

## 7.1 THE NOTICE OF ACTION

### Introduction

1. The text of the Notice of Action raises a number of concerns. In the limited number of instances where direct responses are given and reasons are provided for rejecting recommendations, the reasons suggest a failure to recognize the seriousness of the deficiencies identified in the Interim Report or a failure to understand the very nature of the issues to be addressed. Many of the responses nominally accepting the recommendations, as well as the few substantive comments made about the Commission's findings, further confirm a general failure to acknowledge or even recognize what went wrong in this case.
2. The responses included in the Notice of Action often fail to address the issues. They avoid providing direct or clearly discernable answers. The numerous non-committal responses to both the recommendations and the findings provide no information about whether and how the issues will be addressed. Even responses directly rejecting the recommendations generally provide little information about anything the Military Police might do instead to address the issues. The Notice of Action includes various statements indicating issues raised in the Report are being taken seriously and will be addressed, while at the same time providing practically no commitment to any meaningful substantive action to address them.
3. On the whole, the Notice of Action provided by the Military Police leaves the Commission and the Minister of National Defence (MND), as well as the parties and the public (assuming they are eventually allowed to see the Notice of Action), largely without meaningful answers. Instead, the Commission is left with many of the same concerns expressed in the Interim Report and, in some cases, with even greater concerns.

## **The Rejected Recommendations**

4. The Notice of Action reproduces each of the Commission's 46 recommendations, and adds the Military Police's response to each. None of these responses indicate directly whether the recommendation is "accepted" or "rejected."<sup>1</sup> The majority of the responses reject the recommendations indirectly, by indicating they will be considered but not stating what will be done about them.<sup>2</sup> A few of the responses express this rejection in more or less direct terms by taking issue with the substance of the recommendations and indicating, albeit generally without using the actual words, that the recommendations will not be implemented.<sup>3</sup> These more direct rejections relate to many of the Commission's most important substantive recommendations and to all but one of the recommendations related to police independence.<sup>4</sup>

5. The reasons provided for these rejections raise a number of concerns. They either ignore the factual issues that made the recommendations necessary in the first place, or display a lack of concern or understanding for those issues.

### **ACQUIRING SUFFICIENT EXPERIENCE TO CONDUCT SUDDEN DEATH INVESTIGATIONS**

6. The Commission found numerous serious deficiencies in the conduct of the 2008 sudden death investigation in this case. There were serious flaws in the investigation from the very beginning, when the scene of Cpl Langridge's death was processed with no clear understanding of the evidence to be gathered, right to the end, when reaching what can only be described as obvious conclusions was greatly and unnecessarily delayed because of an inadequate understanding of what was necessary to rule out foul play.<sup>5</sup>

7. There were serious problems at every intervening step. The investigation lacked a coherent plan and was poorly supervised. The requirements for conducting warrantless searches and seizures were not understood. Important witnesses were not interviewed. Cpl Langridge's suicide note was not disclosed and was eventually forgotten. There was no information provided to the family about the investigation, and no steps were taken to return the exhibits seized until the Detachment was contacted by a third party months after the file was closed.<sup>6</sup>

8. The Commission concluded these deficiencies were largely due to the lack of adequate experience of the CFNIS in the conduct of domestic sudden death investigations.<sup>7</sup>

9. As a result, the Commission recommended sudden death investigations on defence property be led by experienced civilian police investigators until CFNIS members acquire sufficient field experience through secondments with civilian police forces.<sup>8</sup> The Commission's recommendations specified that acquiring sufficient field experience would require active and significant involvement in a minimum of 15 sudden death investigations.<sup>9</sup> The Commission did not make these recommendations lightly. The Commission was aware these steps were significant, and would require significant adjustments on the part of the Military Police. However, based on the evidence, the Commission concluded these steps were the only reasonable way to address the issues and prevent a recurrence of the deficiencies observed in the 2008 investigation.

10. In the Notice of Action, the Military Police rejects all of the Commission's recommendations on the conduct of sudden death investigations. The Notice of Action states clearly the Military Police will continue to conduct sudden investigations on defence property.<sup>10</sup> The Military Police indicates it will amend policies and "*where required*" will put in place protocols to allow the involvement of civilian police investigators in support of sudden death investigations on defence property. However, and crucially, contrary to what was recommended by the Commission, the involvement contemplated will not permit their assignment as lead investigators in those cases.<sup>11</sup> In terms of the secondments recommended by the Commission so as to allow CFNIS members to gain the necessary field experience, the Notice of Action does indicate agreement, in general terms, to seek more positions to allow secondment to civilian police forces.<sup>12</sup> However, the Military Police does not appear to recognize such secondments as necessary for its members to gain sufficient experience in the conduct of sudden death investigations. Instead, it commits to carrying out consultations and leveraging partnerships with other forces "to determine what additional opportunities *may be available* for CFNIS investigators to gain sufficient experience in sudden death investigations to qualify as lead investigators."<sup>13</sup>

11. The Military Police also rejects the Commission's recommendation as to what constitutes sufficient field experience to qualify as a lead investigator in sudden death cases, instead indicating it will determine and implement "best practices with respect to necessary qualifications [...], subject to the exigencies of the service, to ensure that policing duties and functions are performed that meet the standards required of policing in Canada."<sup>14</sup> The Notice of Action does not even provide a general commitment to seek assistance from other police forces in sudden death cases, indicating only that assistance from experienced civilian police investigators, including the Military Police's embedded RCMP Inspector, will be sought "where required if sufficiently experienced [MP] investigators are unavailable."<sup>15</sup>

12. There is only one reason given for rejecting the recommendations. It is listed several times in the Notice of Action, both in response to the factual findings of deficiencies in the sudden death investigation and in response to the recommendations themselves. In response to the findings, the Military Police indicates it acknowledges the "*relative inexperience*" of the members who conducted and supervised the investigation in this case, but adds: "However, since 2008, the CFNIS has gained considerable experience with investigating sudden deaths with 173 investigations done by MP including 74 overseas."<sup>16</sup> In the response to Recommendation 3, the Notice of Action in essence repeats this formula, but with an unexplained difference in the statistics cited, stating: "Since 2008, MP have gained significant experience through the investigation of *178 sudden deaths* occurring within their jurisdiction."<sup>17</sup>

13. As the Military Police considers the CFNIS' sudden death investigation experience to be sufficient at this time, it sees no need to implement immediate measures to increase this experience, and will not allow investigators from other police forces to act as lead investigators for the sudden death investigations within its jurisdiction. No specific reasons are provided for rejecting the Commission's recommendation as to the experience necessary for CFNIS members to qualify as lead investigators in sudden death cases.

14. The additional experience gained since 2008, which the Notice of Action describes as "considerable"<sup>18</sup> and "significant"<sup>19</sup>, does nothing to allay the concerns that made the

Commission's recommendations necessary in the first place. The actual experience the Military Police is said to have gained in the interim period, on examination, proves to be extremely limited in real terms. It cannot be sufficient to provide any assurances the MP members have sufficient field experience to qualify as lead investigators in sudden death cases. In fact, the experience the Military Police states it has gained amounts to the equivalent of less than two weeks of work by the section of the Edmonton Police Service (EPS) in charge of investigating sudden deaths, performed each year by all CFNIS Detachments across Canada combined.

15. According to the Notice of Action, of the 173 sudden death investigations conducted by the CFNIS since 2008, only 99 were not overseas.<sup>20</sup> Experience conducting investigations into battlefield deaths is significantly different from, and does not constitute adequate preparation for, the conduct of domestic sudden death investigations.<sup>21</sup> The total experience gained by the CFNIS in the conduct of domestic sudden death investigations over six years therefore amounts to less than 17 cases per year, divided across the different detachments. By comparison, the evidence before the Commission has shown the EPS alone investigates one to two sudden deaths each day.<sup>22</sup> In one week alone, the EPS would often investigate nearly as many sudden deaths as all of the CFNIS detachments in Canada combined would investigate in one year. Therefore, any one of the roughly 120 CFNIS investigators<sup>23</sup> would be in the exceptional minority should he or she investigate even one sudden death case per year. At this rate, it will still be many years before most CFNIS investigators gain the active and significant experience in 15 sudden death investigations recommended by the Commission as the minimum requirement,<sup>24</sup> and many decades before they gain experience equivalent to that of even fairly junior investigators from civilian police forces working in large urban centers. As such, it is difficult to understand how the limited additional experience acquired by the Military Police since 2008 could be viewed as sufficient reason for rejecting the Commission's recommendations.

16. Based on the evidence heard in this Hearing, there are serious reasons to doubt any additional experience gained by the Military Police has as yet had an impact in terms of identifying the deficiencies noted in the conduct of the 2008 sudden death investigation or of preventing their recurrence. Despite any additional experience gained in the interim, the

CFNIS witnesses who testified at the Hearing in 2012 were still in the dark about the most important problems with the 2008 sudden death investigation.<sup>25</sup> Instead, they agreed with the conclusion reached following a 2009 Quality Assurance review that the investigation was “technically sound.”<sup>26</sup> It is clear from the testimony of the CFNIS witnesses, including those in supervisory and leadership positions, that the glaring deficiencies in the 2008 sudden death investigation conducted in this case had not been recognized by the CFNIS, its members or its chain of command by the time this Hearing was held in 2012.<sup>27</sup> The limited additional experience gained within the organization by 2012 was not sufficient to allow its members to recognize and address the issues. It is doubtful two more years of experience, amounting to a little over 30 cases divided among all Detachments and members, would make a significant difference in this respect, when the previous four years, involving a little under 70 cases conducted, did not.

17. The Notice of Action provides no indication the deficiencies in the investigation have been recognized or specifically addressed. The responses to the findings do acknowledge the Commission’s conclusion that the serious deficiencies in the investigation mostly resulted from the lack of experience of the members who conducted and supervised it.<sup>28</sup> However, the responses fall short of acknowledging the actual deficiencies identified, or the more generalized failure of the CFNIS as an organization to recognize and address those deficiencies prior to the date of the Hearing being held.<sup>29</sup>

18. The responses display a reluctance on the part of the Military Police to seek assistance from other police forces. Having indicated clearly that civilian police investigators will not be called on to lead sudden death investigations on defence establishment property under any circumstances, the Notice of Action goes on to stress that even when it comes to seeking assistance from civilian police, the Military Police will retain for itself the discretion as to when to seek support and from whom. In the response to Recommendation 3, the Military Police states “experienced federal, provincial or municipal police investigators, including our embedded RCMP Inspector, will be consulted **where required** if sufficiently experienced investigators are unavailable.”<sup>30</sup> In rejecting the recommendation to put in place protocols to have civilian police lead sudden death investigations until the CFNIS acquires sufficient experience, the Military Police does

agree to pursue protocols to secure the agreement of civilian police forces to “provide support to MP for the investigation of sudden deaths,” but specifies these protocols will only be sought, “where required.”<sup>31</sup>

19. The fact that there are cases where sufficiently experienced Military Police members will not be available, and that in such cases the Military Police still intends to have these members lead the investigation, albeit with the assistance of civilian police, is extremely concerning. The Commission’s recommendation to have civilian police investigators lead the investigations until the Military Police gains sufficient experience was rejected based on a claim that the experience has now been gained. No explanation is provided in the Notice of Action as to why, in cases where such experience is not present, the Military Police will only agree to seek assistance and not to allow other, more experienced police members to lead the investigation. The apparent intention to continue conducting sudden death investigations even where sufficiently experienced MP investigators are not available, seems the ultimate demonstration of lack of recognition by the Military Police of the Commission’s findings about what can (and did) happen when inexperienced investigators and supervisors are put in charge of a complex investigation.

