



Military Police  
Complaints Commission  
of Canada

Commission d'examen des plaintes  
concernant la police militaire  
du Canada

## **FINAL REPORT**

Following a Public Interest Investigation,  
Pursuant to Section 250.53 of the *National Defence Act*,  
of a Conduct Complaint by MGen (retired) Dany Fortin  
Regarding the Conduct of WO Denise Hachey, Sgt Keven Léonard,  
MWO Danny Parent and Capt Thierry Paré  
of the Canadian Forces National Investigation Service Eastern Region

File: MPCC 2023-006  
Ottawa, November 27, 2025

Me Tammy Tremblay, MSM, CD, LL.M  
Chairperson

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## I Overview

1. On January 17, 2023, the Military Police Complaints Commission (MPCC) received a conduct complaint from Major-General (MGen<sup>1</sup>) (retired) Dany Fortin. The complaint concerns the handling of a Canadian Forces National Investigation Service (CFNIS) investigation that resulted in his prosecution for sexual assault. He was ultimately acquitted at trial.
2. MGen (retired) Fortin asserts that the military police (MP) investigation was biased and partial. He contends that the charges were laid despite insufficient evidence and asserts that his prosecution was influenced by undue external pressure to uncritically accept the alleged victim's allegations at face value, to his detriment.
3. In April 2023, I initiated a public interest investigation (PII) into MGen (retired) Fortin's complaint. Given the seriousness of the allegations, the potential involvement of senior officials and military officers and the broader public interest concerns raised in the complaint, I determined that a public investigation was warranted to ensure transparency, accountability and public confidence in the military police oversight process.<sup>2</sup>
4. Based on the information in the complaint, I identified the following two questions:  
***Question #1: Did the CFNIS Eastern Region (ER) investigators conduct a thorough and rigorous investigation into the sexual assault complaint filed against MGen (retired) Fortin?***  
***Question #2: Did external considerations influence the CFNIS ER investigation?***
5. This PII has identified serious deficiencies in the conduct of the CFNIS investigation into the complaint against MGen (retired) Fortin. Although the evidence does not support the allegation of improper external influence, the investigation was nonetheless compromised by tunnel vision, exhibited signs of investigative bias, inadequate supervisory oversight, and a failure to uphold core investigative standards.

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<sup>1</sup> All ranks in this report are those of the individuals at the time of the CFNIS investigation.

<sup>2</sup> Read Fortin Public Interest Investigation (MPCC 2023-006) [Decision to Conduct a Public Interest Investigation](#) (available on the MPCC website).

These shortcomings are not mere administrative oversights; they represent significant failures that erode public trust in military policing.

6. To address these concerns, I have made recommendations aimed at strengthening investigative capacity and ensuring that future investigations are conducted with impartiality, rigor, and transparency. These recommendations are designed not only to correct the specific shortcomings identified in this case, but to reinforce institutional accountability and enhance confidence in the military police's ability to carry out their duties fairly and effectively.

7. In accordance with section 250.51 of the *National Defence Act* (NDA)<sup>3</sup>, the Canadian Forces Provost Marshal (CFPM) is required to notify both me and the Minister of any action that has been or will be taken with respect to this complaint. On October 14, 2025, the CFPM provided their notice of action in response to the MPCC's interim report issued on July 17, 2025. The notice of action included comments on the MPCC's findings and recommendations. Of the 16 recommendations, I consider that only three were fully accepted by the CFPM, ten were partially accepted, and three were not accepted at all.

8. While many of the CFPM's comments expressed a general intent to align military police policies and procedures with Canadian best policing practices, they lacked specificity. The responses did not clearly identify which police policies and procedures would be reviewed, nor did they explain how proposed updates would reflect the recommendations. Several responses address recommendations only in part, leaving critical gaps, and failing to provide meaningful or complete answers. A more comprehensive and transparent response to each element of every recommendation would have better demonstrated institutional accountability and willingness to implement meaningful changes.

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<sup>3</sup> *National Defence Act*, (R.S.C., 1985, c. N-5) [NDA].

## II The MPCC Public Interest Investigation

### *Background to the complaint*

9. The sexual assault was alleged to have occurred between January and April 1988 at the Royal Military College (RMC) Saint-Jean, Quebec, while MGen (retired) Fortin and the alleged victim (hereinafter referred to as “X<sup>4</sup>”) were cadets. The CFNIS investigation commenced in March 2021 and, in May 2021, the CFNIS transmitted the investigation file to the Director of Criminal and Penal Prosecutions (DCPP)<sup>5</sup> of Quebec.

MGen (retired) Fortin was charged with sexual assault<sup>6</sup> by the DCPP on August 18, 2021. On December 5, 2022, MGen (retired) Fortin was acquitted. On January 9, 2023, the DCPP announced that it would not appeal the verdict.

10. On March 15, 2023, MGen (retired) Fortin filed a statement of claim in the Ontario Superior Court of Justice, naming as defendants several senior officials and military officers, including the then-Canadian Forces Provost Marshal (CFPM) MGen Simon Trudeau, Lieutenant-Colonel (LCol) Eric Leblanc, the Commanding Officer (CO) of the CFNIS at the time of the CFNIS ER investigation, and Warrant Officer (WO) Denise Hachey, a CFNIS ER member involved in the investigation against MGen (retired) Fortin.

11. In October 2023, MGen (retired) Fortin withdrew his complaint. The withdrawal came one day after the issuance of a joint statement from MGen (retired) Fortin and the Department of National Defence indicating that the legal proceedings commenced in March 2023 had been resolved.

12. After careful consideration, I decided to proceed with the PII despite the withdrawal.<sup>7</sup> The rationale underlying my original decision on April 20, 2023, to initiate the PII remains valid and unchanged. The seriousness of the allegations, the alleged

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<sup>4</sup> The identity of the complainant in the CFNIS investigation (General Occurrence (GO) file 2021-5656) is protected under a court-ordered publication ban. The MPCC refers to the alleged victim as “X” for the purposes of this report.

<sup>5</sup> In French, “Directeur des poursuites criminelles et pénales (DPCP)”.

<sup>6</sup> An offence punishable under section 130 of the *National Defence Act*, that is to say, sexual assault, contrary to section 271 of the *Criminal Code*.

<sup>7</sup> Read Fortin Public Interest Investigation (MPCC 2023-006) [Decision to continue MPCC Public Interest Investigation despite withdrawal of the complaint by the Complainant](#) (available on the MPCC website).

involvement of senior officials and military police personnel, and the broader public interest concerns raised by the complaint continue to warrant independent scrutiny. Moreover, the core issues of police conduct raised in the complaint have not been resolved or rendered moot by the conclusion of the related civil proceedings initiated by MGen (retired) Fortin. A private settlement between an individual and the Department of National Defence does not and cannot negate the distinct public interest in ensuring the military police carry out their duties fairly, impartially, and in accordance with professional standards.

#### *Requests for disclosure*

13. On January 25, 2023, the MPCC requested the Office of Professional Standards (PS) of the CFPM to provide the CFNIS investigation report pertaining to the sexual assault allegation against MGen (retired) Fortin (hereinafter the “police investigation file”).

14. On March 31, 2023, the Office of PS provided a copy of the “military police investigation report” – a document of a few pages containing only a summary of the investigation. The MPCC received a redacted version of the police investigation file (General Occurrence (GO) 2021-5656<sup>8</sup>) on June 19, 2023.

15. The investigation file contained extensive redactions, notably with respect to personal information. On August 16, 2023, I requested that the redactions – such as personal information, information about the victim or young person, and any other information not covered by solicitor-client privilege – be lifted and that a new, unredacted package be provided to the MPCC. On September 5, 2023, the MPCC received a package in which some of the requested redactions were lifted.

16. On September 26, 2023, I requested that the remaining redactions, other than those for solicitor-client information, be lifted. The then-Deputy CFPM, now CFPM responded on October 3, 2023, stating that the redactions were due to *Privacy Act*<sup>9</sup> concerns and that

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<sup>8</sup> CFNIS criminal investigation file “GO 2021-5656”.

<sup>9</sup> *Privacy Act* (R.S.C., 1985, c. P-21).

the Office of the CFPM was taking a victim-centred approach by not disclosing the personal information about X after consulting her on the matter.

17. The position taken by the then-Deputy CFPM is puzzling as the MPCC has a legislative mandate to investigate complaints. Moreover, the *Privacy Act* specifically permits this sharing of information.<sup>10</sup> Furthermore, nothing in the NDA authorizes the CFPM to withhold personal information from the disclosure it provides to the MPCC.

18. As the Federal Court of Canada observed in *Garrick v Amnesty International Canada* “If the [MPCC] does not have full access to relevant documents, which are the lifeblood of an inquiry, there cannot be a full and independent investigation.”<sup>11</sup>

19. The MPCC cannot litigate every matter where the CFPM refuses to provide disclosure. In this case, although the MPCC has not been able to obtain a complete unredacted police investigation file, most of the redactions were lifted, allowing the MPCC to fulfill its mandate in this case. Between March 2023 and July 2025, further disclosure was requested by the MPCC and, in most cases, was received. The MPCC received in total over 1,000 pages of documentary evidence from the Office of the PS/CFPM, MGen (retired) Fortin, witnesses, and others.

