

National Defence Act – Part IV
Section 250.53

FINAL REPORT

Following a Public Interest Investigation Pursuant to
Subsection 250.38 (1) of the *National Defence Act*
With Respect to a Complaint

Submitted by GB

Concerning the Conduct of Petty Officer 2nd Class J.A. Carr
22 Wing Military Police, CFB North Bay, Ontario

File: MPCC 2006-003

Ottawa, March 28, 2007

Mr. Peter A. Tinsley

Chair

TABLE OF CONTENTS

I. Summary of the Incident.....	1
II. GB's Complaint.....	6
III. Methodology of the Complaints Commission's Investigation.....	7
a) Documentation Review.....	7
b) Interviews.....	8
c) Consideration of the Canadian Forces Provost Marshal's Notice of Action.....	8
IV. Analysis	8
V. Summary of Findings and Recommendations.....	24

I. SUMMARY OF THE INCIDENT

1. On February 8, 2006, GB (complainant) submitted a complaint pursuant to Part IV of the *National Defence Act* (NDA) outlining a significant number of incidents of alleged misconduct on the part of Military Police members at 22 Wing Military Police Detachment, Canadian Forces Base (CFB) North Bay. On February 15, 2006, the Complaints Commission received a copy of GB's detailed complaint allegations. The conduct that is the subject of the complaint covers the period from January to December 2005. In accordance with section 250.2 of the NDA, the complainant requested, and was subsequently granted, an extension of the time in which to file his complaint. On March 27, 2006, following a review and assessment of the nature of the complainant's allegations, and, in accordance with the provisions of section 250.38(3) of the NDA, I gave notice of my decision to cause the Complaints Commission to conduct a public interest investigation into GB's complaint.

2. During the time of the incidents giving rise to his complaint allegations, GB was married and employed in the cook trade at CFB North Bay. For approximately a year and a half, GB had been socially involved with SC, a co-worker and civilian employee with the Department of National Defence (DND). SC ended her association with GB in November 2004 and by January 2005 was in a relationship with another co-worker, DT. The couple were living together on the base in North Bay. Despite SC's new relationship and contrary to her wishes, GB tried to renew his previous close friendship with SC. According to RB, a civilian employee who was SC's supervisor, GB's persistent efforts to renew his previous association with SC created a significant amount of tension and disruption in their workplace. One example of this evident strain in the workplace occurred on January 13, 2005 when Petty Officer 2nd class (PO2) B, supervisor of the Tri-Mess Kitchens at CFB North Bay, had to intervene in a heated personal argument taking place in the kitchen area between GB, DT, and SC. The three were told by PO2 B to keep their personal issues out of the workplace.

3. On January 14, 2005, in an effort to address this workplace situation involving her subordinate, RB contacted PO2 Carr, a member of the 22 Wing Military Police at CFB

North Bay. RB did not go through her chain of command but lodged her complaint directly with PO2 Carr. She indicated to PO2 Carr that SC was being continually harassed in the workplace by GB. The following day, Saturday, January 15, 2005, PO2 Carr met with SC who advised him that she felt uncomfortable in the workplace when GB tried to communicate with her. SC also indicated to PO2 Carr that she had been receiving numerous “hang-up” telephone calls at her private residence and suspected GB’s involvement. At this initial meeting, SC further indicated to PO2 Carr that she did not fear for her safety nor had GB ever threatened her. SC simply wanted GB to stop trying to communicate with her and leave her alone.

4. In response to RB’s complaint and the subsequent information he had received from SC, PO2 Carr decided to take immediate steps to resolve the situation and requested the parties attend the Military Police Detachment for a harassment mediation session. This session took place later that day (January 15, 2005) with PO2 B, DT, GB and PO2 Carr. SC did not attend the session, indicating discomfort at being in GB’s presence. During the session, PO2 Carr explained to GB both the Canadian Forces (CF) Harassment Policy and the applicable sections of the Criminal Code of Canada (C.C.C.) dealing with criminal harassment. PO2 Carr also made it clear to GB that he had grounds to arrest him for criminal harassment, but that it would be better to have the matter resolved at the unit level. Also during this meeting, PO2 B gave a direct order to GB not to have any further contact with SC or her daughter, either at home or at the workplace. As well, PO2 Carr advised GB that any further attempts to communicate with SC could lead to charges under the Code of Service Discipline and criminal harassment charges.