20. The insistence on not seeking assistance in all cases is also surprising. Whatever view one may take as to the sufficiency of the experience acquired by the Military Police, it is clear that in all but the rarest of circumstances, civilian police agencies would have far more experience. As such, it is difficult to understand why the Military Police would not wish to ensure its members are able to benefit from this assistance and mentorship in as many cases as possible. Instead, the Military Police indicates assistance will be sought only in cases where sufficiently experienced Military Police investigators are not available.<sup>32</sup> The manner in which the sufficiency of the experience will be determined is not revealed in the Notice of Action, as it is stated it will be determined based on future research into best practices and policing standards.<sup>33</sup>

21. Relying on Military Police members who may themselves lack sufficient experience to determine whether and when to seek assistance is also problematic. In this case, the CFNIS had available an embedded RCMP Inspector at the time of the sudden

death investigation. Significantly, he was not consulted by any of the investigators or their superiors.<sup>34</sup> Not surprisingly, those who lacked the experience to conduct the investigation also lacked the ability to recognize their own need for guidance. Indeed, as the Commission has found in this Report, it is not reasonable to expect inexperienced members to be able to recognize their own shortcomings or needs.<sup>35</sup> Yet, based on the responses in the Notice of Action, it appears this is precisely what the Military Police intends to do, leaving it yet again in the hands of members with limited experience to determine whether and when it will be advisable or necessary to seek guidance from outside investigators with more experience.

22. On the whole, the evident unwillingness to seek meaningful assistance and involvement from other police forces that do have the necessary substantive experience can be seen to indicate a disregard for the seriousness of the issues observed in this case. Similarly, the rejection of the Commission's recommendations on the basis that sufficient experience now exists, when the additional experience is very limited, leaves open the question whether the Military Police in fact understands or appreciates the nature and seriousness of the deficiencies identified during this Hearing.

#### **MAINTAINING SEPARATION BETWEEN THE CAF AND THE MP IN MEDIA RELATIONS MATTERS**

23. The Notice of Action rejects the Commission's findings and recommendations on media relations matters affecting both the Canadian Armed Forces and the Military Police.<sup>36</sup>

24. The first recommendation on this issue appears, to a certain extent, to be accepted in principle. The Commission recommended providing policy guidance to MP members with respect to media and public relations practices, in order to safeguard both the fact and the perception of police independence.<sup>37</sup> In the response, the Notice of Action states as part of the ongoing review of MP policies, the relevant order will be reviewed, and the Military Police will then "consider the wording and spirit of the Commission's recommendation in order to safeguard both the fact and the perception of police independence."<sup>38</sup> Since the recommendation was general in nature, and simply called for

policy guidance to be provided, it may appear it was accepted: the Military Police does have an Order related to these matters and plans to review it, keeping in mind the principles mentioned in the Commission's recommendation.

25. However, the earlier text in the same response, referring to the coordination of media relations matters and citing a number of existing policies that do not address the Commission's concerns,<sup>39</sup> appears to indicate that, despite the expression of agreement in principle, the Military Police does not in fact accept or share the Commission's concerns about the impact of media relations practices on police independence. These are the very concerns that brought about this recommendation. Further, in other responses, the Military Police rejects all of the recommendations about specific content to be included in the policies and protocols on media relations.<sup>40</sup> As such, the totality of the responses in the Notice of Action show that both the text and the intent or "spirit" of the Commission's recommendations on this topic are being directly rejected by the Military Police. Only the principle that policy guidance should be provided appears to be accepted, but the substantive reasons why the policy guidance is thought to be necessary, and the substantive content of what that guidance should be, are clearly rejected.

26. The reasons provided for this rejection raise several concerns. Taken together, they lead to the conclusion the Military Police either misunderstands the requirements for police independence or does not fully appreciate the importance of taking all steps necessary to protect and demonstrate its independence.

27. The responses draw a distinction between the Military Police's independence when it comes to the conduct of investigations, and the Military Police's status as just another unit of the CAF for all other matters.<sup>41</sup> The Notice of Action states:

The CFNIS conducts its policing duties and functions independent of the Chain of Command with its own integral CF PAFFO [Public Affairs Officer] support that releases police information on the sole authority of the CFPM. It must be noted however, that **the CFMP Gp is organized as a unit of the wider Canadian Armed Forces and not a police force governed by its own Police Act. It is subject to the same policies and administrative procedures as any other unit in the CAF and therefore all non-police related comments and communications approaches must be processed in coordination with the wider CAF.**<sup>42</sup> [Emphasis added]

28. The responses also refer to a list of existing policies provided to all Military Police members on the issue of media and public relations practices.<sup>43</sup> The list specifically refers to a CAF Order stating Public Affairs is a responsibility of the CAF and DND Chain of Command.<sup>44</sup>

29. This approach fails to recognize the independence issues that arise when a police force is seen to deliver messages in common with the entity it is charged to investigate.<sup>45</sup> It was precisely these issues that were discussed in the Commission's Interim Report and that the recommendations sought to address.

30. The Notice of Action repeatedly insists on the fact the Military Police is solely responsible for preparing its own public affairs documents.<sup>46</sup> Based on the responses, it appears the Military Police considers this to be sufficient to address any issues related to police independence. However, as the Notice of Action itself makes clear, this arrangement still leaves open the possibility that the Military Police's messages will end up merged with CAF messages;<sup>47</sup> will be delivered by the CAF;<sup>48</sup> will contain CAF messages;<sup>49</sup> or will be prepared following consultation and coordination with the CAF – all of which will take place in a non-transparent way and without clear lines of authority.<sup>50</sup> The Commission has found all of these eventualities raise concerns in terms of fostering confidence in Military Police independence and hinder the Military Police's ability to maintain and demonstrate its independence.<sup>51</sup> Nevertheless, the Notice of Action expressly refuses to provide any commitment to avoid those practices.

31. The Notice of Action does not commit to the Military Police refraining from preparing joint media response lines with the CAF.<sup>52</sup> It does not commit to any measures to ensure Military Police messages and information are communicated only by Military Police representatives and not by the CAF.<sup>53</sup> It specifically states CAF messages can and will at times be included in MP statements<sup>54</sup> and that the Military Police at times will participate in joint statements with the CAF.<sup>55</sup> Although the Notice of Action does indicate the CFPM is "steadfast on the question and maintenance of police independence with respect to information relating to police investigations,"<sup>56</sup> the response does not commit to the Military Police in principle refraining from participating in joint statements with the

CAF about a specific investigation, but only states the CFPM will “not normally” participate in such statements.<sup>57</sup>

32. All of these responses amount to a rejection of any need for institutional separation of messages between the Military Police and the Canadian Armed Forces. The Military Police does not appear to understand the risks involved in failing to maintain such a separation and has made it clear it is not willing to take steps to address such risks.

33. The responses in the Notice of Action regarding issues of coordinated messaging raise similar concerns. They tend to indicate that when it comes to media relations, the goal of ensuring coherence of CAF-wide messages takes precedence over the goal of demonstrating Military Police independence. The Notice of Action repeatedly refers to the “close coordination” conducted with the CAF in media relations matters and, in particular, to the participation of the Military Police PAOs in daily CAF-wide coordination meetings, as a reason for rejecting the recommendations to establish policies and protocols to protect Military Police independence in media relations matters.<sup>58</sup> The fact all the PAOs would have the same awareness as a result of their coordination is not an answer to the issues raised regarding independence. To the contrary, it is precisely the sort of informal coordination cited with apparent approval in the Notice of Action that puts Military Police independence at risk.<sup>59</sup>

34. In this case, the Commission has found extensive consultation and coordination occurred at the PAO level.<sup>60</sup> Although in practice other CAF organizations tended in most cases to defer to the Military Police’s decisions about the release of its information, there was no official policy or framework formalizing this arrangement. This meant the ability of the Military Police to make decisions about its messages was not protected.<sup>61</sup> The existing informal process for consultation and coordination and its lack of transparency and official framework thus risked creating the impression the CAF was in control of the Military Police’s messages.<sup>62</sup> The Notice of Action does not refer to any formal policies, frameworks or protocols protecting the Military Police’s ability to make decisions about the release of its information. The list and the description of existing policies provided does not point to any policy formalizing the authority of the Military Police to make final

decisions about its messages and public statements.<sup>63</sup> Instead, the list includes reference to a policy indicating Public Affairs are the responsibility of the CAF and DND Chain of Command.<sup>64</sup> Nevertheless, the Military Police rejects the Commission's recommendation to establish protocols for consultation at a higher level and in a more transparent manner, citing the "robust media relations procedures already in place."<sup>65</sup>

#### **PROVIDING SEPARATE LEGAL REPRESENTATION FOR SUBJECTS OF A COMPLAINT**

35. The Notice of Action directly rejects the recommendation to enter into negotiations with appropriate Government officials to ensure Military Police members who are the subject of a complaint can be compensated for the cost of retaining independent legal counsel to represent them in Public Interest Hearings.<sup>66</sup>

36. This recommendation was made because of the issues that can arise when Government counsel jointly represent the subjects of the complaint and numerous other individuals and institutions connected with the CAF and with Government. The Commission has found this is problematic not only from a practical point of view, but equally from the perspective of protecting public confidence in the integrity of the PIH process by preserving the fairness and the appearance of fairness of the process, and by avoiding the appearance of conflicts of interest.<sup>67</sup>

37. In rejecting the recommendation, the Notice of Action simply states the Military Police is satisfied the current government policy meets its needs and notes the existing policy already features a process allowing private counsel to be requested and appointed "where warranted."<sup>68</sup> This response fails to address the Commission's concerns. Those concerns are precisely related to the operation of the existing policy, which requires the subjects of the complaint to either accept representation by DOJ counsel paid for by the Government, or object and go through a long and arduous process for obtaining independent representation, with the final decision as to whether the cost will be covered remaining in the hands of the Government.<sup>69</sup> As such, the reasons provided for rejecting the recommendation are not satisfactory and fail entirely to address the concerns about the impact of the existing policies on the PIH process and on the subjects of complaints.