#### *Interview phase*

20. I identified the following members of CFNIS ER as the subjects of this PII:

- a) Sergeant (Sgt) Keven Léonard – Lead investigator;
- b) WO Denise Hachey – Assisting investigator;
- c) Master Warrant Officer (MWO) Danny Parent – Deputy Commander (DComd) and Case Manager; and
- d) Captain (Capt) Thierry Paré – Commanding Officer (CO) and final approval authority at the relevant time.

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<sup>10</sup> Section 8(2)(b) of the *Privacy Act* allows for the disclosure of personal information required by legislation. Further, section 8(2)(a) allows for the disclosure of personal information in situations where the information is consistent with the purpose for which the information was obtained.

<sup>11</sup> *Garrick v Amnesty International Canada*, 2011 FC 1099 (CanLII), [2013] 3 FCR 146 at para 96.

21. The MPCC contacted all the subjects for an interview. WO Hachey and Sgt Léonard declined, while MWO Parent and Capt Paré were interviewed in November 2024.

22. The following witnesses provided information to the MPCC and appear in the order in which they were interviewed by the MPCC:

- i. **MGen (retired) Dany Fortin;**
- ii. **X**, complainant in the CFNIS criminal investigation against MGen (retired) Fortin. It should be noted that in February 2024, X proactively contacted the MPCC. In March 2024, the MPCC advised that an interview was not deemed necessary at that time, as we had access to her previous interviews with the military police and to minimize the risk of re-traumatization. However, X expressed an interest in participating in an interview which was subsequently conducted in April 2024;
- iii. **Brigadier-General (BGen) (retired) Alan Mulawyshyn**, Chief of Staff to the Chief of the Defence Staff at the time the sexual assault complaint against MGen (retired) Fortin was made;
- iv. **BGen (retired) Dyrالد Cross**, X's immediate supervisor when she made her criminal complaint against MGen (retired) Fortin;
- v. **Ms. Jody Thomas (retired)**, Deputy Minister of National Defence at the time the criminal complaint was made;
- vi. **General (Gen) (retired) Wayne Eyre**<sup>12</sup>, Acting Chief of the Defence Staff at the time the criminal complaint was made;
- vii. **Mr. Christopher Pallister**, Inspector with the Royal Canadian Mounted Police (RCMP) seconded to the CFNIS as a Major Case Advisor when the criminal complaint was made;
- viii. **BGen Simon Trudeau**<sup>13</sup>, Canadian Forces Provost Marshal at the time the criminal complaint was made; and

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<sup>12</sup> At the time the criminal complaint against MGen (retired) Fortin was made, General Eyre held the rank of Lieutenant-General. He was promoted to General in August 2021 and appointed Chief of the Defence Staff in November 2021. For the purposes of this report, I will refer to him as "Gen Eyre."

<sup>13</sup> At the time of this interview with the MPCC, he held the rank of Major-General.



- ix. **Me Diane Legault**, Prosecutor for the DCPD of Quebec, who prosecuted MGen (retired) Fortin for sexual assault.

23. These witness interviews took place between April 2024 and November 2024, except for MGen (retired) Fortin, who was first interviewed by MPCC investigators in October 2023 and again in May 2024. The MPCC also asked to interview LCol Eric Leblanc, the CO of the CFNIS at the time. However, after initially responding to the MPCC, he did not respond to further requests for an interview. It should be noted that under its current legislative framework, the MPCC cannot compel the attendance of witnesses in public interest investigations. LCol Leblanc's decision not to participate is therefore noted.

### III Analysis

#### *Standard of review applicable to the alleged conduct*

24. Military police members, in the performance of their duties, are expected to meet high standards of service to maintain public confidence and respect. The *Military Police Professional Code of Conduct*<sup>14</sup>, Military Police Orders and Police Policy Advisories set out the procedures and ethical standards that military police members are expected to follow or apply.

25. When reviewing a conduct complaint, the MPCC must determine whether the conduct alleged against military police members aligns with that of a reasonable police officer in similar circumstances. The law does not require perfect or optimal conduct from military police members.<sup>15</sup>

26. The reasonableness of the military police member's conduct must be assessed based on the totality of the situation and the facts known at the time of the alleged misconduct, including their level of knowledge and prevailing investigative or law enforcement practices.<sup>16</sup>

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<sup>14</sup> *Military Police Professional Code of Conduct* (SOR/2000-14).

<sup>15</sup> *Hill v Hamilton-Wentworth Regional Police Services Board*, [2007] 3 S.C.R. 129, 2007 SCC 41 at paras 73-77.

<sup>16</sup> *Ibid* at para 77.

27. My role is to review the evidence and determine if the subjects' conduct was reasonable. To do this, I must first apply a standard of proof based on a balance of probabilities to determine the facts. In other words, I must determine what happened. Then I must assess whether the military police members' actions were reasonable.

***Question #1: Did the CFNIS ER investigators conduct a thorough and rigorous investigation into the sexual assault complaint filed against MGen (retired) Fortin?***

28. I have divided this question into six sub-questions based on the information in the complaint:

- A. Did the military police act on an uncorroborated allegation?
  - B. Was potentially contradictory evidence reasonably assessed or overlooked?
  - C. Did the military police exhibit signs of investigative bias?
  - D. Did the treatment of any witness risk undermining the integrity of their evidence?
  - E. Was the decision to transmit the investigation file to the Quebec DCPD reasonably supported by the available evidence identifying MGen (retired) Fortin as the alleged perpetrator?
  - F. Did the military police attempt to construct a predetermined narrative and try to "patch holes" in the case?
- A. Allegations of sexual assault do not require corroboration, but the police investigation was not reasonably thorough**

29. In his complaint, MGen (retired) Fortin asserts that X said she spoke to two individuals after the alleged incident but neither corroborated her allegation during the CFNIS investigation.

30. First, it is important to note that under Canadian law, allegations of sexual assault do not require corroboration to result in a conviction.<sup>17</sup> The police may initiate legal proceedings on the basis of the complainant's statement if it provides reasonable grounds to believe that an offence was committed. However, this does not exempt the police from

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<sup>17</sup> If an accused is charged with an offence of sexual assault (s. 271 of the *Criminal Code*), s. 274 of the *Criminal Code* provides that no corroboration is required and that the "judge shall not instruct the jury that it is unsafe to find the accused guilty in the absence of corroboration."

conducting a full and thorough investigation. The objective of any police investigation is to seek the truth and gather all relevant evidence and information. It is this requirement of thoroughness which was not reasonably met.

31. Canadian Forces Military Police (CF MP) Order 2-340, entitled “Military Police Investigation Policy,” emphasizes the importance of thorough and complete MP investigations. Paragraph 4 requires that MP members investigate without bias or prejudice and that identification and elimination of suspects be based on objective evidence and reasonable grounds. Moreover, paragraph 14 mandates MP members to conduct impartial, thorough, complete and rigorous investigations and to be sure to collect all relevant evidence, whether inculpatory or exculpatory.<sup>18</sup>

32. When allegations of sexual assault are historical in nature, as in the present case, it is rare that material evidence is available. Potential witnesses’ memories may have faded, or their recollections of past events may be confused or mixed with other events in their lives. Investigators must therefore strive to identify evidence that corroborates or counters the complainant’s allegations and, ultimately, their credibility.

*Failure to identify all potential witnesses*

33. In this case, X was interviewed on March 15, 2021, by CFNIS Central Region (CR) investigators Lieutenant (Lt) McMillan and Petty Officer 2nd class (PO2) McLachlan, with the latter acting as note taker. At the beginning of the interview, X told investigators that this was the third time she had shared the details of her allegation. She stated that she first disclosed the details to her then-commanding officer BGen Cross. She then reported the matter to the military police, specifically to MP Duty Officer “Adam,” who asked her for all the details of the alleged incident.<sup>19</sup>

34. X identified three more potential witnesses during her interview with CFNIS CR: Ms. M., her roommate at the time and who may have witnessed the alleged incident; MGen T., a senior cadet whom she was dating at the time and to whom she had disclosed

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<sup>18</sup> Canadian Forces Military Police (CF MP) Order 2-340, *Military Police Investigation Policy*, January 30, 2019.

<sup>19</sup> CFNIS CR audio-video recorded interview with X, March 15, 2021 at 0:13:00.

what had happened on the night of the alleged incident; and Colonel (Col) M., whom she had met during her first year at RMC and to whom she had disclosed the alleged incident three or four years before reporting it to the military police. X also told investigators that she did not expect Ms. M. or MGen T., both key witnesses, to corroborate her allegation. Thus, during this interview, X mentioned in total five potential witnesses: BGen Cross, “Adam,” Ms. M., MGen T., and Col M.