5. On February 11, 2005, SC provided an audio/video statement to the Military Police indicating that the harassing “hang-up” telephone calls to her residence had started again. SC indicated that she had received approximately 60 of these calls and was now fearful for her personal safety, owing to the unconfirmed identity of the caller and the increase in the number of calls being made to her home. Up to and including March 16, 2005, SC continued to receive hang-up phone calls. SC believed that GB was the person responsible for making all of these unsolicited telephone calls. She cooperated with PO2

Carr and other Military Police personnel who were actively investigating her complaint and she made it clear to them that she feared for her safety and was having difficulty sleeping at night. Contrary to direction from PO2 B, on the evening of March 16, 2005, in the workplace, GB approached SC on several occasions with regards to a work-related computer problem.

6. On March 17, 2005, PO2 Carr and another Military Police member arrested GB as he was leaving his workplace at CFB North Bay. He was placed in mechanical restraints, given a police caution, and read his Charter Rights. Subsequent to his arrest, GB was interviewed by PO2 Carr and the interview was recorded both on audio and video tape. GB was properly cautioned, chartered and advised of his right to counsel. He declined to exercise his right to contact counsel. During the interview, GB admitted to making phone calls to the SC/DT residence from the Lucky 13 Variety Store on one occasion, and once from a Zellers location. GB admitted that he knew that talking to SC was contrary to the order he had been given by his supervisor, PO2 B, in January 2005. GB also admitted that he had pressured SC to resume the relationship and admitted to pressuring work colleagues to get her to speak to him again, knowing full well that SC did not want to have any further contact with him. GB was then formally charged with Criminal Harassment pursuant to section 264(2) (b) of the C.C.C. and, also, with Telephone Harassment pursuant to section 372(3) of the C.C.C. Subsequent to this arrest and interview, GB was released on a Promise to Appear and Undertaking with conditions, most notably:

- Not to be within 100 metres of the place of employment of either SC or DT.
- Not to be within 100 metres of the residence of SC or DT.
- Abstain from communicating, either directly or indirectly, with SC and DT
- Not to consume alcohol or possess firearms.

7. On April 26, 2005, PO2 B filed a complaint of sexual assault against GB with the Military Police. This complaint from PO2 B alleged that four female employees (SC was not one of them), who worked in the CFB North Bay kitchen facility and who were

supervised by PO2 B, had been inappropriately kissed on the neck by GB, while they were in the workplace. None of the alleged victims either invited or consented to being kissed by GB. The initial investigation of these accusations was done by the 22 Wing Military Police. The investigation was subsequently taken over by the Canadian Forces National Investigation Service (CFNIS). The CFNIS investigation of the matter concluded with no criminal or service charges being brought against GB in relation to these allegations. Instead, CFNIS recommended that these incidents of inappropriate kissing on the part of GB be referred to the Wing Harassment Coordinator for follow-up administrative or disciplinary action.

8. In July 2005, GB was questioned by the Military Police in relation to some damage (broken window) to the residence of DT. During this wilful damage investigation and interview the investigator formed reasonable and probable grounds (supported by two separate complaints about him being in the vicinity prior to the July 18, 2005 interview) that GB had violated one of the release conditions of his March 17, 2005 undertaking by being within the 100 metre restriction in relation to DT's residence. During this investigation, it was also revealed that GB had attended a function in a CFB North Bay Mess and consumed alcohol. As a result of this particular investigation, GB was charged with four breaches of undertaking in respect of the release conditions following his March 17, 2005 arrest. One breach of undertaking was related to the use of alcohol and the other three breaches related to being within 100 metres of the SC/DT residence or place of employment.

9. In late September 2005, the Military Police received a complaint from DT about a telephone message left on his work voicemail. The caller was purported to be the husband of a 'colleague' (DT's former girlfriend) now living in Petawawa, but he and several work colleagues identified the voice as belonging to GB. Following a Military Police investigation of this matter, GB was arrested at his residence and after being interviewed on October 1, 2005, was lodged in the North Bay Police Service Cell Facility. GB was charged with another breach of his undertaking.

10. On January 6, 2006, GB appeared in the Ontario Court of Justice in North Bay to answer to the following charges arising from and related to his initial arrest on March 17, 2005 and his subsequent release on a Promise to Appear and Undertaking:

- 1) S. 372 (3) C.C.C. – Harassing Telephone Calls
- 2) S. 264 (2)(b) C.C.C. – Criminal Harassment
- 3) S.145 (5.1) C.C.C. – Fail to Comply / Undertaking (use of alcohol)
- 4) S.145 (5.1) C.C.C. – Fail to Comply / Undertaking (4 counts distance violation)

This same date, GB pled guilty to the charge of making harassing telephone calls and to one count of failing to comply with an undertaking. The remaining charges of criminal harassment (1) and failing to comply with an undertaking (4) were withdrawn by the crown prosecutor. GB was given a conditional discharge, placed on probation for twelve months and ordered by the Court not to have any contact, either directly or indirectly, with SC and DT. As well, the Court ordered GB not to attend the residences of SC and DT.