## WAIVING SOLICITOR-CLIENT PRIVILEGE

38. The Notice of Action rejects all of the Commission's recommendations related to the waiver of solicitor-client privilege in cases where privilege claims can compromise the Commission's access to relevant information and its ability to exercise its statutory oversight mandate.<sup>70</sup> Also rejected is the recommendation to delegate to the subjects of complaints the decision as to whether to waive or to claim privilege in instances where the privilege invoked relates to their own legal interests.<sup>71</sup>

39. The Commission recommended first that the Military Police support the establishment of an arrangement allowing the Commission to review potentially privileged materials while keeping them confidential, in order to allow the Commission to discharge its oversight mandate. In rejecting this recommendation, the Military Police refers to the National Defence Act provisions stipulating the Commission may not accept or receive evidence or information that would be inadmissible in a court of law by reason of any privilege under the law of evidence.<sup>72</sup> This rationale misses the point entirely. If there is a waiver of privilege, then by definition the evidence or information is no longer inadmissible by reason of privilege.

40. The Commission also recommended the Military Police make specific recommendations to the Minister of National Defence that, rather than invoking privilege on a blanket basis, the Minister consider potential claims of solicitor-client privilege related to information relevant to a PIH, on a case-by-case basis; that the Minister consider waiving privilege with respect to communications relevant to the subject matter of a PIH; and that the decision to claim or waive privilege, where the privilege relates to the legal interests of the subjects of a complaint, be delegated to the subjects. In rejecting all of these recommendations, the Military Police simply states "the Commission is always able to make a request for waiver of solicitor client privilege to the Minister of National Defence on a case-by-case basis."<sup>73</sup>

41. The Commission's recommendations were made to address the concerns that arose in this case as a result of the broad and categorical claims of privilege made with regard to materials clearly relevant to the PIH process, including in respect of advice received by the

Military Police during the investigations at issue, as well as information available to the Military Police during the investigations about the advice received by the members whose conduct the Military Police was investigating.<sup>74</sup> The Commission noted, in particular, the subjects of complaints may themselves wish to waive privilege in order to explain their actions, particularly where the claims relate to advice they received during the investigations.<sup>75</sup> This would put Government counsel simultaneously representing the subjects as well as the CAF and the Minister in a difficult position.<sup>76</sup> Having requested a limited waiver from the Minister of some of the privilege claims, and having had this request categorically denied, the Commission therefore made recommendations to address these issues by encouraging a more specific, case-by-case consideration of privilege claims, rather than have the Minister continue to advance the sorts of blanket claims that were made in this case.<sup>77</sup>

42. The Military Police response to these recommendations does not address or acknowledge any of these concerns. Based on the responses in the Notice of Action, it does not appear the Military Police understands or is sensitive to the consequences of an unnecessary invocation of solicitor-client privilege on the ability of the Commission to discharge its mandate or to the fact that, in some cases, such claims of privilege will prejudice the interests of its own members who are the subjects of complaints.

43. In rejecting the recommendations relating to separate representation and waiver of solicitor-client privilege, the Military Police also appears to reject the need for additional safeguards to ensure the broader interests of the CAF or DND do not take precedence over the interests of its individual MP members. This, like the rejection of the recommendations related to media relations and to the use of CAF administrative investigations by the MP,<sup>78</sup> raises concerns about the Military Police's understanding of the importance of fostering confidence in its independence and about its willingness to take steps to achieve this.

#### **INVESTIGATING NEGLIGENCE-RELATED ISSUES SEPARATELY**

44. Another rejected recommendation – although the rejection is less directly stated – relates to the creation, in cases of sudden death, of a separate investigative file to investigate the possibility of criminal or service charges, particularly those related to

negligence, where circumstances surrounding the death give rise to the possibility of such charges.<sup>79</sup>

45. The Commission made this recommendation because of the failure to separate the sudden death investigation from the investigation of possible criminal or service offences, which may have been a factor that contributed to the confusion and inadequacy of the limited investigation conducted into the suicide watch issue during the 2008 sudden death investigation.<sup>80</sup> This recommendation was also inspired by the testimony of the Military Police members themselves. All of the MP witnesses who discussed this issue, including two former and one current (at the time of testimony) CFNIS Commanding Officers, unanimously testified it would have been the “best practice” or at least preferable to investigate potential service or other offences separately from the sudden death investigation itself and that a separate General Occurrence (GO) file should have been opened to investigate the suicide watch issue, had an investigation of the issue been deemed necessary.<sup>81</sup>

46. In light of this evidence, the response included in the Notice of Action is surprising. It states where circumstances surrounding a sudden death give rise to the possibility of criminal or service charges, “such matters are generally investigated together under one GO file.”<sup>82</sup> It then adds the Military Police will liaise with civilian police to develop an order “that is reflective of best practice” in this respect.<sup>83</sup> The Notice of Action contains no information explaining why the general practice described is different from what CFNIS witnesses described, during their testimony before the Commission in 2012, as the preferable or best practice. There is also no information about any inquiries made into what the “best practice” actually is, and whether it differs from what the Military Police witnesses stated it is when they testified in 2012.

#### **CONFIRMING ALLEGATIONS WITH COMPLAINANTS**

47. A further recommendation directly rejected in the Notice of Action relates to the importance of ensuring allegations are properly understood.<sup>84</sup> The Commission recommended the CFPM direct complex allegations or complaints be specifically reviewed with the complainant by the MP investigator, and that the investigator verify with the

complainant whether a complaint is being made and what it is about. In rejecting this recommendation, the Notice of Action states the CFPM is satisfied this is already covered as part of the basic investigator training.<sup>85</sup> The response adds MP members “are aware that complex allegations must be understood in order to adequately investigate complaints made to police.”<sup>86</sup> While it is to be hoped this is indeed the case, the response fails to acknowledge or recognize the Commission’s findings about the serious issues that arose in this case precisely as a result of a failure to understand allegations.

48. The Commission has found the MP members involved in the 2009 investigation failed to investigate the central issue requiring investigation because they did not properly identify and understand the allegations.<sup>87</sup> This led to numerous deficiencies in the investigation and to an ultimate failure to answer the actual question brought to the Military Police for investigation.<sup>88</sup> The Notice of Action contains no indication these deficiencies are acknowledged,<sup>89</sup> and the response to the Commission’s recommendation for a specific direction to be given about this matter provides no explanation as to why, if this is already well understood by all MP members, the unfortunate failures observed in the 2009 investigation could nevertheless occur without any of the investigators or supervisors involved taking steps to clarify the allegations.

## **Recommendations Nominally Accepted**

49. While the Notice of Action does not clearly state whether each recommendation is accepted or rejected, the comments included appear to indicate that approximately 30% of the recommendations are in fact being accepted. However, it is notable that only half of the responses appearing to accept the recommendations do so without qualification and without raising additional issues. The recommendations accepted without apparent qualification generally relate to minor, technical or obvious steps.<sup>90</sup> Only one refers to a general principle, indicating agreement with the idea that the revision of suicide note policies should include a focus on any apparent wishes of the deceased that may need to be disclosed to the family or other appropriate persons before the funeral.<sup>91</sup> However, even this is only a commitment to consider the principle as part of the ongoing review of

policies, and it is not accompanied by any commitment in the other responses as to specific steps, even very basic ones, to be taken to put the principle into effect. The Notice of Action does not indicate whether the Military Police agrees with any of the recommendations made by the Commission about the content of the suicide notes policies,<sup>92</sup> even such basic recommendations as adopting policies favouring early disclosure of the contents of suicide notes unless a compelling reason not to do so exists.<sup>93</sup>

50. This leaves only one positive response on a point of substance. The recommendation to enter into immediate discussions to ensure the Military Police assumes responsibility to make decisions about the disclosure of its information pursuant to the ATIP process appears to be accepted at least in principle, albeit the response remains somewhat non-committal, stating the Military Police will “explore the feasibility” of obtaining these delegated powers.<sup>94</sup>

51. The other responses nominally accepting the recommendations raise concerns, in some cases quite serious ones, in that they point to a failure to acknowledge the deficiencies identified in the findings, or they fail to provide an unqualified, complete or clear answer.

#### **FAILURE TO ACKNOWLEDGE DEFICIENCIES**

52. Many of the responses nominally accepting the Commission’s recommendations state that policies, training or practices recommended by the Commission were already in place and will continue to be applied<sup>95</sup> or, even more problematically, that it is already the policy to take the recommended action “*where appropriate.*”<sup>96</sup> No explanation is provided as to why or how the serious failures observed in this case could still have occurred, if it were indeed the case the recommended remedial policies, training or practices were already in place, nor is there any indication of any additional measures intended to be put in place to prevent recurrence.

53. In some cases, these troubling responses relate to particularly egregious failures, such as the failure to provide updates and information to the Fynes during the 2009 and 2010 investigations. The Commission found the MP members involved in these

investigations and, in particular, the Officer Commanding the CFNIS Detachment, failed to provide the basic updates and information the Fynes were entitled to receive, instead leaving the Fynes without contact or information for weeks and months at a time, with no reasonable explanation or justification being provided for this failure.<sup>97</sup> The Commission thus recommended that, in addition to the briefings specifically provided for in the Sudden Death SOP, the CFNIS provide ongoing contact, information and services for the family of the deceased in death investigations and for complainants in other investigations, and that contact and services be at least at the same level as services provided to victims pursuant to applicable victim services policies.<sup>98</sup>

54. In response to this recommendation, the Notice of Action states “it will remain CFNIS policy that, **where appropriate**, the CFNIS will provide ongoing contact, information and services for the family of the deceased in death investigations and for complainants in other investigations pursuant to applicable victim services policies.”<sup>99</sup> The response contains no acknowledgement of the fact this policy was not followed at all in this case. The response to the related finding also contains no such acknowledgment.<sup>100</sup> By indicating the ongoing information and contact are provided “where appropriate”, and by not commenting on what happened in this case, the response to the recommendation leaves a troubling uncertainty as to whether the CFNIS’ interactions with the Fynes in this case were in fact considered “appropriate”. If this was not the message the Military Police intended to convey, and if the response to the Commission’s findings and recommendations on this important issue was simply meant to indicate no change in policy is necessary because the appropriate policies are already in place, the response should also, at a minimum, have contained an acknowledgment that the interactions with the Fynes in this case do not represent the conduct expected of MP members.