35. On March 18, 2021, the investigation was transferred from the CFNIS CR to the CFNIS Eastern Region (ER) due to the location of the alleged sexual assault. Sgt Léonard was assigned as the lead investigator, assisted by WO Hachey.

36. On the same day (March 18, 2021), Sgt Léonard and WO Hachey reviewed the police investigation file (GO 2021-5656) “in its entirety,” and Sgt Léonard added an entry to the report indicating that they were awaiting receipt of all evidence on file from the CFNIS CR which they intended to review before conducting further interviews. A disc containing the audio-video recording of X’s March 15, 2021, interview with the CFNIS CR was sent to Sgt Léonard on March 23, 2021.

37. On March 25, 2021, Sgt Léonard was copied on an email sent by RCMP Inspector Pallister to Capt Paré. Inspector Pallister had been seconded to the CFNIS as a Major Case Advisor. His responsibilities included preparing weekly updates on the status of investigations deemed to be priority or high-profile for the CFPM. He regularly had conversations with investigators to obtain updates on these specific files. In his email he indicated that the CFPM had informed him that X had reported the alleged sexual assault to MGen Cadieu. Therefore, MGen Cadieu was a sixth potential witness for investigators to interview about what had been disclosed about the alleged incident.

38. Between April 7 and 9, 2021, WO Hachey and CFNIS ER investigator, Corporal (Cpl) Garceau, reviewed X’s March 15, 2021, interview with the CFNIS CR. Of the five potential witnesses X mentioned during this interview, they noted four - BGen Cross, Ms. M., MGen T., and Col M. - but forgot one, “Adam.” The police investigation file contains no transcript or detailed summary of this critical two-and-a-half-hour interview – only a superficial summary of six points on one page. This failure to adequately

document X's primary statement is a serious investigative deficiency. Furthermore, there is no indication Sgt Léonard, the lead investigator, reviewed the recording of X's original statement. At a minimum, as lead investigator, he should have reviewed X's full initial statement.

39. As noted above, X said that when she called the military police to report her allegation, MP Duty Officer "Adam," asked her for detailed information. However, the CFNIS investigators did not try to identify or interview him or check if the call had been recorded. During this PII, the Office of PS confirmed that "Adam" was a commissionaire working at the military police unit's dispatch centre and not an MP Duty Officer when X called to report her complaint. Given later inconsistencies in X's statements, it was important to know what she told "Adam."

40. Therefore, of the six people identified as potential witnesses in March 2021, CFNIS only interviewed four:

- a) Ms. M. was interviewed on three occasions. The first time, on April 14, 2021, this was an unrecorded telephone interview. The second time was on June 17, 2021, when Ms. M. contacted WO Hachey to add details to her previous statement. This conversation was also not recorded. The third telephone interview on January 13, 2022 was audio recorded.
- b) Col M., on April 16, 2021. This telephone interview was audio recorded.
- c) BGen Cross, on April 19, 2021. This telephone interview was audio recorded. During his interview, BGen Cross mentioned a seventh potential witness, a person nicknamed "Paunch," who is discussed in the paragraphs below.
- d) MGen T., first there was an unrecorded telephone conversation between WO Hachey and MGen T., on April 15, 2021. Then on April 20, 2021, there was an in-person interview which was audio and video recorded.

#### *Failure to record telephone interviews*

41. CF MP Orders 2-350 and 2-353 outline the policy and procedures to be followed when MP members interact with victims and witnesses, and during interviews and interrogations, respectively. However, CF MP Orders 2-350 (Interaction with victims and witnesses) and 2-353 (Interview and Interrogation) are not yet promulgated. Applicable

Military Police Policies and Technical Procedures (MPPTP) provide that it is preferable to audio/video record, but it is not mandated. MPPTP Chapter 7, Annex E, para 10 suggests that it is MP policy to record all investigative interviews, unless witness refuses to participate otherwise.<sup>20</sup>

42. The police investigation file provides no indication that Ms. M. objected to being recorded or offers any other justification for not doing so. As the lead investigator, Sgt Léonard had the professional responsibility to ensure that these telephone interviews were recorded by WO Hachey to ensure their accuracy and reliability. His failure to do so, and WO Hachey's failure to record them, are significant lapse in basic investigative procedure. In addition, their superiors had the duty to identify the omission during the review and demand that the reasons for not recording be documented in the investigative file.

#### **Recommendation #1:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal formally instruct all military police investigators, and in particular WO Hachey and Sgt Léonard, that:**

- all investigative interviews, whether in person, by telephone, or by videoconference, are to be recorded;
- where recording is not possible, a clear and documented justification must be included in the investigation file; and
- supervisors must review these justifications as part of their oversight responsibilities. (Partially accepted by the CFPM)
- *In the notice of action, the CFPM stated the following: "Action to be taken. MP policy/procedures to be reviewed and updated as applicable based on Canadian best policing practices."*

*The response provided by the CFPM is too vague to be considered fully accepted. The MPCC's recommendation was explicit: it called for formal instruction to all military police investigators, particularly WO Hachey and Sgt Léonard, regarding the mandatory recording of all investigative interviews. However, the CFPM's response lacks specificity. It does not refer to interview recording practices and does not acknowledge the two subjects named in the recommendation. The language used is non-committal; expressions such as "to be reviewed"*

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<sup>20</sup> Military Police Policies and Technical Procedures (MPPTP), Chapter 7, Annexe E "Investigation Aid: Interview," July 2004.

***and “as applicable” imply an intention to consider the issue rather than a concrete commitment to act.***

***Furthermore, the response does not demonstrate accountability, as it gives no indication of how and when the review will take place nor of the standard that will guide its implementation.***

***For these reasons, I consider that this recommendation is not fully accepted.***

*Evidence provided by witnesses during CFNIS investigation*

43. During her interview with the CFNIS on April 14, 2021, Ms. M. told WO Hachey that she had no recollection of a sexual assault while attending RMC Saint-Jean in the late 1980s, nor of any incident involving MGen (retired) Fortin and X. She added that she was not saying that no incident had ever happened, but that she was dealing with her own issues at the time and that her memories of those years were “fuzzy.”<sup>21</sup> During a follow-up telephone conversation in June 2021 with WO Hachey, Ms. M. was asked what she meant by “I am not saying an incident never happened.” According to the police investigation file, she stated the following:

When she went to CMR women were just stepping into non-traditional role and there was a certain tolerance they had to have in relation to sexual misconduct and how men treated them. As well, years later she has heard from many woman colleagues and friends about what they had went through and she was not surprised that [X] had been a victim of a sexual assault.<sup>22</sup>

44. During a third audio recorded telephone interview on January 13, 2022, WO Hachey asked Ms. M. if her statement was still accurate about what she meant by “I am not saying an incident never happened.” Ms. M. replied in the affirmative, adding that she could not say if the alleged incident happened or did not happen, but that based on her experience, she realized that there were things of that nature happening at the time, more than average.

45. Col M. stated during her interview with the CFNIS on April 16, 2021, that she was not aware of the incident between X and MGen (retired) Fortin during her time at RMC, but that she “knew something had happened” and that X did not want to talk about it at

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<sup>21</sup> GO 2021-5656 at p 32 of 279.

<sup>22</sup> *Ibid* at p 39 of 279.

the time. Years later, X had told her about the allegation in detail. She encouraged her to come forward.

46. During his interview with the CFNIS on April 19, 2021, BGen Cross stated that X had told him about the alleged incident in detail during a follow-up meeting on March 3, 2021, and that she had informed MGen T., her boyfriend at the time, of the incident on the night it occurred and that X believed that MGen T. may have communicated details of the incident to a person nicknamed “Paunch.”<sup>23</sup> In a follow-up interview with the CFNIS on April 20, 2021, X told investigators that “Paunch” was MGen T.’s best friend at the time. When asked if she had spoken to “Paunch” about the incident at the time, she replied in the negative.<sup>24</sup>

47. CFNIS interviewed MGen T. in person on April 20, 2021, after they had interviewed X earlier that day. He did not corroborate X’s statement, stating that he had no recollection of any discussion with X regarding a sexual assault, either by MGen (retired) Fortin, or anyone else. MGen T. was never questioned about “Paunch” during his interview. Given MGen T.’s lack of corroboration, it would have been prudent to interview “Paunch” to assess what, if anything, was shared with him.

48. MGen Cadieu was identified as a potential witness early in the CFNIS investigation by Inspector Pallister. On April 9, 2021, WO Hachey wrote in the police investigation file that she had contacted X “to clarify several names of potential witnesses identified” during X’s initial interview. This telephone conversation was not recorded, and the police investigation file does not indicate how long it lasted. According to the same entry, when asked if she had spoken to MGen Cadieu, X “acknowledged she knew who he was but did not recall having a conversation about the incident with him.”<sup>25</sup> No further details or context are provided on this point.

