he replied “what are you doing, teasing you; so this is a teaser and that was the reference to that.” During her first interview, Ms. M agreed that he had referred to a picture she had previously sent, likely in September 2014, as a “teaser”, but that he also referred to this sexual encounter as a “teaser”. During her second interview, I asked Ms. M about an April 2015 Viber exchange between her and Senator Meredith, a screenshot of which suggested she had sent a since-deleted photo to Senator Meredith. She told me that this had been a photo of her partially clothed wearing just a bra on top. Senator Meredith sent responses to this photo that read, “Wow...like” and “Is this a teaser”. When I put this evidence to Senator Meredith in his second interview, he said the photo “could be something along those lines”. He also told me that his response was a comment with respect to her teasing him. I accept Senator Meredith used the word “teaser” in reference to a photo Ms. M sent

²¹ Senator Don Meredith, “Third Annual Remembrance Day Ceremony – Recognizing Black Veterans”, November 11, 2013. Accessed February 5, 2017: <http://donmeredith.sencanada.ca/en/p104721/>.

him, though Ms. M does not appear to have accurately recalled the time at which this was sent. However, the fact that Senator Meredith used “teaser” in this context does not preclude that he also used it to describe a sexual interaction between him and Ms. M.

When I put Ms. M’s description of what transpired during the sexual encounter to Senator Meredith at his second interview, he responded that the Senate would have been adjourned by the middle of December and he would have been on his way back to Toronto. However, Senate cell phone records show Senator Meredith was in Ottawa on December 15-17, 2014. He again insisted that the references to a “teaser” were strictly to a photo that Ms. M had sent him; he added that this photo was “unsolicited”. He denied that he penetrated her before 2015 at any point in time. In response to Ms. M’s evidence that they were both undressed during this December 2014 encounter, Senator Meredith said, “I have no comments on that. She has a vivid memory of seemingly being undressed and documented everything but she can’t recall if I was there and I was undressed, so I have no comments on this. No comments on this going forward.”

I accept that a sexual encounter took place between Senator Meredith and Ms. M in December 2014 as Ms. M described.

Ms. M told me that the day after she turned 18 in December 2014, Senator Meredith called Ms. M to wish her a happy birthday. I accept that this occurred; Viber message exchanges show Senator Meredith wishing Ms. M a happy birthday on the day she turned 18 and Ms. M thanking him for calling shortly thereafter. Senator Meredith told me during his first interview that he thinks at some point, Ms. M told him the date of her 18th birthday.

Viber message exchanges provided to me by Ms. M show that around this same time, Senator Meredith was continuing to engage in discussions with Ms. M’s parents about potential business dealings. Messages sent from Senator Meredith to Ms. M on December 25, 2014 state that he “did text [her] mom” and “spoke with her earlier.” Ms. M wrote to Senator Meredith that her mother told her Senator Meredith had called; “You two talked about business. She mentioned that.” She also wrote, “You should start talking to my dad too”; Senator Meredith agreed: “Yes he is never around when I call.” When asked why Senator Meredith was in touch with her parents (as well as her sister), Ms. M told me Senator Meredith said at the time that he wanted “to do a business [*sic*] with them”, which never came to pass. She added that, “I think a part of it, now that I look back, was probably just to neutralize the situation and kind of gain everybody’s trust.” When asked about the context of the December 25, 2014 messages, Senator Meredith told me that “the mother was looking – or the dad was looking to do some business here in Canada” and emphasized that no business transactions actually occurred. I accept that Senator Meredith and Ms. M’s parents were engaged in discussions concerning potential business transactions at this time; however, I do not feel I have sufficient evidence before me to make a finding about which party was driving those conversations or whether both parties were equally engaged in these conversations at the end of 2014.

In 2015, the physical sexual encounters and sexually explicit chats continued between Ms. M and Senator Meredith. The Viber exchanges that Ms. M provided for January 2015 demonstrate that there were strong sexual content in their interactions.

On January 10, 2015, Senator Meredith and Ms. M had the following Viber message exchange:

Ms. M: “So I am going to lose it in February not January. Good to know ... Lol”

Senator Meredith: “Ok”

Ms. M: “Lool you are too much”

Senator Meredith: “You are cool. ..No Rush it only happens ONCE make it very Special.”