55. Similarly, the response to the Commission’s recommendations about training to ensure the required knowledge on the part of MP members about the law of search and seizure, and especially about the need to obtain search warrants, was surprising in light of the evidence in this case. The Commission has found the members involved in the 2008 investigation demonstrated a flagrant lack of understanding of the most basic legal requirements pertaining to search and seizure.<sup>101</sup> Alarmed by this clear evidence of

incomplete or defective understanding of the law of search and seizure, the Commission recommended mandatory training for MP members with respect to police powers of search and seizure and, in particular, the circumstances when warrantless searches can be conducted. In response to all of these recommendations, the Notice of Action states the CFPM is “satisfied that all MP trained at the Academy already receive this training.”<sup>102</sup> This response does not address the serious failures observed in this case. The response also adds that MP members “have access to legal advice in the field with respect to police powers of search and seizure.”<sup>103</sup> Since the MP members involved in this case did not seek legal advice as they apparently did not recognize it would have been needed, this also does nothing to address the issues outlined in the Commission’s Report.

56. The deficiencies observed in this case cast doubt on whether the existing search and seizure training is adequate, or at a minimum indicate a serious need for refresher training. In light of the evidence clearly showing some members were unfamiliar with even basic requirements for conducting police searches, it is surprising there does not appear to be any great concern on the part of the Military Police leadership and that the Notice of Action does not provide any explanation of what action, if any, will be taken to address such deficiencies. The apparent lack of urgency about this matter does nothing to lessen the Commission’s alarm.

#### **QUALIFIED AND INCOMPLETE RESPONSES**

57. A few of the responses in the Notice of Action appear to accept the recommendations, but other responses show their substance is in fact rejected or accepted only in a limited or qualified manner. Hence, the first recommendation related to media relations matters appears, on its face, to be accepted, since the Military Police agrees to provide policy guidance in line with the principles in the Commission’s recommendation.<sup>104</sup> However, the remainder of the text in the response,<sup>105</sup> and the other responses on the same topic,<sup>106</sup> show this “acceptance” is more akin to a rejection, in that all of the specific recommendations about the content of the policy guidance are being directly rejected, and the very principles on which the Commission’s recommendations are based are directly challenged.<sup>107</sup>

58. Similarly, the responses to the Commission’s recommendations on the use of CAF administrative investigations by the Military Police purport to accept a general principle, but subsequent responses cast doubt on whether it is in fact accepted or, at a minimum, show that any acceptance is heavily qualified. In Recommendation 36, the Commission recommended policy guidance and training be provided to MP investigators on the challenges and pitfalls of utilizing materials from CAF administrative investigations. In response, the Notice of Action states that as part of the review of all MP policies carried out for the purpose of converting them into MP Orders, the Military Police will develop an order “to address the use of material from a concurrent administrative investigation.”<sup>108</sup> While the response does not address at all the recommendation to provide training on this topic,<sup>109</sup> the recommendation to provide policy guidance does appear to be accepted in principle. However, in subsequent responses, the Notice of Action rejects all recommendations on the specific content of the policy guidance to be provided, stating instead the Military Police will “consider best practices and the wording and spirit of the Commission’s recommendation” in devising its policies.<sup>110</sup> Further, the subsequent responses add an important qualification to the apparent commitment in the response to Recommendation 36 to develop an order on this topic, in that they state such an order or policy will be developed only “*if required*”.<sup>111</sup>

59. The response to Recommendation 7d is also incomplete. There, the Commission recommended putting into effect policies on supervision that would require supervisors to record in the investigative file any directions given with respect to the conduct of an investigation, including the reasons for those directions. The response states a new order will be developed and “will include a requirement that any directions given as oversight or supervision will be entered in SAMPIS.”<sup>112</sup> As such, the response clearly accepts one aspect of the recommendation. Notably, however, the response is silent as to whether the reasons for the directions will also be recorded in the file.

## Comments on the Findings

60. The responses to the Commission's findings included in the Notice of Action generally indicate simply that each finding is "noted", and do not state whether or not the finding is agreed with, nor what action will be taken about it.<sup>113</sup>

61. These responses add up to nothing more than an acknowledgment of receipt and as such are utterly devoid of content. Only one of the responses acknowledges the deficiencies identified and discusses measures taken to address them. In response to the finding that the CFNIS members failed to complete the 2009 and 2010 investigations within a reasonable time, the Notice of Action states: "the CFPM recognizes the importance of timely investigations. He has addressed timeliness of investigations in Commander's O-Groups and will continue to do so."<sup>114</sup>

62. Most of the other responses either include no comments on the substance of the finding,<sup>115</sup> or no comments at all beyond indicating the finding is noted.<sup>116</sup> A few of the responses include comments that address matters generally related to the topic at hand, but do not address the actual finding. A few other responses include comments that are more directly related to the finding, sometimes appearing to acknowledge some of the issues and other times appearing to debate the merits of the finding. These somewhat more substantive responses generally show the issues raised in the Commission's Report are still not understood, and even deficiencies that purport to be acknowledged have not in fact been addressed or even fully recognized.

### SIDESTEPPING THE ISSUES

63. In response to the finding of serious deficiencies in the 2009 investigation, including the "fundamental flaw" of failing to seek legal advice, the Notice of Action indicates it should be noted "the CFNIS has an embedded Legal Adviser and investigators are and will continue to be encouraged to seek legal advice where required."<sup>117</sup> This response does nothing to address the finding that in the course of the events under review, and in particular during the 2009 investigation, regardless of their potential access to legal

advice, the investigators and supervisors failed to seek such advice, since they were apparently unable to recognize issues or situations where it was obviously required.<sup>118</sup>

64. In another instance, the Commission found there was no evidence the Fynes were offered a common briefing about the CFNIS investigations and the BOI. However, the Commission noted this impression may have resulted from the fact the CFNIS agreed to communicate information to the Fynes through a member of the CAF, who was also providing information about other CAF processes and communicating the CAF's positions on other issues. This multiplicity of sources for the messages being communicated might have led to confusion about the specific role of the Military Police, a result that was problematic in terms of maintaining confidence in Military Police independence.<sup>119</sup> In response to this finding, the Notice of Action states: "The only source of information about CFNIS investigations is the CFNIS."<sup>120</sup> It then adds the CFNIS conducts its policing duties independently of the CAF Chain of Command and "all future family briefings will be conducted solely by MP."<sup>121</sup> This response articulates an appropriate principle, but it does not address the issues discussed in the finding. The family briefing in this case was in fact always intended to be conducted solely by the Military Police.<sup>122</sup> However, the CFNIS was not the only source of information about its investigations, since it agreed to communicate this information to the Fynes through a CAF member.<sup>123</sup> If the response included in the Notice of Action is meant to indicate such communication with complainants through the CAF will not happen again in the future, this is a welcome development. However, as formulated, the response does not indicate any recognition that what actually happened constituted a misguided approach, nor does it directly address the matters discussed in the finding.

65. Similarly, in response to the Commission's finding that the unqualified statement in the written briefing provided to the Fynes indicating the *National Defence Act* trumps all provincial law was inaccurate and that a legal opinion would have been necessary to clarify the situation, the Notice of Action states Military Police members "are trained at the MP Academy to recognize the interaction between federal and provincial laws," and adds the members "are and will continue to be encouraged to seek legal advice where required."<sup>124</sup> This response again does not address the actual finding. If anything, it tends to indicate the

deficiencies identified have not been acknowledged or perhaps have not been understood. If Military Police members are indeed trained to recognize the interaction between provincial and federal laws, the training has obviously proven to be inadequate in this case. It is of little comfort to learn MP members have access to legal advice where required, where the events in this case have demonstrated they may not be able to recognize when such advice is in fact required.

#### **FAILING TO ACKNOWLEDGE OR UNDERSTAND THE DEFICIENCIES**

66. The response to the finding about the shocking deficiencies in the way the suicide note was handled is a prime example of a response indicating the underlying issues are still not understood. In response to the Commission's finding about the failure to disclose the suicide note and about the inadequate manner in which the matter was subsequently handled, the Notice of Action provides an acknowledgment of sorts with respect to at least some of the issues, indicating "the CFPM recognizes the importance of providing the suicide note to the family."<sup>125</sup> However, the response then proceeds to refer back to the responses to the recommendations related to the return of exhibits, which simply state the recommendations will be considered.<sup>126</sup> It contains no comments or acknowledgment whatsoever about the deficiencies specifically identified in the finding as to how the suicide note issue was handled after the initial failure to disclose the note was discovered.

67. In a subsequent response, the Notice of Action states policies related to suicide notes will be revised and "will provide greater clarity for distribution of suicide notes in *non-criminal cases*."<sup>127</sup> This qualifier is troubling in the extreme. Many of the issues underlying the disastrous way the suicide note was handled in this case are rooted precisely in the investigators' and their superiors' difficulty in recognizing what constitutes a "*non-criminal case*", and in the unwarranted invocation, both at the time and subsequently, of a rigid and blinkered definition of the requirements for classifying a case as non-criminal, as a justification for delaying disclosure of the suicide note.<sup>128</sup> In the result, this response negates the purported acknowledgment of the deficiencies, as it tends to indicate the issues are not understood, particularly since the Notice of Action provides no response to any of the Commission's specific recommendations about the content of the policy guidance to be

provided on suicide notes or the manner in which the appropriate time for disclosing suicide notes should be determined.<sup>129</sup>

68. The responses to the findings related to the conduct of the sudden death investigation raise similar concerns. In response to the Commission's finding about the lack of experience of the MP members involved, the Notice of Action does state the CFPM "acknowledges the relative inexperience of the members who conducted and supervised these investigations."<sup>130</sup> However, the specific deficiencies in the investigation identified in the findings and in the Report are nowhere acknowledged in the Notice of Action.<sup>131</sup> Instead, the Military Police relies on what the Commission regards as clearly insufficient experience acquired since the events, as a basis to reject the recommendations to ensure properly experienced investigators are available to conduct such investigations, while promising to have the RCMP assess the investigation.<sup>132</sup>

69. The Military Police plan to have the RCMP review and re-do the investigations as necessary raises obvious issues in terms of accountability and transparency.<sup>133</sup> Of particular relevance to the present discussion, it also leaves many of the findings relating to the serious deficiencies in the investigations entirely unaddressed, particularly in relation to the sudden death investigation. While the Commission found there were serious problems with the manner in which this investigation was conducted, it also found that in this case, the ultimate conclusion reached – that Cpl Langridge died as a result of suicide and that no foul play was involved – was correct.<sup>134</sup> Nevertheless, in other cases, the deficiencies observed in the way this sudden death investigation was conducted, could lead to incorrect conclusions or to the contamination of evidence.<sup>135</sup> A review by the RCMP focused on verifying whether any aspects of the investigation need to be re-investigated would not address any deficiencies in the conduct of the investigation that did not impact on the conclusions reached. As such, a referral to the RCMP is of little utility in addressing the procedural and methodological issues identified by the Commission in the way the 2008 investigation into Cpl Langridge's sudden death was conducted.

70. Other responses to the Commission’s findings appear to debate rather than to acknowledge the merits of the findings in question, but their substantive content still raises questions as to whether the issues have been understood.