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<sup>23</sup> CFNIS ER audio recorded telephone interview with BGen (retired) Cross, April 19, 2021 at 0:04:42 and 0:05:08.

<sup>24</sup> CFNIS ER audio-video recorded interview with X, April 20, 2021 at 0:22:56.

<sup>25</sup> GO 2021-5656 at pp 31 and 166 of 279.



49. However, on April 29, 2022, WO Hachey sent an email to X to clarify MGen Cadieu’s role in the case and to find out whether she had spoken to him directly about her complaint. X replied that MGen Cadieu had played no role in the case, but that she had contacted him to seek advice on the process, without discussing the details of her case.<sup>26</sup> This raises questions about the nature of their conversation(s) – questions that could have been addressed had CFNIS interviewed MGen Cadieu when he was first identified as a potential witness by Inspector Pallister on March 25, 2021. Moreover, X was never questioned about the apparent discrepancies between her April 9, 2021 and April 29, 2022 statements regarding MGen Cadieu.

50. Interviewing all identified potential witnesses is one of the investigative steps that a reasonable police officer would take, particularly when there were only a handful of potential witnesses identified. These interviews could have been useful in further assessing whether X’s allegation could be corroborated, especially since the two key witnesses interviewed – Ms. M. and MGen T. – did not corroborate her allegation. These investigative steps would have provided investigators with additional information to consider in assessing whether there were reasonable grounds to believe that the alleged offence had been committed. The evidence gathered in a more thorough and complete investigation could also have been considered by the Quebec DCPD in its assessment of whether the threshold of “reasonable prospect of conviction” was met to proceed with the charge and prosecution.

51. The failure to attempt to interview three potential witnesses – “Adam,” “Paunch,” and MGen Cadieu – raises concerns about whether the CFNIS investigators uncritically accepted X’s statements and prematurely ended their inquiry, or whether these omissions reflect missed or neglected investigative opportunities. The police investigation file provides no explanation, notes, or documentation indicating why these individuals were not interviewed or why no attempt was made to do so. Although it is within the discretion of the police to decide whom to interview, the exercise of this discretion must be justified and documented in the file. CF MP Order 2-340.1, entitled “Investigative Discretion and

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<sup>26</sup> *Ibid* at pp 61-62 of 279; also MPCC Document 018A at pp 61-62 of 279.

Investigative Assessments,” requires MP members to document in their notebooks and in the related investigation report all information concerning the exercise of investigative discretion.<sup>27</sup>

### **Recommendation #2:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal take further measures to ensure that military police members consistently document all important exercises of discretion in investigation files, including reasons for not interviewing a potential witness, and to ensure this documentation is subject to supervisory review. (Partially accepted by the CFPM)**

- *In the notice of action, the CFPM stated the following: “Action to be taken. MP policy/procedures to be reviewed and updated as applicable based on Canadian best policing practices.”*

*The response provided by the CFPM is too vague to be considered fully accepted. The MPCC’s recommendation was specific: it called on the CFPM to take further measures to ensure that military police members consistently document all important exercises of discretion in investigation files, including reasons for not interviewing potential witnesses, and to ensure that such documentation is subject to supervisory review. However, the CFPM’s response lacks specificity. It does not refer to documentation practices, discretionary decisions, or supervisory oversight. The language used is non-committal; expressions such as “to be reviewed” and “as applicable” imply an intention to consider the issue rather than a concrete commitment to act.*

*Moreover, the response does not demonstrate accountability, as it gives no indication of how and when the review will take place, nor of the standard that will guide its implementation. As such, it cannot reasonably be interpreted as full acceptance of the recommendation.*

#### *Supervision and oversight failures*

52. The available evidence indicates that the CFNIS investigation suffered from inadequate supervision, insufficient oversight, and deficient case management particularly in the assignment of tasks and the preservation of documentation.

53. CF MP Order 2-500, entitled “Investigation Management,” states that investigators are responsible for the quality of investigations assigned to them, but supervisors at all

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<sup>27</sup> CF MP Order 2-340.1, *Investigative Discretion and Investigative Assessments*, at para 4, November 8, 2016.

levels have a duty to supervise the work of their subordinates, and record their observations and comments in the Security and Military Police Information System (SAMPIS). CF MP Order 2-500 provides as follows:

**17. Investigators are individuals responsible for the quality of investigations assigned to them and for the preparation of investigation reports. Investigations involving complex facts or allegations require active, informed and involved supervision. The final approving authority is ultimately responsible for the quality of the investigation; however, this does not negate the fact that supervisors at all levels have a duty to supervise the work of their subordinates, maintain full situational awareness of investigations their subordinates are conducting and offer advice and expertise as required.”**

**18. Supervisors at all levels shall record their observations and comments in SAMPIS under the title “Supervisory Comments.” These supervisory comments shall include detailed advice provided to investigators and have the secondary benefit of demonstrating the investigation has had supervisory oversight.** Supervisory comments shall also include direction in regard to the conduct, speed, flow and direction of the investigation, including the reasons for those directions. In accordance with section 250.19 of the NDA, day-to-day advice, guidance and direction with regard to investigations is not considered interference.<sup>28</sup> (emphasis mine)

54. During his interview with the MPCC on November 1, 2024, Capt Paré, the CFNIS ER Commanding Officer, stated that he had spoken with MWO Parent, CFNIS ER Deputy Commander, to review the allegation when it was received and to decide who would conduct the investigation. Sgt Léonard was designated as the lead investigator because he had completed his internship program at the CFNIS and, to the best of his recollection, WO Hachey had arrived at the CFNIS in the summer of 2020. She was completing her internship at the CFNIS at the time of the investigation.<sup>29</sup> Capt Paré said that he believed Sgt Léonard had taken a course on sexual assault with either the Ontario Provincial Police or at the Ontario Police College in Aylmer, Ontario, and was therefore considered already trained in this area. He explained that this was why they had assigned him to the case as lead, with WO Hachey assisting, so that she could advance her training program.<sup>30</sup>

55. Yet, Sgt Léonard’s documented involvement in this investigation as lead investigator is limited, and it is unclear what active and informed supervision or guidance he provided to WO Hachey. As the lead investigator, it was his responsibility to ensure

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<sup>28</sup> CF MP Order 2-500, *Investigation Management* at paras 17 and 18, December 5, 2018.

<sup>29</sup> MPCC audio and video recorded interview with Capt (now Major [Maj]) Paré, November 1, 2024 at 0:11:04.

<sup>30</sup> *Ibid* at 0:25:24.

that all reasonable investigative steps were taken. Ensuring that all identified potential witnesses are interviewed is standard police practice in investigations and does not require specialized training in sexual assault investigations. However, as an investigator trained in sexual assault investigations in the Canadian Forces, Sgt Léonard was expected to apply his knowledge and skills, particularly in identifying and addressing inconsistencies in X's statements. His failure to do so, represents a critical gap in the investigation.

56. The police investigation file lacks detailed summaries or transcripts of witness statements which hindered effective use of case management. While CFNIS interview summaries include some details, they are not sufficiently comprehensive and did not include some of the potential witnesses identified. For example, the initial two-and-a-half-hour interview with X is condensed into a single page, summarized separately by CFNIS CR investigators and then by CFNIS ER investigators. The absence of detailed summaries led to missed or inadequately pursued lines of inquiry, such as “Adam” and “Paunch,” and discrepancies between statements were not addressed.

57. In addition, the summaries prepared by the CFNIS investigators following the telephone interviews of Col M. and BGen Cross mention a start time of the interview, but not the time at which it ended, making it difficult to assess the duration without consulting the full recording or the interview preamble.

58. The absence of detailed summaries significantly impairs supervisory oversight. MWO Parent told the MPCC investigators that supervisors rely on SAMPIS interview reports to review investigations and provide guidance to investigators. Their ability to provide direction is directly tied to the quality of those reports. Without comprehensive summaries or transcripts, supervisors cannot identify gaps in information. While they could review the interview recordings, expecting them to do so – especially for lengthy interviews like X's – is impractical.