Ms. M: “True. What can I do to make it special though?”

Senator Meredith: “You will figure it out.”

Ms. M: “Will do. But it takes two to tango, so how will you make it special if you happen to be the one?:)”

Senator Meredith: “No rush baby no rush. .”

Ms. M testified that this exchange of messages reflected her talking about losing her virginity with Senator Meredith; that Senator Meredith understood that this is what the conversation was about; and that she understood Senator Meredith to be suggesting that she should “kind of calm down, that losing it would be special”. Ms. M also told me that Senator Meredith had had conversations with her to the effect of “when I was eighteen, this was what was going to happen.” When I put this text message exchange and Ms. M’s testimony about it to Senator Meredith during his second interview, he said he had no comments on or could not recall what he meant during the exchange; that he had no comments on Ms. M’s interpretation of it; and that “the salaciousness of a conversation has no relevance to this hearing.” I accept Ms. M’s evidence on the context of this exchange.

Later on January 10, Senator Meredith sent two Viber messages to Ms. M, which read “Wow.u are amazing” and “That was hot.” Ms. M told me these messages were prompted by a Viber video call they had just had during which Ms. M had taken off her top and Senator Meredith had masturbated. When I put this evidence and Ms. M’s testimony to Senator Meredith during his second interview, he told me he had no comments on it. I accept that this chat occurred as Ms. M described it.

The Viber messages Ms. M provided to us show that photos were sent to Senator Meredith on January 22, 2015, though the photos could no longer be seen. Ms. M told us that she recalled that these were “probably” explicit photos, showing her head to her breasts while wearing only a bra. She told me “that is the type of photos that were usually sent between me and Senator Meredith.” When I put this evidence and testimony to Senator Meredith during his second interview, he said he had no comments. I accept that these photos were probably as Ms. M described; Senator Meredith’s response to the first of these photos was “You are a big tease ... Love all of you”. I also accept that these are the type of photos Ms. M usually sent to Senator Meredith.

Concerning her ongoing physical sexual encounters with Senator Meredith, Ms. M told me the first time that she had sexual intercourse with Senator Meredith was on February 16, 2015. This was approximately two months after her eighteenth birthday. I note that Ms. M described this as the first time they had sexual intercourse, although the encounter she described taking place in December 2014 was intercourse. Despite being clear about what physically transpired on that date (*i.e.*, penetration), Ms. M appeared not to understand it to have been intercourse.

In his testimony, Senator Meredith agreed that he had sexual intercourse with Ms. M on February 16, 2015 at his hotel room at the Château Laurier. Ms. M's testimony was that they first went for dinner in the Byward Market and then went back to his hotel separately afterwards. During her first interview, Ms. M told me that she left the restaurant first while he waited for a dessert. Ms. M waited in the lobby of the hotel. He called her to come up when he got to his hotel room. During his second interview, Senator Meredith told me that there was "no dessert had at the restaurant" but he agreed that they did not walk together to the Château Laurier. He did not recall the "sequences" of how Ms. M got to his hotel but agreed that she went to his hotel that night.

Later that evening, after Ms. M had left Senator Meredith's hotel room following their sexual encounter, Senator Meredith apologized via text message for getting mad at Ms. M, apparently for saying that she was on her way back to his hotel room to pick up leftovers she had forgotten there. Ms. M replied, "You just went OFF. I understand that you were mad but swearing, acting threatening...those were uncalled for. I am a student and food means a great deal to me. No matter how small." Ms. M told us during her second interview that this message exchange relates to the fact she had left something at his hotel room and was coming back to get it. She said that when she returned to Senator Meredith's hotel room to retrieve what she had left, he was swearing, "not necessarily at [her]", but because somebody could have seen her come back to his room. When this text message exchange and Ms. M's testimony were put to Senator Meredith during his second interview, Senator Meredith said he had no comments on them.