71. In one instance, the Commission found the Concluding Remarks for the 2008 investigation contained information that was inaccurate or not supported by the evidence uncovered during the investigation.<sup>136</sup> The Commission also noted the CFNIS eventually modified the Remarks, but only because of the distress the Remarks caused to the Fynes and not because of any recognition they were inaccurate or unsupported.<sup>137</sup> In response, the Military Police states CFNIS members “strive for accuracy and completeness in documentation following investigations.”<sup>138</sup> It adds there are several layers of review, and that review by the MP Chain of Command will continue.<sup>139</sup> It then states:

It must be noted, however, that the reports generated by the CFNIS document investigations carried out for the purpose of determining whether any crimes or breaches of the Code of Discipline have been committed and whether charges ought to be laid as a result. **These reports are not prepared for the purposes of informing complainants of the outcome of any investigation.**<sup>140</sup> [Emphasis added]

72. This comment is perplexing. The Commission found precisely that the Concluding Remarks included in the investigative file were inadequate from an investigative perspective, as they did not reflect the evidence uncovered. The fact the Remarks also caused distress to the Fynes was the reason invoked by the CFNIS to change them, not the reason the Commission found them problematic (although, considering the Remarks were otherwise inadequate, this aspect is not irrelevant in the Commission’s view). Judging from the response, it appears unlikely the deficiency identified by the Commission has been understood. On the contrary, the response appears to indicate the original Remarks are still considered substantively appropriate by the Military Police. The Notice of Action misses the point entirely in maintaining that the impact of the Remarks on the Fynes should not be relevant.

73. In another instance, the Commission concluded the 2008 investigation was not, as had been alleged, overly intrusive in obtaining Cpl Langridge’s medical records.<sup>141</sup> Instead, the Commission noted medical records were relevant, especially to the aspects of

the investigation related to negligence-based possible service offences. Indeed, the Commission noted insufficient records were in fact obtained for these purposes.<sup>142</sup> In response, the Military Police notes the finding, but adds: “As is the case for all evidence, medical records are obtained where necessary for the purposes of determining any indication on which to form a belief that there were reasonable and probable grounds to investigate any potential breaches of the Code of Service Discipline or potential criminal acts.”<sup>143</sup> The Commission found in its Report that, on the basis of the information available, the negligence-related questions did need to be investigated in this case, and that in order to determine whether the materials could provide the necessary indications of potential offences having been committed, medical records and information needed first to be obtained and investigated.<sup>144</sup> It appears the Military Police either rejects these conclusions or has not understood their implications.

74. The response to the Commission’s finding related to public affairs coordination also appears similarly to debate the merits, while – like other responses in the Notice of Action – at the same time showing that the need for separation of messages between the CAF and the MP is neither accepted nor understood by the Military Police.<sup>145</sup>

## **Non-Committal Responses**

75. More than half of the responses to the Commission’s recommendations provide no indication as to whether the recommendations will be implemented or not.<sup>146</sup> These responses generally state the Military Police will consider the “wording and spirit” of the Commission’s recommendations as it reviews its policies and procedures.<sup>147</sup> In some cases, the responses state instead that the Military Police will consider best practices.<sup>148</sup> In other cases, they state the Military Police will consider both best practices and the Commission’s recommendations.<sup>149</sup> In a number of cases, the Notice of Action states policies will in fact be developed or amended, but does not indicate what the content of these policies will be.<sup>150</sup> In yet other cases, the responses indicate policies will be developed or added only “if required”.<sup>151</sup>

76. As for responses to the Commission’s findings, most contain no comment on the substance of the finding. As such, they provide no indication as to the position of the Military Police with respect to the finding. One repeated variant of this type of non-response to the Commission’s findings, is for the text of the Notice of Action to refer back to the unresponsive answers provided in connection with the Commission’s recommendations on related topics.<sup>152</sup> Another variant is to indicate an intention to consult the RCMP and to have the investigations “reviewed or redone at their discretion,” or to state inquiries will be made about best practices to adopt in such cases, without venturing any comment about what actually happened in this case.<sup>153</sup> In other cases, the responses only state the finding is “noted” without adding any further comments.<sup>154</sup>

77. The Commission considers these non-committal responses to constitute a rejection of the findings and recommendations, and to amount to a rejection of the principles of accountability and transparency that are central to the operation of the oversight regime in place for the Military Police.<sup>155</sup> This rejection is also manifest in the myriad ways in which the Notice of Action fails to provide information about what will be done to address the issues uncovered in this case, even where substantive responses appear to be provided, as well as in the way in which the comments that are included avoid addressing the actual issues. The text of the Notice of Action, and the choices made about what responses are provided and not provided, are also a manifestation of this rejection. The formulation of many of the responses gives the impression the Military Police is avoiding to the extent possible, having to state its rejection of the findings and recommendations directly, and is seeking to appear to agree with as many general principles as possible, without being willing to commit to any measures to implement these principles.

#### **FAILING TO SAY WHAT WILL BE DONE**

78. By definition, the responses indicating recommendations will be considered, do not provide any information about what will be done with respect to those recommendations.<sup>156</sup> The non-committal responses to the findings similarly give no information about any measures to be taken to address the deficiencies. This is hardly surprising, since these responses do not even indicate whether the deficiencies are recognized as such, let alone

whether the Military Police intends to take any steps to address them. This is also and perhaps especially true for the responses indicating the investigations will be reviewed by the RCMP and redone as necessary. These responses provide no comment about the deficiencies in the investigations identified in the Commission's findings. It is not the case that the Military Police recognizes there were deficiencies and is proposing to have aspects that were improperly investigated re-investigated by the RCMP. Rather, the Notice of Action provides no information about whether any deficiencies are acknowledged, and proposes to have the RCMP conduct its own assessment, in effect seeking a second opinion about whether there were any deficiencies in the investigations. Only then, presumably, would it become relevant whether any action needs to be taken as a result.

79. The responses that reject the recommendations directly most often similarly fail to provide information about what the Military Police plans to do, in this case, instead of following the Commission's recommendations. Having rejected the recommendations about the experience necessary to conduct sudden death investigations, the Notice of Action specifically fails to provide information about what experience is or will be considered sufficient for the MP members to qualify as lead investigators, instead indicating only that best practices in this respect will be "determined and implemented" in due course.<sup>157</sup> The Notice of Action similarly fails to indicate under what circumstances experienced civilian police investigators will be consulted, instead stating only that this assistance will be sought "where required."<sup>158</sup> In the same vein, despite appearing to agree in principle to take measures to allow for more secondments to civilian police agencies, the Notice of Action does not even indicate whether such secondments will in fact be pursued to ensure MP members gain sufficient experience in sudden death investigations, instead indicating that the Military Police will engage in consultations to determine "what additional opportunities may be available" to gain this experience.<sup>159</sup>

80. In rejecting the Commission's recommendation that MP personnel refrain from participating in joint statements or media lines with the CAF, the Notice of Action indicates clearly the Military Police intends to participate in joint statements relating to broader CAF/DND issues.<sup>160</sup> With respect to statements about specific investigations, the Notice of Action states only that the CFPM will not "normally" participate in joint statements on

such matters,<sup>161</sup> but specifically fails to indicate under what circumstances the Military Police would participate, or to provide any information about how such decisions will be made. The response provides no information about what will be done concerning joint media lines or about keeping contact with media separate, only stating the Military Police will “consider the wording and spirit of the Commission’s recommendation in order to safeguard both the fact and the perception of police independence.”<sup>162</sup> In rejecting the recommendation that questions regarding Military Police matters asked during public events be answered only by MP representatives, the Notice of Action provides no concrete information about what will be done. Instead, it states that according to CAF orders, “all CAF members may agree to be interviewed by the media in their official capacity provided it is to speak about what they do,” and adds media requests about Military Police work “must be carefully considered before being accepted,” going on to state that MP personnel must seek advice from their Chain of Command and from CAF Public Affairs Officers at the Base or Wing level.<sup>163</sup> These are, perhaps, interesting facts about current policy, but they provide no information about what will actually be done to avoid a perception the Military Police lacks independence. This makes it difficult to come to conclusions about the adequacy of the Military Police response, even in cases where substantive responses to the recommendations purport to be provided.

#### **AVOIDING DIRECT ANSWERS**

81. In order for the Commission, the Parties and, ultimately the public to be able to assess the Military Police response to the events, it is necessary that they be able to discern what the response actually is. To achieve this, the Military Police positions about the findings and recommendations must be stated clearly and directly. The Notice of Action in this case does the opposite in practically all responses.

82. The lack of clear and direct responses is made apparent first by the fact that a careful reading and a detailed analysis of the text of the Notice of Action are required even to understand which findings and recommendations are accepted and which are rejected.

83. Most of the responses are expressed in language that avoids stating rejection of findings and recommendations in clear and direct terms. Rather than indicating

recommendations are rejected, the Notice of Action states they will be considered. Rather than stating findings will not be acted on, the Notice of Action states they are “noted” and says nothing more, or refers to the answers indicating related recommendations will be considered.

84. Even where the substance of the recommendations is being rejected more directly, as is the case for the recommendations about the conduct of sudden death investigations, the language used often avoids expressing this rejection clearly. A cursory review of the responses to Recommendations 2 and 4 could easily leave some readers with the impression the recommendations are generally being agreed with, when in fact they are not.<sup>164</sup> In response to the recommendations to permit civilian police to act as lead investigators in sudden death cases on defence property and to establish the necessary protocols to put this arrangement into effect, the Notice of Action does not state the recommendations are rejected. Instead, it reproduces verbatim the language of the recommendations, but substitutes the words “*in support*” for the recommended “*as lead investigators*.”<sup>165</sup> This two-word difference makes it clear the essence of the recommendations is being rejected, but this could easily be missed on a first reading.

85. Rejection of findings and recommendations is also not articulated directly where responses sidestep the issue, as is the case for those responses to the findings that contain comments generally related to the topic but that fail to address the actual finding.<sup>166</sup> A similar failure to address the issue can be observed in the responses to the recommendations. Many fail to address the concerns that made the recommendations necessary, but never do state clearly the Commission’s concerns are not being accepted or agreed with, nor explain why it is not felt necessary to take additional measures to address the identified concerns.<sup>167</sup>

86. The repeated acknowledgements of general principles, unaccompanied by any real engagement with the issues or commitment to take measures to address them are also examples of failure to provide direct responses. Rather than stating the Commission’s findings, recommendations or concerns are not accepted, or are not seen as warranting taking the remedial steps recommended (or any steps at all), the Notice of Action

sometimes purports to acknowledge the issues in broad terms, but then rejects or fails to respond to the recommendations, and/or fails to address the findings.