II. GB'S COMPLAINT

11. On February 15, 2006, the Complaints Commission received a written complaint from GB containing eleven allegations of Military Police misconduct. The complainant's allegations are summarized as follows:

- i GB contends that SC's initial complaint should have been referred to his supervisor and then on to the base Harassment Coordinator rather than a criminal investigation being initiated by PO2 Carr.
- ii GB alleges that the Military Police started building their case based on false accusations and then only after charges were laid on March 17, 2005, even though the chain of events giving rise to these charges started in January 2005.
- iii GB alleges that PO2 Carr, while off duty, was following him.

- iv GB believes that his privacy was compromised during the investigation, alleging that a co-worker in the kitchen, Corporal (Cpl) B, was receiving information from Cpl Vaughan, a Military Police member whom she was dating.
- v GB alleges that the Military Police pressured DB, a co-worker, into making a formal complaint about his conduct at work and thereby caused DB to leave her job.
- vi GB alleges that the Military Police repeatedly harassed him by telephoning his residence for no apparent reason while he was off duty sick.
- vii GB alleges that a Military Police member from Petawawa, MCpl Jolliffe, left a voice mail at his home on December 4, 2005, requesting information about an incident that occurred in Petawawa. The complainant says he was never in Petawawa and alleges that the Military Police were conspiring to try to scare or provoke him.
- viii GB alleges that on October 1, 2005, PO2 Carr was rude to Mrs. B and her mother. This alleged inappropriate conduct happened when PO2 Carr went to the complainant's residence to arrest him.
- ix GB alleges that whenever he requested information or clarification on certain matters from the Military Police, he was either ignored or told to go through his chain of command.
- x GB claims there was a great deal of favouritism shown towards SC by members of the Military Police during the course of their investigation.
- xi GB states that the Military Police failed to adequately explain why they opted for civilian court proceedings instead of a court martial in order to address GB's conduct.

III. METHODOLOGY OF THE COMPLAINTS COMMISSION'S INVESTIGATION

12. On March 27, 2006, pursuant to section 250.38(3) of the NDA, I declared this complaint to be one of public interest and, thereupon, caused the Complaints Commission, rather than the CFPM, to conduct the initial investigation.

a) Documentation Review

13. The DPM PS on behalf of the CFPM provided the Commission with all information and materials relevant to GB's complaint. In addition to the materials sent to the Commission by the Deputy Provost Marshal Professional Standards (DPM PS), the review included all submissions received from the complainant, as well as the contents of correspondence between the DPM PS and the Commission.

b) Interviews

14. The Complaints Commission interviewed the following individuals: Captain (Capt) S. Waller, Capt G, Master Warrant Officer (MWO) C, Warrant Officer (WO) M. Godin, WO R, PO2 B, GB, MCp1D, MCp1P, MCp1S. Jolliffe, Cp1B, Cp1M. Vaughan, RB, DB, EM, TK, Mrs. B. Both PO2 Carr and MCp1R. Joseph declined to be interviewed.

c) Consideration of the Canadian Forces Provost Marshal's Notice of Action

15. On March 20, 2007, the Complaints Commission received the CFPM's Notice of Action (dated March 19, 2007) in response to the Chair's Interim Report dated February 26, 2007.

16. In conformity with NDA section 250.51(1), the Chair has prepared this Final Report after having considered the CFPM's Notice of Action. In the Notice of Action,

17. The Chair is pleased to note that the CFPM has accepted the Complaints Commission's findings and recommendations in relation to this complaint.

IV. ANALYSIS

ALLEGATION i GB contends that SC's initial complaint should have been referred to his supervisor and then on to the base Harassment Coordinator rather than having a criminal investigation being initiated by PO2 Carr.

18. GB's first allegation is based on his assumption that PO2 Carr did not recognize RB's complaint as one of personal harassment in the unit, and, as such, it was a complaint which should have been handled by the complainant's chain of command. It is to be noted, however, that once PO2 Carr was provided with the details of the complaint by SC on January 15, 2005 and realized that she did not want to make a formal complaint, he advised the unit supervisor of the situation. The evidence suggests that PO2 Carr felt he had sufficient grounds to proceed under the harassment provisions of the Criminal Code; but, he elected to try to have the matter resolved at the unit level in accordance with the principles of the National Defence Harassment Prevention and Resolution Guidelines [A-PM-007-000/FP-001 dated 2004-07-15].

19. CFAO 22-4, paragraph 12(a)(1) Security and Military Police Services makes it clear that the Military Police are not to become involved in incidents of personal harassment involving CF/DND personnel. Nonetheless, PO2 Carr did initiate a form of harassment resolution process by having the parties meet at the Military Police offices.