At 9:55 a.m. on February 17, 2015, Senator Meredith sent Ms. M a Viber message that said "Gm, baby hope you slept well. You are special amazing, awesome. Blessed and loved" Ms. M replied, "Goodmorning D. I love you. too [sic]. Thank you for an amazing night yesterday. What we have is special." Ms. M told me that the "amazing night" was the previous night, when they had had sexual intercourse. Later that day, as part of a Viber message exchange, Ms. M wrote to Senator Meredith "February 16. I'll never forget that date. Thank you". Ms. M told me during her second interview that she would never forget this day because it was the day she lost her virginity. I accept her evidence on this, although as noted above, I have found that Ms. M and Senator Meredith had sexual intercourse in December 2014.

On February 18, 2015, Ms. M sent Senator Meredith a Viber message that read, in part, "I am still bleeding". Ms. M told me that this "was the day after [she] had intercourse for the first time with him. So that is why I was bleeding. So I was letting him know that I...I was partly scared." Ms. M did not consult a doctor about this bleeding, as it stopped after a few days. When I put this evidence and testimony to Senator Meredith during his second interview, he said Ms. M often exchanged intimate details with him, that this could be referring to her menstrual cycle, and that he had no further comments on this.

On February 26, 2015, Ms. M sent Senator Meredith a text message saying that she had not heard back from him "on the reference letter" which was "due on Saturday." Ms. M told us during her second interview that she had applied for an internship program on Parliament Hill. Senator Meredith had agreed to provide a reference letter for her, but by the time he actually provided it, she had already submitted her application. When this information was put to Senator Meredith during his second interview, he told me he recalled that the reference letter was for a scholarship, not an internship on Parliament Hill. Senator Meredith testified that he recalled delivering the letter to Ms. M late and that she was upset about that.

Ms. M provided me a copy of the reference letter Senator Meredith eventually sent her, though she did not submit it for the internship. The letter was dated February 25, 2015, written on GTA Faith Alliance letterhead, written in support of an application to be an “intern” for a parliamentary internship program and signed “Hon. Rev. Dr. Don Meredith-Senator Ontario”.

On April 17, 2015, Ms. M sent Senator Meredith a Viber message that read, “I remember when you once told my mum you’d assist her with her pr, you told my sister that you’d help with her NGO, you told me you’d have me on your National Youth strategy team. You did none. I think about this sometimes. It’s interesting.” Senator Meredith replied, “I helped your Mom with investigation of her PR so don’t come with your rudeness to me.”

Regarding this exchange, Ms. M told me that the first time Senator Meredith met her mother (which was in early 2014), her mother was renewing her permanent residency and that Senator Meredith had said he would help with that. However, he did not eventually help. During his second interview, Senator Meredith said he followed up on Ms. M’s mother’s permanent residency file “to see what the information was, what was missing, and advise her accordingly, just like I do for all Canadians.” Senator Meredith told me he thinks he relayed this information to Ms. M’s mother orally. Although Senator Meredith’s counsel has submitted that he was treating her mother just as he would anyone else, I note that, at the time, Senator Meredith was involved in a physically intimate relationship with Ms. M.

Ms. M also said of this Viber exchange that “one of the occasions that he talked to my sister, he said that he would like to see how he can help her Foundation. My sister has a Non-Profit Organization. But he never did any of those things.” During his second interview, Senator Meredith acknowledged that Ms. M’s sister runs a non-profit organization, which Ms. M brought to his attention, and that he had said with his non-profit in Toronto, there might be some sense of collaboration; he made a phone call to Ms. M’s sister in December 2014 in this context. He added that he did not ultimately help her do anything.

Finally, Ms. M also said that the National Youth Strategy was something Senator Meredith had come up with two years earlier in the context of his Senatorial work. He had suggested that he would get her involved in this strategy. However, she never heard back from him on this. During his second interview, Senator Meredith said that he “never promised her anything” with respect to the National Youth Strategy; he also said “I do not recall saying to her a national youth strategy.” I accept Ms. M’s evidence that Senator Meredith did say he would involve her in his National Youth Strategy, but that he ultimately did not.