### **Recommendation #3:**

The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal require military police investigators to prepare comprehensive, accurate and detailed summaries and/or transcripts of interviews. These records must clearly identify key facts, potential witnesses and investigative leads and be properly documented and annotated in the investigation file. This practice must be enforced as a standard of investigative accountability and subject to regular supervisory review. (Partially accepted by the CFPM)

- *In the notice of action, the CFPM stated the following: “Action to be taken. This is the current MP practice/procedure. MP policy/procedures to be reviewed and updated as applicable based on Canadian best policing practices.”*

*The response from CFPM does not clearly accept the recommendation. While the MPCC’s recommendation calls for a mandatory requirement that military police investigators prepare comprehensive, accurate, and detailed summaries or transcripts of interviews, the CFPM’s response falls short. It states that this is the current practice and that policies and procedures will be reviewed and updated “as applicable” based on Canadian best policing practices. This language is vague and non-committal, and it does not confirm whether current practices meet the full scope of the detailed recommendation.*

*The CFPM’s does not address key aspects of the recommendation such as documentation standards, supervisory review, and accountability. It does not identify which military police policies and procedures will be reviewed and updated, nor does it explain how these updates will fulfill the recommendation’s intent.*

*Without a direct commitment to implement the specific measures outlined, the response cannot reasonably be interpreted as full acceptance. This is disappointing given that the CFNIS ER investigation conducted in this case revealed that the existing practices and procedures were not followed – highlighting the recommendation’s importance.*

#### **Recommendation #4:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal implement further measures to ensure that supervisors at all levels consistently document their observations and direction in the Security and Military Police Information System under the title “Supervisory Comments” in each investigation file. These entries must include clear, specific, and actionable guidance provided to investigators, in accordance with Canadian Forces Military Police Order 2-500, to reinforce accountability, ensure meaningful oversight, and uphold the integrity of the investigative process. (Partially accepted by the CFPM)**

- In the notice of action, the CFPM stated the following: “Action to be taken. MP policy/procedures to be reviewed and updated as applicable based on Canadian best policing practices.”*

*I consider that this recommendation is not clearly accepted. The MPCC’s recommendation called for specific and enforceable measures to ensure that supervisors consistently document their observations and provide clear, actionable guidance to investigators within the Security and Military Police Information System, in alignment with CF MP Order 2-500. However, CFPM’s response (“MP policy/procedures to be reviewed and updated as applicable based on Canadian best policing practices”) is vague and non-committal. It does not reference supervisory documentation, the Security and Military Police Information System, or CF MP Order 2-500.*

*The use of conditional language such as “to be reviewed” and “as applicable” suggests a general intent to consider improvements, rather than a commitment to implement the specific measures recommended. As such, the response cannot reasonably be interpreted as a full acceptance.*

59. During his interview with the MPCC on September 20, 2024, Inspector Pallister noted that during his tenure with the CFNIS in 2019-2021 he identified documentation and accountability as key challenges that the CFNIS faced. He stated that CFNIS investigators often recorded only successful outcomes, omitting failed attempts or negative outcomes. For example, if they were unsuccessful in contacting someone, they did not document their attempts to do so.<sup>31</sup>

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<sup>31</sup> MPCC audio and video recorded interview with Mr. Pallister, September 20, 2024 at 0:19:19.

60. Inspector Pallister also told MPCC investigators that CFNIS reports were written in a very militaristic style, with numerous acronyms, and often lacked detailed information, making them difficult to understand. To address this lack of detail, he developed a task-driven model based on RCMP practices. However, he stated that it was difficult to demonstrate actual managerial oversight, as supervisors often used generic statements claiming that they had reviewed the file in its entirety. Inspector Pallister added that he would challenge supervisors by asking them if they were asserting that no issues had been identified in the file. He ensured that supervisors began electronically signing and time-stamping text boxes in SAMPIS after reviewing them. However, nothing in the police investigation file indicates that this practice was in effect during the CFNIS investigation.

61. Inspector Pallister reported that he had given five or six formal lectures on documentation and accountability to CFNIS unit commanders, as well as several informal lectures to specific CFNIS units during his visits to their offices. He also made two coast-to-coast visits to all CFNIS units, where he explained all of these elements so that CFNIS members could better contextualize their files and make them more logical and readable. When asked, he assumed that he would have given some of these lectures before the start of the CFNIS investigation against MGen (retired) Fortin, but he had no specific recollection of this. He was also unable to say whether he had spoken to the CFNIS investigators assigned to the case before or during their investigation.

#### *Case management failures*

62. The police investigation file makes virtually no mention of the case management or supervisory oversight conducted by the CFNIS team, including the role played by Sgt Léonard as lead investigator. Although the file contains two “Follow-Up” text boxes in SAMPIS, only one, entered by MWO Parent on May 5, 2021, was created before charges were laid against MGen (retired) Fortin. This entry referenced only eight administrative or minor corrections for investigators to complete and did not reflect substantive oversight of investigative decisions or direction.

63. During his interview with MPCC investigators, MWO Parent stated that he was only working part-time during this investigation for personal reasons, specifying that he was not 100% involved in the ongoing investigations at the time. He also indicated that he was not the “team leader” of the CFNIS criminal investigation against MGen (retired) Fortin. He explained that he had a dual responsibility within the unit at the time: he was deputy commander and case manager, with Capt Paré assuming the latter responsibility (case manager) in his absence.

64. As noted above, MWO Parent wrote the first “follow-up” text box in May 2021, a few days before the investigation was transmitted to the DCPD for pre-charge screening. He also signed WO Hachey’s notebook three times during the investigation. Capt Paré also reviewed WO Hachey’s notebook twice towards the end of the investigation. He noted that she had failed to record certain investigative steps she had taken and wrote the second (and final) “follow-up” text box in SAMPIS.

65. The approach taken by these two senior CFNIS officers in jointly managing this investigation remains unclear and is not supported by documentation beyond what is contained in the police investigation file. Notably, neither officer reviewed Sgt Léonard’s notebook. WO Hachey signed Sgt Léonard’s notebook, despite the fact he was the designated lead investigator, and she was assigned to assist him. While this procedural step may have been intended to ensure oversight, proper review of his notebook by a senior supervisor, not a subordinate, was required. The absence of that oversight represents a missed opportunity to ensure more rigorous scrutiny of Sgt Léonard’s investigative role and reinforce accountability.

*This investigation failed to be managed as a major case*

66. This CFNIS investigation failed to be managed as a major case. Major case management is a formal, structured process designed to coordinate resources, manage evidence, and organize complex investigations. It is used in major crimes and requires a high level of planning and collaboration across investigative teams. In my view, the use of a major case management methodology would likely have prevented many of the shortcomings identified in this report.



67. At the outset of an investigation, CFNIS investigators should assess the situation to determine whether the Major Case Management model is appropriate. Although the positions of lead investigator and secondary investigator were adopted in this case, the relevant principles governing roles and responsibilities, particularly those of the lead investigator, case manager and team leader, were not adequately implemented or defined.

68. While the CFNIS already has a number of seconded civilian police serving as major case advisors, a more systematic approach is necessary to address the unique challenges of sexual assault investigations within the Canadian Forces. Given that the CFNIS where investigators rotate in and out of posting and handle much fewer cases than their civilian counterparts, they have limited opportunity to develop specialized expertise. A structured approach such as the Major Case Management framework would enhance investigative consistency and effectiveness. There is also a clear need for more structured mentorship and ongoing training.

#### **Recommendation #5:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal develop and implement a formal policy that clearly defines the situations and offences requiring major case management. This policy must ensure that all military police members receive continuous training on major case management throughout their careers. (Not accepted by the CFPM)**

- *In the notice of action, the CFPM stated the following: “Action to be taken. MP policy/procedures to be reviewed and updated as applicable based on Canadian best policing practices.”*

*I consider this recommendation not accepted. The MPCC recommended that the CFPM develop and implement a formal policy to clearly defines the situations and offences requiring major case management and not simply update existing military police policies or procedures. While updating an existing policy could, in some cases, constitute developing and implementing a new one, the response lacks the clarity and detail to permit such an interpretation. It does not specify which military police policies and procedures will be reviewed and updated.*

*This is particularly concerning since the then-CFPM accepted a recommendation in 2021 stating that an update to the CF MP Order on Major Case Management was underway. However, as of the date of this report, no CF MP Order on Major Case Management exists. The response also fails to address whether military police members will receive continuous*

*training on major case management throughout their careers – an essential part of the recommendation.*

*Finally, the use of conditional language such as “to be reviewed” and “as applicable” suggests a general intent to consider improvements, rather than a concrete commitment to implement the specific measures recommended. As such, the CFPM response cannot reasonably be interpreted as accepted.*

69. The MPCC has repeatedly emphasized the importance of major case management training for MP members and supervisors in various complaint files (e.g., MPCC 2006-032, 2006-033, 2006-037, 2011-046, and 2018-014). This recommendation was reiterated in the Final Report of MPCC 2015-006 (Anonymous PII, Recommendation #7), published in September 2021. At that time, the CFPM accepted this recommendation, stating that “an update to the CF MP Order on Major Case Management is underway.” However, the CF MP Order on major case management has yet to be implemented, highlighting the need for immediate action and accountability in implementing this critical reform.