20. PO2 Carr's decision to participate in a unit harassment matter was specifically addressed by the Wing Security and Military Police Officer (SAMPO), Capt Waller, once he (Capt Waller) became aware that PO2 Carr had used the Military Police facilities to conduct an informal resolution of a harassment matter. Although Capt Waller stated that PO2 Carr was correct in questioning the parties in relation to the original complaint, he

should not have used the Military Police office facilities for a unit harassment resolution meeting, nor should he have been involved in the unit meeting. Capt Waller pointed out that the Military Police involvement in a non-criminal unit harassment situation could create a wrong perception. Employees may begin to wonder why the Military Police are involving themselves in the resolution process of a matter which clearly is the responsibility of the unit chain of command to resolve. Capt Waller directed WO Godin to review PO2 Carr's handling of the initial complaint received from RB alleging that GB was harassing SC. The Complaints Commission's investigation revealed that as a result of WO Godin's file review and recommendations, Capt Waller, on March 11, 2005, ordered WO Godin to counsel PO2 Carr about the proper use of reporting procedures, Military Police authorities, and utilization of Military Police resources when dealing with a complaint of non-criminal harassment.

21. I agree with Capt Waller's assessment that PO2 Carr became too involved in what initially presented itself as a unit harassment matter. That said, I do not agree with GB's contention that PO2 Carr's initial handling of the situation involving SC and DT amounted to a formal criminal investigation. The available evidence indicates that PO2 Carr reacted as one would expect the police to do upon receiving indication from RB that GB's alleged and potentially criminal conduct was causing problems for SC. Once PO2 Carr realized that SC would not make a formal complaint, at that time, PO2 Carr acted correctly by informing PO2 B of what he had learned. Notwithstanding that PO2 Carr took it upon himself to become involved in a unit harassment matter contrary to existing orders dealing with the investigation of personal harassment, these actions did not constitute a criminal investigation and did provide an opportunity for unit authorities to address this workplace situation in accordance with the CF policies dealing with personal harassment.

22. Parenthetically, I would observe that it was GB's chain of command which failed by not immediately taking control of the situation once it was evident that an employee in the unit was feeling harassed by another employee. There is no indication of any follow-up on the part of GB's chain of command to monitor the situation, meet with the parties,

or otherwise address SC's harassment complaint against GB using the CF Harassment Prevention and Resolution Guidelines, not to mention enforcing the order given to GB by PO2 B. When GB returned to his harassing conduct towards SC and DT and this was brought to PO2 Carr's attention by SC on February 11, 2005, he had little choice but to react to this escalating harassment situation and to address GB's conduct as a criminal matter.

ALLEGATION ii GB alleges that the Military Police started building their case based on false accusations and then only after charges were laid on March 17, 2005, even though the chain of events giving rise to these charges started in January 2005.

23. The available evidence does not support the contention that the Military Police only began to "build their case" after charges were laid. The Complaints Commission's investigation revealed that a number of key witnesses, including SC, DT, Cpl B and SC's daughter, were interviewed prior to March 17, 2005, the day on which the complainant was arrested and charged for Criminal Harassment and Harassing Telephone Calls. As well, prior to March 17, 2005, PO2 Carr, assisted by other military police members, performed additional investigative steps into SC's complaint against GB, including gathering evidence identifying GB as the person using public payphones located in commercial establishments, at a time and date which corresponded with times and dates of hang-up telephone calls received (numbers recorded) at the SC/DT residence.

24. In all of these circumstances it is my view that the Military Police had gathered sufficient evidence prior to March 17, 2005, to arrest and charge GB for Criminal Harassment and Harassing Telephone Calls. It is to be noted that it is not in the least uncommon or in any way improper for investigations to continue after charges are laid, particularly where there is a potential risk to victims and police intervention will serve to diminish that risk. This allegation is not substantiated.

ALLEGATION iii GB alleges that PO2 Carr, while off duty, was following him.

25. The basis for this allegation stems from the actions of PO2 Carr on March 15, 2005. The Complaints Commission's investigation revealed that, while he was off duty, PO2 Carr observed that at 1424 hrs, GB was exiting the parking lot at the Sobeys/Zellers Shopping Centre in the City of North Bay, driving a DND vehicle. PO2 Carr made note of the time, date, and place he observed the complainant. Later that same day, PO2 Carr learned that the Military Police had received information from DT indicating that a 'hang-up' telephone call had been received at the SC/DT residence at 1422 hrs on March 15, 2005. The following day, March 16, 2005, whilst on duty, PO2 Carr conducted follow-up enquiries at the Sobeys/Zellers location where he had seen GB exiting the previous day. PO2 Carr located a payphone at the Zellers location in the shopping centre which had the same telephone number as the one reported by DT the previous day. PO2 Carr attempted to obtain a copy of the video surveillance tape which would have covered the payphone location; however, he was advised that the equipment was not functioning and there was no recording available for him to review.