On May 3, 2015, Senator Meredith sent Ms. M Viber messages that read, “Love you” and “Yes you need to respect what I can do.” Ms. M responded, “What kind of action are we talking about here” and Senator Meredith replied, “All”. Ms. M could not recall the context in which this was sent, but told me she believes it had something to do with her previous exchange with Senator Meredith concerning her mother’s permanent residency and the National Youth Strategy. When I put this text message exchange to Senator Meredith during his second interview, he told me he could not recall what he meant by these messages.

Concerning ongoing physical intimacy, Ms. M told me that the second time she and Senator Meredith had sexual intercourse was May 4, 2015²² at Ms. M's apartment. Ms. M confirmed to me that Viber message exchanges between Ms. M and Senator Meredith on that date reflect the two of them making plans for Senator Meredith to come to her apartment that evening. When I put these messages and Ms. M's testimony about them to Senator Meredith during his second interview, he told me that he could not recall the context of the exchange and had no comments. He also told me that he has no recollection of having sexual intercourse with Ms. M in May 2015 and that he had no comments on this. He maintained that he recalled only one occasion on which he had sexual intercourse with Ms. M and that this took place at the Château Laurier. I accept Ms. M's evidence that she had sexual intercourse with Senator Meredith on May 4, 2015; that day, Senator Meredith sent Ms. M Viber messages that said "I should be around 7:30", "Ok leaving to grab food then will be on my way", and "Had an awesome time. .u are so sweet. Have a fantastic evening." Ms. M also sent her buzzer number to Senator Meredith in a Viber message.

A Viber exchange on May 5, 2015 suggests that Senator Meredith left his watch at Ms. M's apartment the previous night and that he needed to make arrangements to pick it up from Ms. M. During his second interview, when I put to Senator Meredith that Ms. M had told me he left his watch at her apartment after this encounter and he came to get it the next day, Senator Meredith said he had no comment and did not recall. I accept Ms. M's evidence on this issue.

After Senator Meredith and Ms. M had intercourse in May 2015, Senator Meredith ended the relationship. On May 5, 2015, he told Ms. M via Viber how he had had a good time but that he felt God was not happy with him. Senator Meredith wrote "God has spoken with me and am [*sic*] not happy with me." and "I should be leading you not making you." Ms. M responded, "It's true, you are right and I'm proud of you. I'll get used to it." Senator Meredith responded, "Thanks for your love and understanding."

Also in May 2015, Senator Meredith gave Ms. M \$20 to buy new towels because he thought she needed them. After he ended their relationship, Senator Meredith sent a text message to Ms. M saying "God be with you in all you do today. Please get the towel." Senator Meredith told me during his first interview that he did give Ms. M money to buy new towels after he visited her apartment and that he thought it was in the spring or summer of 2014, but he could not recall. I accept that he actually gave her this money in May 2015.

Senator Meredith and Ms. M have not had any contact with one another since May 2015.

SENATOR MEREDITH'S POSITION

Jurisdiction to Conduct Inquiry and Application of the Code

As previously noted, Senator Meredith has taken the position that the subject-matter of this inquiry does not fall within the purview of the Senate Ethics Officer because it relates to a personal matter unconnected to his role as a Senator. Consistent with the position taken earlier in written submissions to me, Senator Meredith's counsel indicated at his client's first interview that Senator Meredith continued to object to my jurisdiction to conduct either a preliminary determination or an inquiry into the subject of the *Toronto Star* article. His position remained the same as set out in

²² Again it should be noted that the sexual encounter between Ms. M and Senator Meredith in December 2014 was intercourse, even though Ms. M did not appreciate it as such.

counsel's letter of July 27, 2015, being that section 7.1 of the *Code* does not apply to the personal lives of senators.

Counsel also reiterated that he had serious concerns with the Committee's issuance of the Directive and, further, that his position is that any conduct that occurred prior to the passage of section 7.1 of the *Code* does not affect whether conduct after its passage can be a breach of this provision. Further, he submitted that Senator Meredith's advocacy for youth causes does not affect the content of his ethical duties under the *Code*; in other words, it does not impose a higher obligation.