#### **Recommendation #6:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal develop and implement a structured mentorship and leadership development program for military police investigators, with particular emphasis on complex and sensitive investigations. While the current practice of seconding experienced police officers from civilian enforcement agencies offers valuable support, this program should formalize and expand mentorship opportunities, drawing from both seconded civilian police officers and experienced members of the military police. The program should include clear selection criteria for mentors, formalized roles and expectations, and mechanisms to ensure continuity across postings. It should be supported by written policy and monitored for its impact on investigative quality, consistency, and institutional knowledge transfer. (Partially accepted by the CFPM)**

- *In the notice of action, the CFPM stated the following: “Action already taken. There is a structured policy-driven framework for mentorship and leadership development across all CFNIS postings—emphasizing investigative competency, professionalism, and knowledge transfer—through formal trainer selection, defined mentorship roles, regular assessments, and secondments.”*

*I consider this recommendation partially accepted. While the CFPM appears to accept the recommendation by referring to a structured,*

*policy-driven framework for mentoring and leadership development, the response falls short upon closer examination.*

*The MPCC's recommendation calls for a comprehensive program applicable to all military police investigators; however, the framework described by the CFPM applies only to certain investigators – those assigned to the CFNIS.*

*The CFNIS has the right of first refusal for all allegations involving serious or sensitive offences, meaning that local military police units may conduct these investigations when the CFNIS declines to investigate.*

*Furthermore, the response does not address how continuity of mentoring and leadership development is maintained across postings, nor does it clarify the mechanisms in place to monitor and evaluate the program's impact on investigation quality and the transfer of institutional knowledge. The limited scope of the CFPM's response fails to meet the intent of the recommendation to institutionalize mentoring and leadership development at all levels. As such, the response cannot be considered a full acceptance of the recommendation.*

**B. Potentially contradictory evidence was not reasonably assessed or was overlooked**

70. The complaint notes that the judge who presided over the criminal trial, Judge Richard Meredith, wrote in his decision that there were multiple “important contradictions” in X’s story that raise, at a minimum, questions about the reliability of her recollection of the events and the possibility that she had exaggerated important elements of her account to the police.

71. X’s statements to the military police does contain significant inconsistencies that the CFNIS investigators failed to adequately scrutinize as part of their inquiry. X was interviewed by CFNIS on three occasions between March 15, 2021, and October 13, 2021. Some aspects of her account evolved across these interviews, with notable changes in her statements over time.

*Failure to scrutinize discrepancies in X’s account*

72. In her initial statement to the CFNIS on March 15, 2021, X told investigators that she had “a photographic memory,” stating that she could recall every detail of the alleged

sexual assault, and could see MGen (retired) Fortin “plain as day” during the incident. The summary of her statement prepared by PO2 McLachlan in the police investigation file notes: “she could clearly recognize MGen Fortin due to the streetlights illumination coming from the window beside her bed.”<sup>32</sup> However a second summary of the same interview - prepared by Cpl Garceau after he and WO Hachey reviewed the interview recording between April 7 and 9, 2021 - does not include any details about the offence itself.<sup>33</sup>

73. During a second interview with the CFNIS on April 20, 2021, which was audio-video recorded and lasted nearly an hour, WO Hachey asked X if she could describe the assailant’s genitals. She replied, “*no, definitely not. It was dark, dark enough.*” X then clarified that while there was enough light for her to recognize people, but not enough to see that level of detail.<sup>34</sup> This raises questions about how much light was in the room at the time of the incident to allow X to positively identify MGen (retired) Fortin as the assailant. The CFNIS investigators did not address this discrepancy.

74. Furthermore, her recollections of MGen (retired) Fortin’s touching during the alleged sexual assault were not as clear during the second interview as they had been during her first interview on March 15, 2021, when she was able to describe it in detail. During her second interview, she told WO Hachey that she could not say “100%” what MGen (retired) Fortin had done because she was confused by all the questions.<sup>35</sup> When asked if MGen (retired) Fortin had attempted to kiss her, X replied that she did not remember.

75. The discrepancies in X’s recollections do not mean that X was not credible; rather they highlight potential challenges in memory recall and her reliability as a witness. Credibility and reliability are distinct concepts. Credibility pertains to a witness’s truthfulness, whereas reliability refers to their ability to accurately remember, recall and recount events.<sup>36</sup> Given the well-documented impact of trauma on memory, the CFNIS

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<sup>32</sup> GO 2021-5656 at p 210 of 279.

<sup>33</sup> *Ibid* at p 31 of 279.

<sup>34</sup> CFNIS ER audio-video recorded interview with X, April 20, 2021 at 0:38:50.

<sup>35</sup> *Ibid* at 0:37:10.

<sup>36</sup> *R v H.C.*, 2009 ONCA 56 (CanLII) at para 41.

investigators should have acknowledged these discrepancies, engaged X in a thorough discussion to understand them in context, and incorporated this assessment into their decision-making before transmitting the file to the Crown prosecutor for pre-charge screening. A reasonable police officer in similar circumstances would have recognized the effects of trauma on recollection and adjusted investigative approaches accordingly to ensure fairness and accuracy.

76. Failing to address these discrepancies at the investigative stage also does a disservice to complainants of sexual assaults. At trial, defense counsels are likely to scrutinize these inconsistencies to challenge the complainants of sexual assault's reliability as a witness. Without a trauma-informed approach that recognizes how memory fragmentation and delayed recall can occur, military police investigations risk leaving complainants more vulnerable to credibility attacks, which may weaken the prosecution's case and ultimately undermine confidence in the justice process.

77. The inconsistencies in the complainant's statements were significant and should have been explored more thoroughly by investigators. This was not simply a matter of memory gaps, but a failure to ask follow-up questions, document the discrepancies, and consider how they might affect the reliability of the account. While trauma can affect how events are recalled, it does not remove the obligation to assess the evidence fairly and carefully. That responsibility rests with investigators. In light of these concerns, I recommend both enhanced training and clear investigative protocols to ensure these situations are handled appropriately in future cases.

#### **Recommendation #7:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal implement mandatory and ongoing trauma-informed investigative training for all CFNIS members conducting investigations where complainants may have experienced trauma. This training should include guidance on the effects of trauma on memory, the distinction between credibility and reliability, and how to address inconsistencies during interviews in a manner that is both fair and evidence-based. (Partially accepted by the CFPM)**

- *In the notice of action, the CFPM stated the following: "Action already taken. Mandatory training requirement already in place."*

*I consider this recommendation partially accepted. While the CFPM's response indicates that some form of mandatory training exists, it does not confirm or provide details showing that the training meets the specific content, scope, and continuity requirements outlined in the recommendation. For example, the recommendation specifies that training should be ongoing, but the response does not specify whether the existing training is ongoing or a one-time requirement, nor does it confirm whether the training covers the specific topics identified in the recommendation (effects of trauma on memory, distinction between credibility and reliability, and handling inconsistencies during interviews in a manner that is both fair and evidence-based). Without that clarity, the response cannot be considered a full acceptance of the recommendation.*

#### **Recommendation #8:**

The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal establish clear investigative protocols to guide CFNIS members in how to document, raise, and assess inconsistencies in complainant statements. These protocols should help ensure that discrepancies are fairly considered and appropriately addressed before referring cases to prosecutors. All such assessments should be documented in the investigative file to support transparency and oversight. (Not accepted by the CFPM)

- *In the notice of action, the CFPM stated the following: "Action already taken. MP members receive training as noted on the MP Investigation Course."*

*The recommendation from the MPCC calls for the establishment of clear investigative protocols to guide CFNIS members in documenting, raising, and assessing inconsistencies in complainant statements. It emphasizes the need for fair and evidence-based handling of discrepancies prior to referral to prosecutors, with all assessments documented to support transparency and oversight. In contrast, the CFPM's response ("Action already taken. MP members receive training as noted on the MP Investigation Course") does not confirm the existence of formal protocols, nor does it address documentation practices or oversight mechanisms. Referring to general training does not demonstrate that the specific procedural safeguards recommended are in place. Therefore, the response cannot reasonably be interpreted as accepting the recommendation.*

### *Failure to acquire notes during the investigation*

78. X also revealed during her March 15, 2021 interview with the CFNIS CR that she had personal notes regarding the incident. In fact, she had a notebook with her during this interview and could be seen taking notes when the investigators were not in the room. CFNIS CR investigator Lt McMillan, who conducted the interview, asked X for a copy of her notes at the end of the interview. X agreed and Lt McMillan indicated that she would make a copy of her notes on the way out. However, the notes were not included in the police investigation file.

79. During its PII, the MPCC requested from the Office of PS a copy of X's notes of her March 15, 2021 interview. PS responded that the "notes were not photocopied or provided" and that Lt McMillan "once off camera did attempt to obtain a copy, however, [X] did not want to give them as it was her personal agenda, which contained details of many other personal matters in her life and other incidents." PS provided to the MPCC an email correspondence between WO Hachey and Lt McMillan where X's notes are discussed. According to this email, on April 8, 2021, WO Hachey asked Lt McMillan if she had made a photocopy of X's notes. Lt McMillan replied that after the interview, she had asked X for the notes she had brought to the interview. However, she indicated that X "was not yet ready to relinquish those particular notes at that time."<sup>37</sup> This email correspondence was not scanned into the police investigation file on SAMPIS and there is no indication that WO Hachey attempted to obtain X's notes.