26. It is important to be cognizant of the fact that by March 15, 2005, PO2 Carr had been involved for two months in the matter of GB's alleged conduct. At the time PO2 Carr observed the complainant on March 15, 2005, GB had already been suspected by the Military Police of making harassing telephone calls from a payphone at another commercial establishment. I do not find it unusual that the lead investigator on the case, PO2 Carr, even while off duty, would have noted the time and location he observed GB. The Complaints Commission's investigation did not uncover any evidence to suggest that PO2 Carr's sighting of GB on March 15, 2005, was anything more than mere coincidence and there is nothing to indicate that PO2 Carr was inappropriately conducting surveillance on GB. On the contrary, the initiative was commendable and in no way contravened GB's rights.

27. In my view, PO2 Carr's actions did not amount to improper surveillance of GB; this allegation is not substantiated.

ALLEGATION iv GB believes that his privacy was compromised during the investigation, alleging that a co-worker in the kitchen, Cpl B, was receiving information from Cpl Vaughan, a Military Police member whom she was dating.

28. Both Cpl Vaughan and Cpl B confirmed to the Complaints Commission that they are in a relationship, and that their relationship was ongoing at the time of the Military Police investigation into GB's conduct. Cpl B informed the Complaints Commission that she had learned about many of the details of the circumstances surrounding the investigation as a result of her close friendship with SC and from general conversation in the kitchen, not from Cpl Vaughan. This explanation provided by Cpl B is consistent with information provided to the Complaints Commission's investigators by several of the kitchen supervisors. WO R, PO2 B, and RB stated that GB frequently talked about his problems while at work. WO R described the complainant as someone who routinely 'verbalized' his personal problems.

29. Cpl Vaughan indicated that, although he was aware of GB's March arrest and release conditions, his first official involvement with GB's investigation was in July 2005 when Cpl Vaughan reported an instance when he saw GB within 100 meters of the SC/DT residence. Also in July 2005, Cpl Vaughan was assigned to investigate some damage (broken window) to the SC/DT home. GB was suspected. Cpl Vaughan indicated to the Complaints Commission's investigators that he was very sensitive to the issue of conflict of interest and ensured Cpl B knew his position about avoiding same.

30. There is no evidence to support GB's allegation that confidentiality was compromised by either Cpl Vaughan or Cpl B. Therefore, I must conclude that this allegation is not substantiated.

ALLEGATION v GB alleges that the Military Police pressured DB, a co-worker, into making a formal complaint about his conduct at work and thereby caused DB to leave her job.

31. DB was a civilian employee in the CFB North Bay kitchen facilities and one of GB's co-workers. She is no longer employed at CFB North Bay. Although DB declined to be formally interviewed by the Complaints Commission's investigators, she did agree to answer a few questions relating to the investigation involving GB kissing her on the neck at the workplace. She confirmed that GB had indeed kissed her on the neck in the workplace and that it had happened on three separate occasions. DB also indicated to the Complaints Commission's investigators that she was aware that GB had also kissed three other female kitchen staff, in a similar manner.

32. As well, DB confirmed that the local Military Police tried numerous times to obtain a statement from her regarding the alleged incident. However, she remained steadfast in her refusal to provide a statement concerning these "kissing on the neck" incidents to the Military Police. This investigation was eventually taken over by CFNIS. DB confirmed that she was also approached by a CFNIS investigator who wanted to interview her about the alleged incidents. DB did not provide the CFNIS investigator with a statement. However, she did make it very clear that she wanted nothing more to do with either GB or the Military Police. The CFNIS indicated that her wishes would be respected and there would be no further contact from either the Military Police or CFNIS. DB was not contacted again, either by the local Military Police or CFNIS, about these alleged "kissing on the neck" incidents.

33. DB also told the Complaints Commission's investigators that, at the time the Military Police were aggressively investigating the allegations involving GB, she was trying to deal with the stress of the recent death of her brother. She indicated to the Complaints Commission's investigators that she left her job at CFB North Bay in part because of the persistence of the Military Police efforts to obtain a statement from her. However, she said that she was equally troubled by the GB's overall conduct at the workplace and his repeated and uninvited physical contact with her.

