



C H A I R P E R S O N • P R É S I D E N T

January 30, 2007

Captain (N) Steve Moore, CD
Canadian Forces Provost Marshal
National Defence Headquarters
Major-General George R. Pearkes Building
101 Colonel By Drive
Ottawa, ON K1A 0K2

And to:

General R.J. Hillier, CMM, CD
Chief of the Defence Staff
National Defence Headquarters
Major-General George R. Pearkes Building
101 Colonel By Drive
Ottawa, ON K1A 0K2

Dear Sirs;

Our File: MPCC-2007-003 (Attaran)

Please find enclosed a complaint regarding the conduct of certain unidentified military police personnel submitted under Part IV of the *National Defence Act* by Professor Amir Attaran. This complaint was received by the Complaints Commission on 29 January 2007. It is being forwarded to the Canadian Forces Provost Marshal (CFPM) as required by sub-section 250.21(2), and also to the Chief of the Defence Staff (CDS) in his role as the superintendent of the broader interests of the Canadian Forces, as will be further explained below.

Professor Attaran's complaint focuses on the possible conduct of military police personnel in respect of three persons in their custody in the Kandahar region of Afghanistan in April 2006. The complaint suggests various failings by the military police members involved relative to safeguarding the well-being of the persons in custody, and, more particularly, in respect of their failure to investigate the causes of various injuries which may have been sustained while in CF as opposed to military police custody.

Additionally, and most exceptionally, the complainant's letter includes submissions in support of a request that I exercise my authority pursuant to subsection 250.38(1) of the

National Defence Act to cause an immediate investigation of this complaint in the public interest and by way of a hearing, rather than remitting the matter for investigation in the first instance by the Canadian Forces Provost Marshal.

In my view, this specific request by Professor Attaran to have his complaint adjudicated by way of a public hearing must be addressed before any other action is taken in respect of this matter. In that regard, other than leaving the determination of the public interest to the sole discretion of the Chairperson of the Complaints Commission, the *Act* neither contemplates nor prohibits any particular process for the invoking of that public interest jurisdiction. In the exceptional circumstances of this case, wherein the complainant has made submissions and specifically requested a public interest process it would seem appropriate in the interests of procedural fairness and transparency of the process to seek the views of key stakeholders.

The Canadian Forces Provost Marshal is contemplated by Part IV of the *Act* to be the main institutional stakeholder on behalf of the military police. And, as noted earlier, the Chief of the Defence Staff is the superintendent of any broader CF interests.

Accordingly, I solicit your representations in order to allow appropriate time for response, I will delay my decision on the Commission invoking its public interest jurisdiction for seven days from today. It is also intended that any such representations be shared with the complainant for his further comments.

Finally, given the possibility that the Commission might undertake a public interest investigation into this complaint and, in any event, the complaint will presumably require some form of investigation, I would request that appropriate steps be taken to preserve all relevant evidence pertaining to the incident(s) in question.

Yours sincerely,

Peter A. Tinsley
Chair

c.c. (less enclosure):
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