### **Recommendation #9:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal reminds all military police members, but in particular WO Hachey, of their obligation to ensure that all investigation related emails in their possession are promptly scanned and entered into the relevant investigation file in the Security and Military Police Information System. (Partially accepted by the CFPM)**

- ***In the notice of action, the CFPM stated the following: "Action to be taken. MP policy/procedures to be reviewed and updated as applicable based on Canadian best policing practices."***

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<sup>37</sup> Email correspondence dated April 8, 2021 between WO Hachey and Lt McMillan regarding X's notes.

***The recommendation from the MPCC called for specific and immediate action: that the CFPM remind all military police members, particularly WO Hachey, of their obligation to promptly scan and enter all investigation-related emails into the relevant investigation file. This was intended as a targeted operational directive aimed at improving documentation and accountability. However, the CFPM's response ("Action to be taken. MP policy/procedures to be reviewed and updated as applicable based on Canadian best policing practices") is vague and non-committal. It does not reference the specific issue of email documentation, identify which military police policies and procedures will be reviewed and updated or mention the subject named in the recommendation. The use of conditional language such as "to be reviewed" and "as applicable" suggests a general intent to consider policy changes rather than a clear commitment to implement the recommended action. Therefore, the response cannot reasonably be interpreted as a full acceptance of the recommendation.***

80. X's notes had clear probative value and the investigators failed to actively seek them directly from her during their investigation. X's statements to the police contained inconsistencies, which made it even more important to examine and compare her written notes on the incident with her statements. Her notes could have provided further context or an avenue for investigation.

81. As noted in the preceding paragraphs, X initially reported the alleged sexual assault to BGen Cross, her immediate supervisor at the time. During his interview with the CFNIS on April 19, 2021, BGen Cross stated repeatedly that he was referring to notes that he had taken during his conversations with X. However, he was not asked to provide a copy of these notes. The summary of his interview in the police investigation file does not mention that BGen Cross disclosed the existence of notes. Instead, the summary is presented in four points and the general statement: "[X] shared the same details with BGen Cross about the sexual assault that were reported to CFNIS CR."<sup>38</sup> The summary fails to specify the nature of these details and omits the discrepancies between BGen Cross's account in his statement to the CFNIS and X's account, discussed below.

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<sup>38</sup> GO 2021-5656 at p 35 of 279.



82. On May 2, 2022 – more than a year after the interview with BGen Cross and almost nine months after MGen (retired) Fortin was charged – WO Hachey sent an email to BGen Cross requesting a copy of the personal notes he had taken during a meeting with X on March 3, 2021. WO Hachey received the requested notes on May 5, 2022.

Me Legault, the Crown prosecutor who prosecuted MGen (retired) Fortin, explained during her interview with the MPCC that the defense had requested BGen Cross's notes prior to the trial. She then asked WO Hachey to obtain his notes. When asked, Me Legault stated that she was not aware that BGen Cross had notes on other meetings with X concerning the allegation against MGen (retired) Fortin. She recalled sending a copy of a letter from the defence to WO Hachey on March 3, 2022, and asking her to obtain the requested disclosure. She also did not recall requesting only BGen Cross's notes of March 3, 2021.

83. CFNIS investigators failed to obtain BGen Cross' notes during the initial phase of the investigation. This was a reasonable and necessary investigative step, particularly given the potential probative value of contemporaneous accounts from a key witness.

#### **Recommendation #10:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal remind CFNIS investigators, and in particular WO Hachey, that they are required to obtain all potentially probative evidence, including contemporaneous notes from complainants and witnesses, at the earliest possible stage of an investigation. (Accepted by the CFPM)**

- ***In the notice of action, the CFPM stated the following: “Action to be taken. All MP members to be reminded as part of ongoing mentorship program.”***

***I consider this recommendation accepted.***

*Failure to adequately examine the discrepancies between BGen Cross's account and X's account*

84. BGen Cross had stated to CFNIS investigators during his interview on April 19, 2021 that X had come to his office on February 25, 2021, to ask for advice and had disclosed to him that she had been the victim of three incidents of sexual misconduct, including one involving MGen (retired) Fortin, but did not provide any details. He then

had a second conversation with X on March 3, 2021, which lasted four hours, during which she provided details about the alleged incident, stating that she had woken up and found MGen (retired) Fortin “naked,” lying on top of her.

85. However, in her statements to the CFNIS on March 15, 2021, and April 20, 2021, X had stated that MGen (retired) Fortin was “dressed” when she woke up, but that he had pulled down his pants. It was only during a third interview with X on October 13, 2021, that WO Hachey questioned X about the discrepancies between her statements and that of BGen Cross. This was two months after MGen (retired) Fortin had been charged and six months after the discrepancy arose. This third interview with X was to clarify what she had said to BGen Cross when she reported the incident to him. X stated that she did not wish to give BGen Cross any details about the allegation, but that he continued to press her and question her about “every little detail,” which made her feel uncomfortable. She added that she then began answering “yes” to BGen Cross’s questions instead of actually giving him details about what had happened. She also indicated that BGen Cross had suggested to her what had happened.<sup>39</sup>

86. When asked whether she remembered telling BGen Cross how MGen (retired) Fortin was dressed when she first saw him, X replied that she did not. WO Hachey then asked her to describe how MGen (retired) Fortin appeared to her when she opened her eyes and saw him for the first time. She said that he was dressed and that his genitals were exposed. When asked if she would have used the words MGen (retired) Fortin “was naked,” when reporting the incident to BGen Cross, X replied in the negative, adding he had started asking her questions and she had simply “shut down”<sup>40</sup> because at about the same time, she had also reported two other separate situations of a sexual nature to him. Investigators did not question X about these other incidents as part of their investigation.

87. The CFNIS investigators failed to question X about the details of the two other incidents of sexual misconduct. While it is true that the decision to formally report the perpetrators in those other cases rested solely with X, the CFNIS investigators

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<sup>39</sup> CFNIS ER audio-video recorded interview with X, October 13, 2021 at 0:06:11.

<sup>40</sup> *Ibid* at 0:11:48.

nonetheless had a duty to ensure, to the extent possible, that her recollections of the incident under investigation were not conflated or confused with the other incidents she had disclosed to BGen Cross. A competent sexual assault investigator would have elicited this information from X while taking appropriate steps to minimise the risk of re-traumatization.

88. The investigators failed to arrange a follow-up interview with BGen Cross to address the discrepancies and obtain his notes before sending the investigation file to the DCPD for review. This would have been a reasonable and necessary investigative step. Relying solely on X's later clarification, without revisiting BGen Cross's account, was insufficient in the circumstances.

**Recommendation #11:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal direct all military police members to identify and document in the investigative file any discrepancies in statements that may identify new investigative avenues. Supervisory direction or decisions related to these discrepancies must also be clearly documented to support accountability and oversight. (Partially accepted by the CFPM)**

- ***In the notice of action, the CFPM stated the following: “No identifiable action required. Current MP policy includes this direction to supervisors.”***

***The recommendation from the MPCC called for the CFPM to direct all military police members to identify and document discrepancies in statements that may reveal new investigative avenues, and to ensure that any supervisory direction or decisions related to these discrepancies are clearly recorded in the investigative file. The CFPM's response (“No identifiable action required. Current MP policy includes this direction to supervisors”) suggests that the substance of the recommendation is already embedded in existing policy. However, the response does not cite specific provisions corresponding to the recommendation or confirm whether all military police members – not just supervisors – are explicitly directed to follow this practice. It also does not clarify whether supervisory decisions are consistently documented in a way that supports accountability and oversight. Due to the vague nature of the response, it cannot reasonably be interpreted as a full acceptance of the recommendation. I consider this recommendation partially accepted.***

### **C. The CFNIS investigation was impaired by tunnel vision and exhibited signs of investigative bias**

89. During his October 6, 2023, interview with the MPCC, MGen (retired) Fortin asserts pro-victim bias on the part of the CFNIS, and that “guidance from the top,” namely, “We believe victims,” influenced the investigation. He adds that he observed this influence in the questions asked by WO Hachey, in those that were not asked, and in those that were probably asked but not recorded. He asserts that WO Hachey never attempted to establish with certainty the identity of the person who allegedly committed the sexual assault during her interview with X, and that she disregarded a statement by X regarding a previous incident of a sexual nature she had experienced in her childhood, which led him to wonder whether X might have confused several events.

90. MGen (retired) Fortin told MPCC investigators that CFNIS investigation had been “rushed,” not in the sense that it had been conducted in a matter of months, but rather because much of the evidence had not been considered. He states that BGen Cross’ notes were never requested during the investigation, and X’s notes were never obtained. He also states that contradictory evidence was not examined and that some interviews were not recorded.<sup>41</sup> MGen (retired) Fortin also believes that there was “badgering of witness” when the CFNIS interviewed MGen T.