34. In conclusion, there appear to have been several factors which influenced DB to resign her employment. When I assess the totality of the situation in which DB found herself in, including her state of bereavement, I do not agree with GB's allegation that the Military Police were "at fault". While it is arguable that the Military Police may have been too persistent in their efforts to obtain a statement from DB concerning these alleged "kissing on the neck" incidents, I am not prepared to find that they provoked DB into resigning. Further to DB's statement to the Complaints Commission about being greatly troubled by GB's conduct, a review of PO2 B's statement to the Complaints Commission's investigators indicates that GB's actions had a very negative impact on DB. PO2 B is very clear that when DB reported the "kissing on the neck" incidents to him she was extremely distraught. PO2 B indicated that DB was crying, she was emotionally upset, and she was worried that her co-workers might be thinking she was "having an affair" with GB. She was also threatening to quit her job. I conclude that it is very probable that GB's treatment of DB, at the workplace, was the main catalyst which prompted DB to decide to resign her employment at the CFB North Bay kitchen facilities. This complaint allegation from GB is not substantiated.

ALLEGATION vi GB alleges that the Military Police repeatedly harassed him by telephoning his residence for no apparent reason while he was off duty sick.

35. Regarding GB's allegation of harassing telephone calls from Military Police personnel, the Complaints Commission's investigation was not able to find evidence that this actually occurred. The Complaints Commission's investigators did confirm that when the investigators did call GB at home, they were calling in relation to matters involving GB and under active investigation by the Military Police. For example, PO2 Carr telephoned [GB's] residence to ask GB to come to the Military Police office to discuss an email he had received from the complainant. On other occasions, GB received a telephone call asking him to come in for fingerprinting and a telephone call from a Military Police member in Petawawa (see Allegation vii below), both of which were confirmed as having been made for bona fide official purposes and recorded. There was

no specific evidence (times and dates of harassing telephone calls) offered by either GB and/or his spouse to support this particular allegation, nor were the Complaints Commission's investigators able to discover any independent evidence to suggest that the Military Police were making telephone calls simply to harass or annoy GB. In particular, GB never complained about any of these alleged harassing telephone calls to either his unit chain of command or to the Military Police chain of command.

36. I conclude that this allegation is not substantiated.

ALLEGATION vii GB alleges that a Military Police member from Petawawa, MCpl Jolliffe, left a voice mail at his home on December 4, 2005, requesting information about an incident that occurred in Petawawa. The complainant says he was never in Petawawa and alleges that the Military Police were conspiring to try to scare or provoke him.

37. The Complaints Commission's investigators interviewed MCpl Jolliffe and determined that he did, in fact, telephone GB at his residence and leave a voice message. However, it was learned that MCpl Jolliffe was doing follow-up investigation on a complaint which originated in Petawawa and GB's name was provided as someone who might be able to provide some additional information to the investigator. MCpl Jolliffe simply wanted to speak to GB about a matter which was unrelated to the 22 Wing Military Police criminal investigation of the complainant and his actions were officially recorded as such.

38. I have concluded that neither MCpl Jolliffe nor the Military Police at CFB North Bay were conspiring to scare or provoke GB. This allegation is not substantiated.

ALLEGATION viii GB alleges that on October 1, 2005, PO2 Carr was rude to Mrs. B and her mother. This alleged inappropriate conduct happened when PO2 Carr went to the complainant's residence to arrest him.

39. The conduct giving rise to this allegation took place on October 1, 2005, when PO2 Carr and several other Military Police members went to GB's residence to arrest him for breach of undertaking, contrary to one of his March 17, 2005 release conditions. The

complainant indicates in his statement to the Complaints Commission's investigators that PO2 Carr was rude and unprofessional to his spouse and mother-in-law. GB confirmed, however, that he was not present at the time and he did not personally witness the events in question; this allegation was a result of what he had been told by his spouse.

40. GB's spouse was interviewed by the Complaints Commission's investigators in order to give her the opportunity to provide some specific details and clarification about PO2 Carr's alleged unprofessional conduct. After some discussion with the Complaints Commission's investigators about the manner in which PO2 Carr treated she and her mother, Mrs. B felt that she had incorrectly characterized PO2 Carr's verbal interaction with them to her husband. Upon reflection, Mrs. B clarified that what she was trying to convey was that PO2 Carr's manner was curt and very business-like. She indicated that PO2 Carr never made any disparaging or improper comments to her or her mother. Mrs. B agreed that when she referred to PO2 Carr as being "rude", what she really meant to imply was that his manner was somewhat abrupt and to the point.

41. Based on Mrs. B's clarification of her meaning, this allegation is not substantiated.

ALLEGATION ix GB alleges that whenever he requested information or clarification on certain matters from the Military Police, he was either ignored or told to go through his chain of command.