87. The Notice of Action contains several statements indicating “the CFPM recognizes the importance of providing the suicide note to the family,”<sup>168</sup> but the recommendations about the policies to be put in place to ensure suicide notes are disclosed in a timely manner do not receive a response.<sup>169</sup> The Notice of Action similarly indicates agreement with the general principle that the revision of suicide note policies should include a focus on apparent wishes of the deceased that need to be disclosed to the family before the funeral, but only commits to “*consider*” this principle in revising its policies, with no accompanying commitment to any specific steps to put the principle into effect.<sup>170</sup>

88. Similarly, the Notice of Action contains several statements purporting to recognize the importance of police independence. It states the CFPM “is steadfast on the question and maintenance of police independence” when it comes to information about police investigations.<sup>171</sup> It goes on to indicate the Military Police will consider some of the media relations recommendations “in order to safeguard both the fact and the perception of police independence.”<sup>172</sup> Nevertheless, all but one of the specific recommendations related to police independence are rejected – often directly – with the Notice of Action also specifically failing to address the findings related to independence.<sup>173</sup>

89. The Notice of Action contains several statements indicating the CFPM “acknowledges the relative inexperience” of the members involved in the sudden death investigation,<sup>174</sup> but fails to address the findings on the deficiencies in the investigation and rejects or fails to respond to the recommendations meant to address those deficiencies.<sup>175</sup>

90. In other cases, disagreement with the Commission’s findings or recommendations appears to be hinted at in the Notice of Action without being stated directly. This tendency can be observed in the comments about the findings that appear to debate their merits without directly rejecting them.<sup>176</sup> It can similarly be observed in the responses to the recommendations.

91. There is no discernible explanation in the Notice of Action as to why responses could be provided for some of the simple policy recommendations,<sup>177</sup> but not for other, equally simple ones.<sup>178</sup> It is difficult to understand, for instance, why the Military Police is able to tell the Commission it accepts the recommendation to prohibit the practice of making unattributed or misattributed modifications to GO file entries,<sup>179</sup> but cannot say whether or not it accepts the recommendation to put into effect a policy directing senior MP advisors be alert to gaps in the experience of the personnel involved in complex investigations and manage resources accordingly,<sup>180</sup> or whether or not it accepts the recommendation that its policies require Investigation Plans to set out the steps necessary to determine each of the issues requiring investigation and the link between the steps and the issues.<sup>181</sup> If this is to be taken as indicating the Military Police disagrees with the recommendations it chose not to answer, that is never directly stated.

92. In some cases, the language in the Notice of Action appears to hint the Military Police in fact disagrees with some of the recommendations. For example, there are instances that indicate the Military Police intends to inquire into best practices, but there is no statement of any intent to consider the recommendation.<sup>182</sup> In other responses, there are statements reflecting the Military Police's perception of the law or facts that appear to challenge the recommendations.<sup>183</sup> This is particularly evident with respect to the return of seized exhibits or original suicide notes to the family, which the Notice of Action states is governed by inheritance law and CAF processes put in place to dispose of the personal belongings of deceased members.<sup>184</sup> Because the responses fall short of indicating what will actually be done about the recommendations, these hints of disagreement remain at the level of nuance and are not amenable to meaningful substantive assessment.

## **Conclusion**

93. The responses in the Notice of Action fail to acknowledge or recognize the serious deficiencies revealed through this Hearing or their underlying causes. This failure to acknowledge or, in some cases, even understand the deficiencies is apparent in the non-committal responses in the Notice of Action. It is evident in the problematic reasons

provided for directly rejecting recommendations, and it is to be seen as well in the responses nominally accepting recommendations while insisting appropriate policies or training are already in place. There is no indication in the Notice of Action that the Military Police regrets any of the egregious deficiencies observed in this case, particularly in the interactions with the Fynes and the mishandling of the suicide note. There is no indication as to whether the issues are even seen as serious failures, and certainly no indication as to how, if at all, they will be addressed.

94. In some cases, the responses in the Notice of Action raise more concerns than may have existed when the Interim Report was prepared. In particular, the responses raise new concerns about the Military Police's understanding of the requirements of police independence and about its willingness to take the steps necessary to fully assert and demonstrate that independence. The Commission's Interim Report found practically all of the allegations of bias and lack of independence in this case to be unsubstantiated.<sup>185</sup> Nevertheless, the Commission saw a potential risk to independence in some of the practices and procedures currently in place and accordingly recommended measures to provide greater protection for Military Police independence. The Notice of Action rejects, directly or indirectly, all of these findings and recommendations, with the exception of one recommendation relating to the ATIP process. In many cases, the rejection of the relevant recommendations is expressed in direct terms, and reliance is placed on CAF-wide processes. This puts in question the Military Police's appreciation of the importance of being seen to be independent and of fostering confidence in that independence.

95. On the whole, the Notice of Action fails to provide a meaningful response to the findings and recommendations. Perhaps most troubling, the Military Police's response to the Commission's Report resembles its response at the time, to many of the events under review. It creates an appearance of something being done without actually committing to doing anything of substance.<sup>186</sup> The Notice of Action in substance rejects the majority of the Commission's findings and recommendations, but avoids doing so directly and specifically fails to address the issues themselves. In some instances, the responses given accept the more inconsequential aspects of the recommendations while rejecting their basic premise, as with the responses on matters dealing with sudden death investigations or

media relations. In other cases, the responses acknowledge broad principles while refusing to commit to making substantive changes in order to achieve these principles, except for superficial or technical matters. The responses stating an intention to have the RCMP review the investigations may on the surface give an impression that issues are taken seriously and will be addressed but, like most of the other responses, they stop short of acknowledging the deficiencies or of committing to take any specific step to address them.

SIGNED at Ottawa, Ontario.



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Glenn M. Starnard, O.O.M.  
Chairperson

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<sup>1</sup> See Appendix 9, Notice of Action, responses to Recommendations, pp. 47-89.

<sup>2</sup> See Section 7.0 The Military Police Response & see below: Non-committal responses.

<sup>3</sup> See Appendix 9, Notice of Action, responses to Recommendations 1, 2, 3, 4, 24, 39b, 39c, 39d, 40, 41a, 41b, 41c, 41d, 44, 45, 46a, 46b and 46c, pp. 47-48, 68, 83-85 and 87-89.

<sup>4</sup> The only recommendation related to police independence that is accepted is Recommendation 42: see Appendix 9, Notice of Action, response to Recommendation 42, p. 86. All other recommendations related to police independence are rejected, in most cases directly: see Appendix 9, Notice of Action, responses to Recommendations 37a-c, 39a-d, 40, 41a-d, 44, 45 and 46a-c, pp. 80-81, 83-85 and 87-89.

<sup>5</sup> See Section 4.1.1, Investigating the Sudden Death.

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- <sup>6</sup> See Section 4.1, The 2008 Investigation; Section 4.2 The Suicide Note Left by Cpl Langridge & Section 4.5.1, CFNIS Interactions with the Fynes – Early Contact.
- <sup>7</sup> See Section 4.1.9, The Consequences of Inexperience.
- <sup>8</sup> See Section 6.0, Recommendations 1-4.
- <sup>9</sup> See Section 6.0, Recommendation 1.
- <sup>10</sup> Appendix 9, Notice of Action, response to Recommendation 3, p. 48.
- <sup>11</sup> See Appendix 9, Notice of Action, response to Recommendations 2 and 4, pp. 47-48.
- <sup>12</sup> Appendix 9, Notice of Action, response to Recommendation 1, p. 47.
- <sup>13</sup> Appendix 9, Notice of Action, response to Recommendation 1, p. 47 [emphasis added].
- <sup>14</sup> Appendix 9, Notice of Action, response to Recommendation 1, p. 47.
- <sup>15</sup> Appendix 9, Notice of Action, response to Recommendation 4, p. 48.
- <sup>16</sup> See Appendix 9, Notice of Action, responses to Findings 18, 25 and 31, pp. 26, 31 and 40.
- <sup>17</sup> Appendix 9, Notice of Action, response to Recommendation 3, p. 48. Note that this response relates to Military Police rather than CFNIS experience and includes five more cases than the number listed in the responses to the Findings. It also does not provide information on how many cases were domestic versus overseas. For purposes of this Report, the Commission will use the number 173, which is repeated most often in the Notice of Action, and for which a breakdown of the domestic/overseas cases is provided. It should be noted that the addition of five more cases makes no material difference for purposes of the present comments.
- <sup>18</sup> Appendix 9, Notice of Action, responses to Findings 18, 25 and 31, pp. 26, 31 and 40.
- <sup>19</sup> Appendix 9, Notice of Action, response to Recommendation 3, p. 48.
- <sup>20</sup> See Appendix 9, Notice of Action, responses to Findings 18, 25 and 31, pp. 26, 31 and 40.
- <sup>21</sup> See Section 4.1.9, The Consequences of Inexperience.
- <sup>22</sup> Testimony of S/Sgt Clark, Transcript of Proceedings, vol. 44, September 10, 2012, pp. 175-176.
- <sup>23</sup> See Testimony of LCol Delaney, Transcript of Proceedings, vol. 15, April 25, 2012, p. 6; Canadian Forces Provost Marshal 2010 Annual Report, p. 19, online: [http://publications.gc.ca/collections/collection\\_2012/dn-nd/D3-13-2010-eng.pdf](http://publications.gc.ca/collections/collection_2012/dn-nd/D3-13-2010-eng.pdf) (accessed January 15, 2015).
- <sup>24</sup> See Section 6.0, Recommendation 1.
- <sup>25</sup> See Section 4.1.9, The Consequences of Inexperience.
- <sup>26</sup> See Exhibit P-5, Collection E, vol. 6, tab 28, doc. 1261, p. 1; Testimony of Maj Dandurand, Transcript of Proceedings, vol. 57, 3 October 2012, p. 139; Testimony of CWO (ret'd) Watson, Transcript of Proceedings, vol. 55, 1 October 2012, pp. 149-151; Testimony of Sgt Ritco, Transcript of Proceedings, vol. 48, 14 September 2012, pp. 156-158. See also, Testimony of LCol Sansterre, Transcript of Proceedings, vol. 61, 10 October 2012, p. 76.
- <sup>27</sup> See Section 4.1.9, The Consequences of Inexperience.
- <sup>28</sup> See Appendix 9, Notice of Action, responses to Findings 25 and 31, pp. 31-33 and 40-41.
- <sup>29</sup> See Appendix 9, Notice of Action, responses to Findings 14, 15, 18, 25 and 31, p. 22-24, 26-27, 31-33 and 40-41.
- <sup>30</sup> See Appendix 9, Notice of Action, response to Recommendation 3, p. 48 [emphasis added].
- <sup>31</sup> Appendix 9, Notice of Action, response to Recommendation 4, p. 48.
- <sup>32</sup> See Appendix 9, Notice of Action, response to Recommendation 3, p. 48.
- <sup>33</sup> Appendix 9, Notice of Action, response to Recommendation 1, p. 47.
- <sup>34</sup> See Section 4.1.9, The Consequences of Inexperience.
- <sup>35</sup> See Section 4.1.9, The Consequences of Inexperience.
- <sup>36</sup> See Appendix 9, Notice of Action, response to Finding 11, p. 12 & responses to Recommendations 39-41, pp. 83-85.
- <sup>37</sup> See Section 6.0, Recommendation 38.