A Personal Matter Unrelated to the Office of Senator

At the outset of his first interview, Senator Meredith stated that he believes the subject matter of this inquiry is a personal family matter. Senator Meredith said "my interaction with [Ms. M] was an inappropriate one and I wish not to go into the details of what transpired between me and her." On numerous occasions during his interviews, Senator Meredith said he felt these were private matters and that he had "no comments" or "no further comment" in response to questions asked of him concerning his interactions with Ms. M.

He told me that his "interaction" with Ms. M was something he has "settled with [his] God and [his] wife and obviously [his] congregants", that he is not without flaws, and that "he that is without sin, let him cast [the] first stone." He emphasized that "the important thing is that God has forgiven me, my wife has forgiven me, my children have forgiven me and that for me is the core of this matter." At the end of his second interview, Senator Meredith stated, "I deeply regret from the bottom of my heart what has transpired in my life that's caused me pain, my family pain and stress, and my two children, and I wish for this chapter of my life to move on from here knowing that there are lessons to be learned and that I will take with me to my grave."

At the meeting when the partial draft report was reviewed, Senator Meredith's counsel submitted that to the extent there was a relationship, Senator Meredith did not pursue it by using his office or his role as a Senator.

No Relationship with Ms. M

Senator Meredith clearly stated in his first interview that he "had no relationship with" Ms. M; "I did interaction with her with respect to communications, but it's not a relationship. [*sic*]" He said that he is in Ottawa only from September to December, then in February to June; that he probably had three or four interactions with Ms. M during the two-year period; and that their communication was "back and forth." During his second interview, Senator Meredith characterized his interactions with Ms. M as an "affair", but also called it an "intermittent association". He also denied that several of the physical sexual encounters Ms. M told me they had had ever occurred.

Senator Meredith emphasized during his first interview that his interactions with Ms. M were a matter of her "pursuing" him and him "letting down [his] guard." He elaborated, "my actions were of one that I let my guard down, with respect to my – not only as an individual and as somebody of stature in my community, for which I deeply, deeply regret. Which has caused great pain and sorrow to me and my family and for me, it's about learning from those missteps that you made in life and moving forward." When permitted the opportunity to comment on the partial draft report, Senator Meredith reiterated that Ms. M had pursued him.

Senator Meredith also asserted that he continuously discouraged Ms. M from pursuing him; he told me, “every conversation I’d say why is it that you do not have somebody your age” and “why do you continue to persist in engaging with me in this way”. During his second interview, Senator Meredith said, “This person was infatuated with me. I discouraged her from having any kind of communication with me, but ... I felt somewhat, you know, that I needed to support this individual.”

Questioning Ms. M’s Motivation

At the outset of his first interview, Senator Meredith said that “this process has come this far to publicly embarrass and shame me.” Of message exchanges between Senator Meredith and Ms. M that were put to him during his interviews, he said “this is quite surprising to me that a personal communication with someone could be saved, dated, captured, filed. So that leads me to you know just speculate as to what the motive was about with respect to the interaction with me.” He added, “this was again a personal matter that got into the *Toronto Star* vindictively and now is before” the Senate Ethics Officer. During his second interview, Senator Meredith told me that he feels Ms. M has kept records of their interactions to “totally humiliate me and totally embarrass me with respect to her – this engagement that I had with her.”

At the end Senator Meredith’s first interview, Senator Meredith’s counsel submitted to me that the lack of completeness of Ms. M’s text messages and email records should be a major factor in my assessment of her credibility.²³

RELEVANT PROVISIONS OF THE CODE

The following are the provisions of the *Code* that are relevant to this matter:

7.1. (1) A Senator’s conduct shall uphold the highest standards of dignity inherent to the position of Senator.

(2) A Senator shall refrain from acting in a way that could reflect adversely on the position of Senator or the institution of the Senate.

48. (14) Where the Senate Ethics Officer makes a finding that the Senator breached his or her obligations under the Code, the Senate Ethics Officer shall also indicate whether remedial measures to the satisfaction of the Senate Ethics Officer have been agreed to by the Senator, whether the Senator did not agree to remedial measures that would have been to the satisfaction of the Senate Ethics Officer and what those measures were, or whether remedial measures were either not necessary or not available.

ISSUES

The circumstances of this case raise the following issues.