42. The results of the Complaints Commission's investigation would suggest that GB's allegation that requests for information and/or clarification were either ignored or he was referred to his chain of command is somewhat overstated. For example, in relation to questions concerning the conditions of release following the March 17, 2005 charges, especially with regard to the 100 metre restriction, this investigation confirmed that GB was provided with information as to how he could seek a variance of those conditions in the documentation he received with his Promise to Appear and from Military Police members who had consulted Capt Waller. It was made clear that GB, himself, had to take the initiative to get the conditions amended and, notwithstanding that the Military Police provided GB with the correct information, he chose not to seek a

variance to his release conditions. In addition, on October 24, 2005, GB requested, through his chain of command, the justification for the Military Police using a civilian court versus military court to pursue the harassment allegations. On October 26, 2005, Capt Waller wrote a full response to GB's question as to why the civilian process was selected. GB's attending officer, MWO C, confirmed that he provided the complainant with a copy of Capt Waller's response.

43. The Complaints Commission's investigation did reveal that on September 28, 2005, GB sent an email to PO2 Carr. This email contained some information concerning the misuse of a DND vehicle by an unidentified Military Police member (unauthorized use for lunch break). On September 30, 2005, GB sent a follow-up e-mail to PO2 Carr in which he asked about the unauthorized use of the DND vehicle. In addition, in his follow-up email, GB complained that DT was going out of his way to travel a route which brought DT within 100 meters of the complainant. GB, in his second email also alleged that SC had been telling her sister that he had been stalking her. There is no record that the complainant ever received a direct response from PO2 Carr. Given that PO2 Carr declined to be interviewed, the handling of the two emails sent to him by GB could not be directly clarified by the Complaints Commission's investigators.

44. However, Capt Waller did verify that the 22 Wing Military Police had received information from GB that a Military Police member had misused a DND vehicle. Capt Waller also confirmed that the information contained in GB's email was passed up the chain of command to be reviewed and assessed. Capt Waller saw to it that immediate corrective action was taken and considered the matter to be closed. Capt Waller informed the Complaints Commission's investigators that he would not have sent a response to an issue such as the one reported by GB. I accept Capt Waller's confirmation that the information in the first email (misuse of DND vehicle) received from GB was fully addressed by the Military Police chain of command. Without an opportunity to question PO2 Carr, I cannot speculate as to what may have happened to GB's second email; however, like Capt Waller, I do not consider that such emails necessitated a response.

45. The Complaints Commission's investigation did not uncover any pattern of behaviour which would suggest that members of 22 Wing Military Police were deliberately ignoring requests for information or clarification from GB. I do not consider Capt Waller's decision not to respond to the complainant's first email as an attempt to withhold information from GB. Capt Waller simply made a managerial decision that a response was not required, in this case. On a balance of probabilities, I conclude that the available evidence obtained by the Complaints Commission's investigators does not support GB's allegation that the Military Police chain of command was failing to respond to questions and concerns raised by the complainant. This allegation is not substantiated.

ALLEGATION x GB claims that a great deal of favouritism was shown towards SC by members of the Military Police during the course of their investigation.

46. Simply put, the Complaints Commission's investigation did not find any evidence, whatsoever, that the Military Police investigation showed any favouritism toward SC, nor did the complainant provide any tangible examples of what he meant by "a great deal of favouritism" being shown toward SC. It would not be reasonable to conclude that simply because there may have been personal friendships between some Military Police members and some members of the kitchen staff, as suggested by GB, that the criminal harassment investigation was, in any way, tainted or compromised. There is no evidence to support the complainant's allegation that the Military Police members were unfairly biased against him, that they acted in bad faith or otherwise had any improper motivation in this investigation. This allegation is not substantiated.

ALLEGATION xi The Military Police failed to adequately explain why they opted for civilian court proceedings instead of a court martial in order to address GB's conduct.

47. As noted in paragraph 42 above, on October 26, 2005, Capt Waller did GB the courtesy of preparing a lengthy response to his request for clarification, outlining the reasons why some cases are pursued in a civilian court instead of by court martial. As

previously stated, a copy of Capt Waller's response was provided to GB by the attending officer, MWO C. This allegation from GB is not substantiated

Finding # 1: The Chair finds that none of GB's allegations are substantiated and his complaint concerning the conduct of military police personnel is, accordingly, not founded.

48. During the course of the Complaints Commission's inquiry into GB's complaint, several observations were made which, although not relevant to the substance of the complaint or the cause of any harm to the complainant, warrant mention in regards to professional and systemic practices.

49. As noted above, on July 9, 2005, the Military Police were investigating a case of wilful damage (broken window) to the home of DT (GO File 2005-23567). Enquiries in the neighbourhood revealed a suspect, who closely matched a description of GB, leaving the scene. In an attempt to confirm/eliminate GB as the suspect in question, the eyewitness was only shown a single photograph of GB by the investigator. Although the neighbour could not positively identify GB from the photograph, she indicated that the person she saw leaving the scene was similar in appearance to the person in the photograph. The investigator should have utilized a proper photograph line-up, with photographs of several persons similar in appearance to GB but, he was seemingly unaware of or trained in the proper procedures. The failure to use a proper photograph line-up was a contributing factor in this case to no charges being laid.