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- <sup>38</sup> See Appendix 9, Notice of Action, response to Recommendation 38, pp. 81-82.
- <sup>39</sup> See Appendix 9, Notice of Action, response to Recommendation 38, pp. 81-82.
- <sup>40</sup> See Appendix 9, Notice of Action, responses to Recommendations 39-41, pp. 83-85. See also response to Finding 11, p. 12.
- <sup>41</sup> See Appendix 9, Notice of Action, response to Finding 11, p. 12 & response to Recommendation 39c, p. 83.
- <sup>42</sup> Appendix 9, Notice of Action, response to Finding 11, p. 12.
- <sup>43</sup> Appendix 9, Notice of Action, response to Recommendation 38, pp. 81-82.
- <sup>44</sup> Appendix 9, Notice of Action, response to Recommendation 38, pp. 81-82.
- <sup>45</sup> See Section 4.6, CFNIS Independence and Impartiality.
- <sup>46</sup> See Appendix 9, Notice of Action, responses to Recommendations 39a, 39c, 40, 41a, 41c, pp. 83-85.
- <sup>47</sup> See Appendix 9, Notice of Action, responses to Recommendations 39a, 39b and 41c, pp. 83 and 85.
- <sup>48</sup> See Appendix 9, Notice of Action, responses to Recommendations 39a, 39d and 41b, pp. 83-85.
- <sup>49</sup> See Appendix 9, Notice of Action, responses to Recommendations 39c and 41c, pp. 83-85.
- <sup>50</sup> See Appendix 9, Notice of Action, response to Recommendation 38, p. 81, where it is noted media relations concerning police matters are “coordinated” through the CFPM PAO; response to Recommendation 39c, pp. 83-84, which states that CAF media lines will at times be required for MP responses, and that “in that regard, close coordination is conducted among the concerned CAF/DND accounts to facilitate the release of clear, precise and coherent information readily accessible to the news media or the public”; response to Recommendation 40, p. 84, which rejects the recommendation to establish protocols with the CAF on media and public relations matters and notes that MP PAOs “actively participate in daily, CAF departmental communications meetings for situational awareness and co-ordination purposes”; response to Recommendation 41b, p. 85, which also refers to the daily coordination CAF-wide meetings; response to Recommendation 41c, p. 85, which rejects the recommendation not to include MP messages in CAF media lines and vice versa and notes the “close coordination [] conducted among concerned CAF/DND stakeholders” to release coherent information; response to Recommendation 41d, p. 85, which specifically rejects the recommendation to establish protocols with the CAF to ensure that consultations on media relations matters occur between the CFPM and the VCDS or their direct delegates, instead relying on the existing practices for consultation and coordination, which the Commission has found to not provide the necessary transparency or clear lines of authority: see Section 4.6, CFNIS Independence and Impartiality.
- <sup>51</sup> See Section 4.6, CFNIS Independence and Impartiality; Section 5.0, Finding 11.
- <sup>52</sup> See Appendix 9, Notice of Action, responses to Recommendations 39a, 39b and 41c, pp. 83 and 85.
- <sup>53</sup> See Appendix 9, Notice of Action, response to Recommendation 39a, 39d and 41b, pp. 83-85.
- <sup>54</sup> See Appendix 9, Notice of Action, response to Recommendation 39c and 41c, pp. 83-85.
- <sup>55</sup> See Appendix 9, Notice of Action, response to Recommendation 39b, p. 83.
- <sup>56</sup> Appendix 9, Notice of Action, response to Recommendation 39b, p. 83.
- <sup>57</sup> See Appendix 9, Notice of Action, response to Recommendation 39b, p. 83.
- <sup>58</sup> See Appendix 9, Notice of Action, response to Recommendation 38, p. 81, which notes that media relations concerning police matters are “coordinated” through the CFPM PAO; responses to Recommendations 39c and 41c, pp. 83-85, which refer to the “close coordination conducted among concerned CAF/DND accounts to facilitate the release of clear, precise and coherent information”; response to Recommendation 39d, p. 84, which notes MP personnel must seek advice from their chain of command and from CAF PAOs when media requests are received; responses to Recommendations 40, 41b and 41d, pp. 84-85, which refer to the active participation of the MP PAOs in “daily, CAF departmental communications meetings for situational awareness and co-ordination purposes.”
- <sup>59</sup> See, generally, Section 4.6, CFNIS Independence and Impartiality.
- <sup>60</sup> See Section 4.6, CFNIS Independence and Impartiality.
- <sup>61</sup> See Section 4.6, CFNIS Independence and Impartiality.

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- <sup>62</sup> See Section 4.6, CFNIS Independence and Impartiality.
- <sup>63</sup> See Appendix 9, Notice of Action, response to Recommendation 38, pp. 81-82.
- <sup>64</sup> See Appendix 9, Notice of Action, response to Recommendation 38, pp. 81-82.
- <sup>65</sup> Appendix 9, Notice of Action, response to Recommendation 41d, p. 85.
- <sup>66</sup> See Appendix 9, Notice of Action, response to Recommendation 44, p. 87.
- <sup>67</sup> See Section 2.0, The Hearing Process & Section 6.0, Recommendations.
- <sup>68</sup> See Appendix 9, Notice of Action, response to Recommendation 44, p. 87.
- <sup>69</sup> See Section 2.0, The Hearing Process.
- <sup>70</sup> See Appendix 9, Notice of Action, responses to Recommendations 45-46, pp. 88-89.
- <sup>71</sup> See Appendix 9, Notice of Action, response to Recommendation 46c, p. 89.
- <sup>72</sup> See Appendix 9, Notice of Action, response to Recommendation 45, p. 88.
- <sup>73</sup> See Appendix 9, Notice of Action, response to Recommendation 46, p. 89.
- <sup>74</sup> See Section 2.0, The Hearing Process.
- <sup>75</sup> See Section 2.0, The Hearing Process.
- <sup>76</sup> See Section 2.0, The Hearing Process.
- <sup>77</sup> See Section 2.0, The Hearing Process; Section 6.0, Recommendations.
- <sup>78</sup> See Appendix 9, Notice of Action, responses to Recommendations 37a-c, pp. 80-81.
- <sup>79</sup> See Appendix 9, Notice of Action, response to Recommendation 30, p. 76.
- <sup>80</sup> See Section 4.1, The 2008 Investigation.
- <sup>81</sup> See Testimony of LCol (ret'd) Garrick, Transcript of Proceedings, vol. 56, 2 October 2012, pp. 13-14; Testimony of LCol Sansterre, Transcript of Proceedings, vol. 61, 10 October 2012, pp. 94-95; Testimony of LCol Frei, Transcript of Proceedings, vol. 60, 9 October 2012, pp. 100-101; Testimony of CWO (ret'd) Watson, Transcript of Proceedings, vol. 55, 1 October 2012, pp. 147-148 and 191-192; Testimony of MWO Tourout, Transcript of Proceedings, vol. 54, 27 September 2012, pp. 67 and 72; Testimony of WO Bigelow, Transcript of Proceedings, vol. 46, 12 September 2012, pp. 148-149. Note that many of the witnesses did not consider the issues of potential negligence or of the possible suicide watch being conducted for Cpl Langridge required further investigation. The Commission has concluded they did: see, generally, Section 4.1.2, Investigating Negligence.
- <sup>82</sup> See Appendix 9, Notice of Action, response to Recommendation 30, p. 76.
- <sup>83</sup> See Appendix 9, Notice of Action, response to Recommendation 30, p. 76.
- <sup>84</sup> See Appendix 9, Notice of Action, response to Recommendation 24, p. 68.
- <sup>85</sup> Appendix 9, Notice of Action, response to Recommendation 24, p. 68.
- <sup>86</sup> Appendix 9, Notice of Action, response to Recommendation 24, p. 68.
- <sup>87</sup> See Section 4.3, The 2009 PNOK Investigation; Section 5.0, Findings.
- <sup>88</sup> See Section 4.3, The 2009 PNOK Investigation; Section 5.0, Findings.
- <sup>89</sup> See Appendix 9, Notice of Action, response to Findings 19 and 20, p. 65.
- <sup>90</sup> See Section 7.0, The Military Police Response.
- <sup>91</sup> See Appendix 9, Notice of Action, response to Recommendation 12, p. 58.
- <sup>92</sup> See Appendix 9, Notice of Action, responses to Recommendations 13a-h, pp. 59-62.
- <sup>93</sup> See Appendix 9, Notice of Action, response to Recommendation 13a, p. 59.
- <sup>94</sup> See Appendix 9, Notice of Action, response to Recommendation 42, p. 86.
- <sup>95</sup> See Appendix 9, Notice of Action, responses to Recommendations 23, 25, 26a-e, 29 and 43, pp. 68-71, 75 and 86.
- <sup>96</sup> See Appendix 9, Notice of Action, responses to Recommendations 19 and 20, p. 65.
- <sup>97</sup> See Section 4.5.4, 2009/2010 Investigations – Interviews, Updates and Briefing; Section 5.0, Finding 13b.