²³ I note that after this comment was put to Ms. M during her first interview, and I asked her to provide any message exchanges with Senator Meredith that she had in her possession, Ms. M did, in fact, provide extensive documentation to me.

Subsection 7.1(1)

(1) Did Senator Meredith's conduct uphold the highest standards of dignity inherent to the position of Senator in the circumstances surrounding the relationship he allegedly had with a teenager?

Subsection 7.1(2)

(1) Did Senator Meredith act in a way that could reflect adversely on the position of Senator or the institution of the Senate in the circumstances surrounding the relationship he allegedly had with a teenager?

I deal with both of these issues together in my analysis below.

ANALYSIS

I have concluded that Senator Meredith's conduct breached both subsections 7.1(1) and 7.1(2) of the *Code*.

Before setting out the analysis that leads me to this conclusion, I wish to note three things. First, I am guided in my analysis by the direction of subsection 48(11) of the *Code*, which provides, "The determination that a Senator has breached his or her obligations under the Code shall be made on the balance of probabilities." Second, my view is that what occurs between two consenting adults will not generally fall within the purview of the *Code* or within the jurisdiction of my office to investigate. Third, as alluded to above, subsections 7.1(1) and 7.1(2) do not invite a free-standing analysis of whether certain conduct merits moral condemnation; rather, they require an evaluation of whether alleged conduct (a) undermines the standards of dignity inherent to the position of Senator, such that, for example it impacts a Senator's professional reputation, integrity or trustworthiness, or (b) may have an adverse impact on the reputation of the office of Senator or the Senate as an institution.

Conduct Before June 16, 2014

I reiterate that conduct prior to June 16, 2014 cannot form the basis for finding Senator Meredith breached subsections 7.1(1) or 7.1(2). Had the relationship between Ms. M and Senator Meredith terminated prior to that date, it could not have constituted a breach of this provision. However, because the relationship was ongoing at the time these subsections were enacted, I have determined that they permit me to consider conduct predating June 16, 2014 in order to provide context for assessing whether conduct that occurred after this date breached the *Code*.

Based on the evidence before me, I draw the following conclusions regarding this context:

- Senator Meredith initiated and encouraged the relationship with Ms. M by:
 - asking her to call when they first met in February 2013, where she approached him after an event at which he was a speaker;
 - inviting her to dinner on Valentine's Day in 2013;
 - inviting her to contact him via Skype around May 2013;

- inviting her to visit his Senate office on June 26, 2013, at which time he touched her in a sexual manner, invited her back to his hotel room, went out to dinner with her, and then asked her for a kiss; and
- having a physical sexual encounter with her in August 2013 at her apartment.
- Senator Meredith knew very early on in the relationship – in March 2013 – that Ms. M was 16 years old at that time.
- Senator Meredith knew that Ms. M had very strong feelings for him, which she described as “love” and about which, in July 2013, she was sufficiently conflicted to tell him that she wished to end the “intimacy” between them, saying she did “not have the heart to accept [his] proposal and cross the bridge” (*i.e.*, to date him).

Conduct On and After June 16, 2014

Against this backdrop, I must consider whether Senator Meredith’s conduct on or after June 16, 2014 breached subsections 7.1(1) and 7.1(2), in that the relationship he had with Ms. M for eleven months after this date did not uphold the highest standards of dignity inherent to the position of Senator and could reflect adversely on the position of Senator or the institution of the Senate.

I find that the conduct of Senator Meredith on and after June 16, 2014 breached both subsections 7.1(1) and 7.1(2) of the *Code*. Senator Meredith failed to uphold the highest standards of dignity inherent to the position of Senator and acted in a way that could reflect adversely on the position of Senator or the institution of the Senate. He did so by carrying on a sexual relationship with Ms. M when the relationship originated in the circumstances described above – initiating and encouraging the relationship as he did, knowing Ms. M’s age and her feelings for him. Senator Meredith maintained the relationship that began in that manner over a protracted period of time.

As I will elaborate, in a course of conduct that continued throughout the relationship, Senator Meredith drew upon the weight, prestige and notability of his office, as well as his relative position of power as a much older adult, to lure or attract Ms. M, a teenager who, by virtue of her age, was necessarily vulnerable. This course of conduct began when Senator Meredith first met Ms. M, who was only 16 years old, following an event at which he was a speaker and he handed her his Senate business card.