50. In an interview with GB on July 18, 2005, during which he was being questioned about several suspected breaches of undertaking (GO File 2005-23780), the investigator drew a map to help the accused better understand the 100 metre restriction (one of the conditions of his release). This hand-drawn map formed part of the statement material and should have been placed on the appropriate investigation file. However, the document could not be located and is presumed either lost or discarded by the investigators. The investigators should have realized that the document was an important part of the accused's statement and care should have been taken to safe-guard it. If the

breach of undertaking charges had been contested by GB (which they were not), failure to produce the hand-drawn map could very well have had negative impact on some of these charges.

51. Again, flowing from this same interview of GB on July 18, 2005, a review of the SAMPIS entries made by one of the Military Police investigators revealed a serious discrepancy between two key SAMPIS entries and what was written or, more correctly, not written in the investigator's notebook. The following entries were made in SAMPIS, but there is no written entry in the investigator's notebook which had been provided as part of the disclosure in this case. It is noteworthy that this investigator was designated as the primary note-taker during this 2-hour interview of the accused, yet the notebook entries only amount to a total of two pages. The SAMPIS entries which do not appear in the investigator's notebook are as follows:

“...had knowledge of the damage and the type of force used. [GB] knew that a window had been damaged by a marble.”

“[GB] admitted to being at the Junior Ranks' mess at or about 8 May 05, for the purpose of consuming alcohol, and did in fact consume alcohol.”

Not only were these entries not reflected in the investigator's notebook, the first entry appears to be an incorrect report of what was actually said during the interview of GB. The first entry refers to the fact that GB knew that the damage to the window of the SC/DT residence was caused by a “marble”. However, a review of the interview tapes, confirmed that no mention was ever made, either by the primary investigator or the suspect, of what kind of object caused the damage to this window. The information contained in the second SAMPIS entry, although not recorded in the investigator's notebook, formed a basis for the additional breach of conditions charges (distance restriction and alcohol use). If these particular breach of undertaking charges had been contested by GB, which they were not, any possibility of obtaining a conviction in relation to these charges could have been seriously compromised.

Finding # 2: **The Chair finds that the Military Police investigators made investigative errors during the conduct of their criminal**

investigation of GB which may be of systemic origin; that is, training related.

Recommendation # 1: **The Chair recommends that the Canadian Forces Provost Marshal ensure that the investigative shortcomings identified be addressed through remedial training, additional training, or ongoing training as may be appropriate.**

52. The Complaints Commission's investigation revealed that there were instances when supervisors were not using SAMPIS to its fullest extent to record their supervisor input into the investigation. There is no doubt that the Military Police chain of command was closely monitoring the criminal investigation in the instant case; this was commendable. Frequently, however, supervisory notes, guidance, advice and direction were not entered into SAMPIS, thereby making it difficult to determine, after the fact, exactly what supervisory interventions took place. Supervisors appear to frequently rely upon a system of administrative notes or non-recorded verbal instructions to communicate their advice and guidance which is not in accordance with best practices.

Finding # 3: **The Chair finds that in respect of the criminal investigation in the conduct of GB, 22 Wing Military Police supervisory personnel were not inputting all of their guidance, direction, and advice into SAMPIS.**

53. The proper use of SAMPIS by supervisors has been a recurrent theme in recent Complaints Commission reports. I again acknowledge that SAMPIS was still somewhat new during the period of this investigation. In the interim, there have been improvements to the system and instructions regarding proper usage by supervisory personnel. Accordingly, I will not make a recommendation for action in this instance.

V. SUMMARY OF FINDINGS AND RECOMMENDATION

Finding # 1: **The Chair finds that none of GB's allegations are substantiated and his complaint concerning the conduct of military police personnel is, accordingly, not founded. (ACCEPTED)**

Finding # 2: **The Chair finds that the Military Police investigators made fundamental investigative errors during the conduct of their criminal investigation of GB which may be of systemic origin; that is training related. (ACCEPTED)**

Finding # 3: **The Chair finds that in respect of the criminal investigation in the conduct of GB, 22 Wing Military Police supervisory personnel were not inputting all of their guidance, direction, and advice into SAMPIS. (ACCEPTED)**

Recommendation # 1: **The Chair recommends that the Canadian Forces Provost Marshal ensure that the investigative shortcomings identified be addressed through remedial training, additional training, or ongoing training as may be appropriate. (ACCEPTED)**

Ottawa, March 28, 2007

Peter A. Tinsley
Chair