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- <sup>98</sup> See Section 6.0, Recommendation 19.
- <sup>99</sup> Appendix 9, Notice of Action, response to Recommendation 19, p. 65 [emphasis added].
- <sup>100</sup> Appendix 9, Notice of Action, response to Finding 13b, p. 17.
- <sup>101</sup> See Section 4.1.6, Search Warrants; Section 5.0, Finding 25.
- <sup>102</sup> Appendix 9, Notice of Action, responses to Recommendations 25 and 26a-e, pp. 69-71.
- <sup>103</sup> Appendix 9, Notice of Action, response to Recommendation 26a, p. 69.
- <sup>104</sup> Appendix 9, Notice of Action, response to Recommendation 38, p. 82.
- <sup>105</sup> Appendix 9, Notice of Action, response to Recommendation 38, pp. 81-82.
- <sup>106</sup> See Appendix 9, Notice of Action, responses to Recommendations 39-41, pp. 83-85 & response to Finding 11, p. 12.
- <sup>107</sup> See above: The Rejected Recommendations – Maintaining Separation between the CAF and the MP in Media Relations Matters.
- <sup>108</sup> Appendix 9, Notice of Action, response to Recommendation 36, p. 79.
- <sup>109</sup> See Appendix 9, Notice of Action, response to Recommendation 36, p. 79.
- <sup>110</sup> Appendix 9, Notice of Action, responses to Recommendations 37a-c, pp. 80-81.
- <sup>111</sup> Appendix 9, Notice of Action, responses to Recommendations 37a-c, pp. 80-81 [emphasis added].
- <sup>112</sup> Appendix 9, Notice of Action, response to Recommendation 7d, p. 55.
- <sup>113</sup> See Appendix 9, Notice of Action, responses to Findings 1 to 33d, pp. 1-46. See, generally, Section 7.0, The Military Police Response.
- <sup>114</sup> Appendix 9, Notice of Action, response to Finding 29, p. 38.
- <sup>115</sup> See Appendix 9, Notice of Action, responses to Findings 1-2, 5, 13a-b, 13d-e, 14-18, 20-21, 25, 28, 30 and 32a, pp. 1-3, 6-7, 15-18, 19-27, 29-30, 31-33, 36-38, 39 and 41-43.
- <sup>116</sup> See Appendix 9, Notice of Action, responses to Findings 33a and 33b, pp. 44-45. As noted earlier in this Report, in other cases, the lack of comments was not problematic, since the underlying allegation was unsubstantiated and no further comment was required: see Section 7.0, The Military Police Response; Appendix 9, Notice of Action, responses to Findings 6, 7, 8, 9, 12, 13c, 27, 32b and 33c, pp. 8-11, 14-15, 18-19, 35-36, 43 and 45-46.
- <sup>117</sup> See Appendix 9, Notice of Action, response to Finding 19, p. 27.
- <sup>118</sup> See Section 4.3, The 2009 PNOK Investigation; Section 5.0, Finding 19.
- <sup>119</sup> See Section 5.0, Finding 10; Section 4.6, CFNIS Independence and Impartiality.
- <sup>120</sup> Appendix 9, Notice of Action, response to Finding 10, p. 11.
- <sup>121</sup> Appendix 9, Notice of Action, response to Finding 10, p. 11.
- <sup>122</sup> See Section 4.5.4, 2009/2010 Investigations – Interviews, Updates and Briefing.
- <sup>123</sup> See Section 4.5.6, CFNIS Answers to the Col Blais Questions; Section 4.6, CFNIS Independence and Impartiality.
- <sup>124</sup> Appendix 9, Notice of Action, response to Finding 32c, p. 43.
- <sup>125</sup> Appendix 9, Notice of Action, response to Finding 26, p. 33.
- <sup>126</sup> See Appendix 9, Notice of Action, response to Finding 26, p. 33 & responses to Recommendations 8-10, pp. 55-58.
- <sup>127</sup> See Appendix 9, Notice of Action, response to Recommendation 33d, p. 46 [Emphasis added].
- <sup>128</sup> See Section 4.2, The Suicide Note Left by Cpl Langridge.
- <sup>129</sup> See Appendix 9, Notice of Action, responses to Recommendations 13a-h, pp. 59-63.
- <sup>130</sup> Appendix 9, Notice of Action, response to Finding 31, p. 40. See also, response to Finding 25, pp. 31-32.
- <sup>131</sup> See Appendix 9, Notice of Action, responses to Findings 14, 15, 18, 25 and 31, pp. 22-24, 26-27, 31-33 and 40-41.

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<sup>132</sup> See Appendix 9, Notice of Action, responses to Recommendations 1-4, pp. 47-48 & responses to Findings 14, 15 and 31, pp. 22-24 and 40-41.

<sup>133</sup> See Section 7.0, The Military Police Response.

<sup>134</sup> See Section 4.1, The 2008 Investigation.

<sup>135</sup> See Section 4.1, The 2008 Investigation.

<sup>136</sup> See Section 5.0, Finding 3.

<sup>137</sup> See Section 5.0, Finding 3.

<sup>138</sup> Appendix 9, Notice of Action, response to Finding 3, p. 4.

<sup>139</sup> Appendix 9, Notice of Action, response to Finding 3, p. 4.

<sup>140</sup> Appendix 9, Notice of Action, response to Finding 3, p. 4.

<sup>141</sup> See Section 5.0, Finding 4.

<sup>142</sup> See Section 5.0, Finding 4.

<sup>143</sup> Appendix 9, Notice of Action, response to Finding 4, p. 5.

<sup>144</sup> See Section 4.1.2, Investigating Negligence.

<sup>145</sup> See Appendix 9, Notice of Action, response to Finding 11, pp. 12-14; see above: The Rejected Recommendations.

<sup>146</sup> The Commission's 46 main recommendations were often divided into several parts, leaving a total of 96 recommendations to be addressed in the Notice of Action. 49 of the 96 responses do not indicate whether the recommendations will be implemented: see Appendix 9, Notice of Action, responses to Recommendations 6a-i, 7a-c, 8a-e, 9-10, 13a-h, 14-18, 21, 22a-d, 28b-g, 30-31, 37a-c and 39a, pp. 50-53, 54, 55-57, 57-58, 59-63, 63-64, 66-68, 73-75, 76, 80-81 and 83.

<sup>147</sup> See Appendix 9, Notice of Action, responses to Recommendations 6a-i, 7a-c, 8b, 13a-h, 17, 21 and 39a, pp. 50-53, 54, 56, 59-63, 64, 66 and 83.

<sup>148</sup> See Appendix 9, Notice of Action, responses to Recommendations 28b-g and 30, pp. 73-75 and 76.

<sup>149</sup> See Appendix 9, Notice of Action, responses to Recommendations 8a, 8c, 8d, 8e, 9-10, 14-16, 22a-d, 31 and 37a-c, pp. 55-57, 57-58, 63-64, 66-68, 76 and 80-81.

<sup>150</sup> See Appendix 9, Notice of Action, responses to Recommendations 7a-c, 8a-e, 9-11, 14-16, 22a-d, 28b-g and 30-31, pp. 54, 55-57, 57-58, 63-64, 66-68, 73-75 and 76.

<sup>151</sup> See Appendix 9, Notice of Action, responses to Recommendations 37a-c, pp. 80-81

<sup>152</sup> See Appendix 9, Notice of Action, responses to Findings 1, 11, 13a, 13b, 13e, 18, 21, 25, 26, 28, 30, 31 and 32a, pp. 1, 12, 15, 17, 20-21, 26, 30, 31-33, 33-35, 36-37, 39, 40 and 41-42.

<sup>153</sup> See Appendix 9, Notice of Action, responses to Findings 2, 5, 13d, 14, 15, 16, 17, 19, 20 and 31, pp. 3, 6, 19, 22-25, 27-29 and 40.

<sup>154</sup> See Appendix 9, Notice of Action, responses to Findings 33a and 33b, pp. 44-45.

<sup>155</sup> See Section 7.0, The Military Police Response.

<sup>156</sup> See Section 7.0, The Military Police Response.

<sup>157</sup> See Appendix 9, Notice of Action, response to Recommendation 1, p. 47.

<sup>158</sup> See Appendix 9, Notice of Action, response to Recommendation 3, p. 48.

<sup>159</sup> See Appendix 9, Notice of Action, response to Recommendation 1, p. 47.

<sup>160</sup> See Appendix 9, Notice of Action, response to Recommendation 39b, p. 83.

<sup>161</sup> See Appendix 9, Notice of Action, response to Recommendation 39b, p. 83.

<sup>162</sup> See Appendix 9, Notice of Action, response to Recommendation 39a, p. 83.

<sup>163</sup> See Appendix 9, Notice of Action, response to Recommendation 39d, p. 84.

<sup>164</sup> See Appendix 9, Notice of Action, responses to Recommendations 2 and 4, pp. 47 and 48. See also response to Recommendation 1, p. 47.

<sup>165</sup> Appendix 9, Notice of Action, responses to Recommendations 2 and 4, pp. 47 and 48.

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- <sup>166</sup> See above: Comments on the Finding – Sidestepping the Issues.
- <sup>167</sup> See, for example, Appendix 9, Notice of Action, responses to Recommendations 38-41 and 46a-c, pp. 81-85 and 89. See above: The Rejected Recommendations – Maintaining Separation between the CAF and the MP in Media Relations Matters & Waiving Solicitor-Client Privilege.
- <sup>168</sup> See Appendix 9, Notice of Action, responses to Findings 26 and 33d, pp. 33 and 46.
- <sup>169</sup> See Appendix 9, Notice of Action, responses to Recommendations 13a-h, pp. 59-63.
- <sup>170</sup> See Appendix 9, Notice of Action, response to Recommendation 12, p. 58. See also responses to Recommendations 13a-h, pp. 59-63.
- <sup>171</sup> Appendix 9, Notice of Action, response to Recommendation 39b, p. 83.
- <sup>172</sup> See Appendix 9, Notice of Action, responses to Recommendations 38 and 39a, pp. 81-83.
- <sup>173</sup> See Appendix 9, Notice of Action, responses to Findings 1, 10, 11 and 13d, pp. 1, 11-12 and 19; responses to Recommendations 37a-c, 39a-d, 40, 41a-d, 44, 45 and 46a-c, pp. 80-81, 83-84, 84-85, 87, 88 and 89.
- <sup>174</sup> Appendix 9, Notice of Action, responses to Findings 25 and 31, pp. 31-33 and 40-41.
- <sup>175</sup> Appendix 9, Notice of Action, responses to Findings 14-18, pp. 22-26; responses to Recommendations 1-4, 6a-g, 7a-c, 22a-d and 30, pp. 47-48, 50-52, 54, 66-68 and 76.
- <sup>176</sup> See Appendix 9, Notice of Action, responses to Findings 3, 4 and 11, pp. 4, 5-6 and 12-14; see above: Comments on the Findings – Failing to Acknowledge or Understand the Deficiencies.
- <sup>177</sup> See Appendix 9, Notice of Action, responses to Recommendations 7d, 24, 27a-c, 28a, 32, 33 and 34a-b, pp. 55, 68, 71-72, 73, 77 and 78.
- <sup>178</sup> See Appendix 9, Notice of Action, responses to Recommendations 6a-i, 7a-c, 10, 13a, 13g, 14-16, 18, 22a-d, 28e-g and 31, pp. 50-53, 54, 57-58, 59, 62, 63-64, 66-68, 74-75 and 76.
- <sup>179</sup> See Appendix 9, Notice of Action, response to Recommendation 32, p. 77.
- <sup>180</sup> See Appendix 9, Notice of Action, response to Recommendation 7c, p. 54.
- <sup>181</sup> See Appendix 9, Notice of Action, response to Recommendation 22a, pp. 66-67.
- <sup>182</sup> See Appendix 9, Notice of Action, responses to Recommendations 28b-g and 30, pp. 73-75 and 76.
- <sup>183</sup> See Appendix 9, Notice of Action, response to Recommendation 30, p. 76.
- <sup>184</sup> See Appendix 9, Notice of Action, responses to Recommendations 8a, 8d, 9, 10, 13h, pp. 55-58 and 62-63.
- <sup>185</sup> See Section 5.0, Findings; Section 4.6, CFNIS Independence and Impartiality.
- <sup>186</sup> See Section 7.0, The Military Police Response.