At all times during her relationship with Senator Meredith, Ms. M remained in a position of relative youth and vulnerability. Senator Meredith engaged in a pattern of behavior that advanced an improper relationship with her, in which there was an obvious imbalance in power between the two of them. He engaged in a physical sexual relationship with Ms. M that included two encounters before she turned eighteen, one of which involved intercourse, and two encounters just after she turned eighteen, both of which involved intercourse. He also engaged in numerous sexually explicit chats with Ms. M.

Throughout the relationship, including after June 16, 2014, Senator Meredith did not treat his relationship with Ms. M as a “personal matter”; rather, his conduct toward her was substantially intermingled with his role as a Senator. As mentioned, at their first meeting Senator Meredith gave

Ms. M his Senate business card; Senator Meredith called and messaged Ms. M on his Senate cell phone; he invited Ms. M to his Senate office. Although some of this conduct occurred before June 16, 2014, I refer to it because it demonstrates that throughout the relationship, including after that date, Senator Meredith drew on his position and stature as a Senator in his interactions with Ms. M. In doing so, he exploited Ms. M and the power imbalance between them. Senator Meredith brought into the relationship the power and influence of the office of Senator, while Ms. M was a vulnerable teenager. That dynamic pervaded the entire relationship, from the time it was initiated through to when it became sexual.

As part of that dynamic, after June 16, 2014, Senator Meredith made promises and suggestions to Ms. M that he would draw on the resources, weight and authority of his office as Senator, as well as his external professional connections apart from that office, to promote, assist and advance Ms. M and members of her family. Specifically, Senator Meredith did the following:

- On September 11, 2014, Senator Meredith promised to get Ms. M on a committee he struck to recognize the first black soldier to receive the Victoria Cross. I have found that he acted in his capacity as Senator, at least in part, to strike this committee.
- In December 2014, Senator Meredith made representations to Ms. M's sister that there might be some sense of collaboration between his not-for-profit organization, the GTA Faith Alliance, and her non-profit organization.
- Through December 2014, Senator Meredith was in contact with Ms. M's parents, engaging in discussions about the potential for them to do business together.
- In a letter dated February 25, 2015, Senator Meredith provided a reference for Ms. M in support of her application to participate in an internship on Parliament Hill. This letter was written on GTA Faith Alliance letterhead and signed "Hon. Rev. Dr. Don Meredith-Senator Ontario".

I find that Senator Meredith's conduct in making these representations while at the same time engaging in a sexual relationship with Ms. M to be a breach of subsections 7.1(1) and 7.1(2) of the *Code*. In view of all of the circumstances described above, Senator Meredith's conduct in his relationship with Ms. M did not uphold the highest standards of dignity inherent to the position of Senator. In maintaining a sexual relationship with a young person that Senator Meredith initiated and encouraged by drawing, at least in part, on his stature as a Senator, Senator Meredith's conduct could reflect adversely on the position of Senator or the institution of the Senate.

In the context of considering Senator Meredith's work on youth causes, his counsel took the position that a Senator's advocacy of a particular cause does not affect his ethical duties under the *Code*; in other words, it does not impose a higher moral obligation. I agree, to a point. In my view, Senator Meredith's advocacy for youth causes does not create a "higher moral obligation" for him. It is, however, a factor to take into account in the circumstances of the present matter. Senator Meredith has long touted himself as a champion for youth causes, which consistently brings him into contact with young people. He has done this in his capacity as Senator. For a Senator wearing that mantle to exploit the obvious imbalance in power as between them by engaging in a sexual relationship with a teenager – a member of the very demographic he implies lacks power and

openly says needs to be empowered and that he seeks to empower – is not consistent with the highest standards of dignity inherent to his position. It also could reflect adversely on the position of Senator and the institution of the Senate. This is especially so when at the same time that the Senator is engaged in that relationship, he is making promises to that teenager to draw on the authority of his office to help promote or advance her.

CONCLUSION

As set out above, I have concluded that Senator Meredith breached subsections 7.1(1) and 7.1(2) of the *Code* in the circumstances surrounding the relationship he had with a teenager, Ms. M.

Where I have made a finding that a Senator has breached his or her obligations under the *Code*, as I have here, subsection 48(14) of the *Code* requires me to indicate whether remedial measures to my satisfaction have been agreed to by the Senator, whether the Senator did not agree to remedial measures that would have been to my satisfaction and what those measures were, or whether remedial measures were either not necessary or not available.

Following Senator Meredith's first interview, his counsel indicated to me that he was interested in exploring remedial measures to address Senator Meredith's conduct. I explained to counsel that I did not see how remedial measures could be appropriate if I accepted the facts as described by Ms. M, but that I remained open to receiving and considering submissions on this issue. I again invited submissions from Senator Meredith on this issue when I provided him the partial draft of this review for his comment.

In a letter dated March 7, 2017 (copy attached) Senator Meredith proposed remedial measures. I have concluded that while they may have some salutary effects and may help prevent further breaches of this nature by Senator Meredith, the remedial measures he has proposed do not remedy the harm that his actions have caused to the office of Senator and the institution of the Senate. Consideration of this issue has led me to the further conclusion that for the purposes of subsection 48(14), remedial measures are not available in relation to the kinds of breaches of the *Code* engaged in by Senator Meredith.

Lyse Ricard
Senate Ethics Officer

March 9, 2017

SENATE
The Honourable Don Meredith
Senator - Ontario



CANADA

SÉNAT
L'honorable Don Meredith
Séateur - Ontario

March 5, 2017

CONFIDENTIAL

Ms. Lyse Ricard

Senate Ethics Office
Thomas D'Arcy McGee Building
90 Sparks St., Room 526
Ottawa, ON K1P 5B4

Dear Ms. Ricard:

RE: REMEDIAL MEASURES UNDER TAKEN BY SENATOR DON MEREDITH

Dear Ms. Ricard,

Thank you for providing me with the opportunity, on March 2, 2017, to review portions of the draft report concerning your inquiry into the content of a *Toronto Star* article dated June 21, 2015. After my review of the report, you provided me with an opportunity to formally propose remedial measures to address any breaches of the *Ethics and Conflict of Interest Code for Senators* identified in your final report. Please consider this letter as my formal proposal for these remedial measures.

First, I am pleased to advise you that I have already taken the following remedial measures:

- Immediately upon learning of these allegations, I placed myself under the guidance of spiritual advisors.
- I engaged in continuous prayers of repentance and seeking the forgiveness of my family.
- I engaged in professional counselling, individually and with my wife.
- I engaged with trusted advisors, both in the Senate and others in public life, about my roles and responsibilities as a Senator and as a man in a position of significant authority.
- I completed a Landmark Professional Development Course for individuals in senior management roles. The course covered, among other things, the importance of empathy, introspection, and self-regulation.
- I carefully studied and reviewed the Code to ensure that my conduct going forward is consistent with its obligations.

SENATE
The Honourable Don Meredith
Senator - Ontario



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L'honorable Don Meredith
Sénateur - Ontario

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The lessons and habits that I have learned from these efforts will ensure that any breach of the Code will never be repeated. In addition, out of my determination to further improve as a Senator, I have recently reached out to a former, well-respected Senator to provide me with one-on-one guidance on ethical matters. I am still in the process of finalizing this engagement. However, at this time, I expect that this person will provide me, over the course of several sessions, with ethical mentorship and guidance around my roles and responsibilities as a Senator, with specific discussion of the matters at issue in this inquiry.

Finally, I would also like to take this opportunity to strongly reiterate my concerns about the level of detail contained in your draft report. As drafted, the publication of the report would put all parties at risk of serious emotional and other harm. Publication would also harm the institution of the Senate. I sincerely hope that the contents of the final report will reflect your office's obligation under the Code to minimally impair the reasonable expectations of privacy of me, my family, and the woman who is the subject of the *Toronto Star* article.

Thank you for your understanding in this delicate and private matter.

Sincerely,



Hon. Don Meredith

cc. [Counsel]