#### *Unconscious bias and tunnel vision*

91. Paragraph 14 of CF MP Order 2-340, referenced above, requires MP members to conduct impartial investigations. It expressly calls on MP members to refrain from conducting investigations with bias or tunnel vision.<sup>42</sup>

92. In the context of criminal investigations, tunnel vision may be understood as “a tendency of participants in the system, such as police or prosecutors, to focus on a particular theory of a case and to dismiss or undervalue evidence which contradicts that theory.”<sup>43</sup> This leads to “...unconscious filtering in of evidence that will ‘build a case’

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<sup>41</sup> MPCC audio-video recorded interview with MGen (retired) Fortin, October 6, 2023 at 0:50:54.

<sup>42</sup> *Supra* note 17 at para 14 (h).

<sup>43</sup> Public Prosecution Service of Canada, *Innocence at Stake: The Need for Continued Vigilance to Prevent Wrongful Convictions in Canada*, Chapter 2, *Understanding Tunnel Vision*, 2018, (available online: <https://www.ppsc-sppc.gc.ca/eng/pub/is-ip/toc-tdm.html>).

against a particular suspect, while ignoring or suppressing evidence respecting the same suspect that tends to point away from guilt.”<sup>44</sup> Tunnel vision can be considered a form of unconscious bias.

93. The Supreme Court of Canada judicially recognized and accepted that unconscious bias in individuals may lead in innate bias or preconceived notions that they may not be aware of.<sup>45</sup> Unconscious biases may be based on implicit attitudes or stereotypes.<sup>46</sup>

94. An impartial and fair investigator must demonstrate objectivity. However, there are indications that CFNIS investigators suffered from tunnel vision and unconscious bias in the conduct of the investigation. Based on the evidence, the investigators appear to have relied primarily on X’s account, and did not explore other sources of information, such as “Adam,” “Paunch,” and MGen Cadieu. They also dismissed, or undervalued evidence that was not consistent with X’s account, as well as discrepancies in her account. In investigating an historical sexual assault, it was essential to explore all relevant sources of information. The lack of proper documentation in the police investigation file also prevented senior managers from detecting and/or preventing the possibility of tunnel vision.

95. For example, in the summary prepared by WO Hachey on April 16, 2021, after interviewing Col M., she wrote that “the details [X] provided to Col [M.] corroborated with the complaint provided to CFNIS,”<sup>47</sup> and in the interview summary prepared by Cpl Garceau, after WO Hachey interviewed BGen Cross on April 19, 2021, he wrote that “BGen Cross collaborated [sic] the information provided by X [...] and had no additional information to elucidate the investigation.”<sup>48</sup> These two statements regarding corroboration are general in nature and do not provide a complete and informative account of what X said to Col M. and BGen Cross. More importantly it did not mention any discrepancy between the accounts and gave the opposite impression to any reader.

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<sup>44</sup> *Ibid.*

<sup>45</sup> *R v Chouhan*, 2021 SCC 26 at para 53.

<sup>46</sup> *R v Bhogal*, 2021 ONSC 4925 (CanLII) at para 11.

<sup>47</sup> GO 2021-5656 at p 33 of 279.

<sup>48</sup> *Ibid* at p 35 of 279.

96. Unconscious bias and tunnel vision could explain why X was not questioned about inconsistencies in her statements, why investigators asked her questions about potential witnesses but failed to approach those individuals directly for an interview, such as MGen Cadieu, or for a follow-up interview, such as BGen Cross.

97. Tunnel vision could also explain why WO Hachey indicated in the police investigation file, after interviewing MGen T. on April 20, 2021, that he was “not forthcoming” when his recollections of events did not support those of X. In this regard, during her March 15, 2021, interview, X told CFNIS investigators that after the alleged incident she went to see MGen T. – her boyfriend at the time – and told him what had happened. MGen T. allegedly told her he would speak to MGen (retired) Fortin and ensure that it does not happen again. MGen T. stated during his interview that he had no recollection of this. WO Hachey then told him that she did not want to engage in a confrontation, stating:

...I’m trying to look at it from her side of it, saying that she went to see her boyfriend at the time that she’s been sexually assaulted, provided details of the assault, and as her boyfriend, you do not remember the conversation? Is it possible because of, is there maybe impairment back then? Alcoholic if it was following a party? [...] Not that I don’t find it hard to believe, I’m just trying to imagine I went to my boyfriend and told him and he says, “I don’t remember you ever telling me you sexually assaulted.” **I’m not saying you went to see Dany Fortin or not, you tried to deal with it, but you don’t remember that conversation about being sexually assaulted and her telling you?** ” (emphasis mine)

98. Following WO Hachey’s comments, MGen T. stated that he did not recall X ever coming to his room to tell him, “I was sexually assaulted.” He also stated that he never had any discussions with X in the years following the alleged incident about this type of criminal matter. He did not recall a specific incident between X and MGen (retired) Fortin.

99. A reasonable police officer would have maintained objectivity during their investigation, evaluating all evidence impartially and in this type of interview would have avoided asking leading questions. When police are interviewing a person they believe is a suspect in a crime, the interview becomes an interrogation. In this adversarial context, investigators are generally permitted to use a wide range of tactics, including leading questions, to challenge a suspect’s denials, expose inconsistencies, and obtain a confession. In this case, WO Hachey was not interrogating a suspect. She was

interviewing MGen T., a witness identified by X. The primary goal of a witness interview is to obtain a pure, untainted, and accurate recollection of events. However, WO Hachey used a tool designed for suspect interrogation during a witness interview, where the priority must be to preserve the integrity of the witness's memory. In addition, WO Hachey's comments during the interview may have been the result of a lack of experience. As mentioned above, this investigation was likely her first sexual assault investigation.

100. Tunnel vision, unconscious bias, or the making of assumptions about the evidence is apparent in a number of missed or overlooked investigative steps described earlier in this report in relation to sub-question 1, including: the failure to identify and interview "Adam" and "Paunch"; failure to conduct more than one interview with BGen Cross when discrepancies arose between his account and that of X, and the failure to obtain his notes before the investigation file was transferred to the DCP; failure to question X about the inconsistencies in her statements and the failure to obtain her notes; and failure to interview MGen Cadieu to confirm what X had told him about the incident. In these cases, the CFNIS ER investigators either assumed they had sufficient evidence or simply missed or overlooked these investigative opportunities due to their lack of experience and/or the absence of adequate documentation in the police investigation file which prevented senior managers from detecting and/or preventing the possibility of tunnel vision. As described in this report, the SAMPIS interview reports did not contain many pertinent details that witness summaries or transcripts could have provided.

#### **Recommendation #12:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal implement targeted training for all military police members on unconscious bias, cognitive bias, and tunnel vision, with particular attention to reinforcing investigative objectivity and critical thinking during decision-making. The military police subjects should be required to participate in such training. The training should equip members to detect, critically assess, and mitigate the effects of these biases throughout the investigative process, in order to uphold impartiality, preserve investigative integrity, and align with professional policing standards. (Partially Accepted by the CFPM)**

- ***In the notice of action, the CFPM stated the following: "No identifiable action required. All MPs complete CPKN [Canadian Police Knowledge***

*Network] unconscious bias training. This training is also provided as part of QL [Qualification Level] 3/MPJPJ [Military Police Junior Patroller Course] (001.05).”*

*The recommendation from the MPCC called for the implementation of targeted training for all military police members on unconscious bias, cognitive bias, and tunnel vision, with an emphasis on reinforcing investigative objectivity and critical thinking. It specifies that the training should be mandatory, comprehensive, and designed to help members detect and mitigate bias throughout the investigative process. The CFPM’s response that “no identifiable action [is] required” because all MP members already complete unconscious bias training as part of existing programs suggests that some relevant training is in place. However, the response does not confirm whether the training explicitly addresses cognitive bias and tunnel vision, nor does it clarify whether the content is tailored to the investigative context or includes the critical thinking components emphasized in the recommendation. Without confirmation that the training fully meets the scope and intent of the recommendation, the response reflects partial alignment, not full acceptance. I consider this recommendation partially accepted.*

**D. The credibility of MGen T., a witness, was dismissed by the military police investigator**

101. MGen (retired) Fortin asserts that one of the witnesses, MGen T. was “undermined” by WO Hachey during the investigation. In his complaint, he states: “One individual, who clearly disagreed with [X], pushed back on the investigators’ insinuations that he may not have been truthful, and was later undermined in the CFNIS report – clearly not fitting with the investigator’s overt bias towards [X].”

102. During his interview with the MPCC on October 6, 2023, MGen (retired) Fortin stated that the CFNIS investigators were biased because they continued to question MGen T., asking him, “what do you mean, you don’t remember?”<sup>49</sup> in reference to the alleged sexual assault incident and whether X had told him about it.

103. According to the police investigation file, on April 15, 2021, WO Hachey contacted MGen T. by telephone. As noted above, this conversation was not recorded, I must rely on the police investigation file entry which reads:

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<sup>49</sup> MPCC audio-video recorded interview with MGen (retired) Fortin, October 6, 2023 at 0:36:30.



At 14h37, 15 Apr 21, **WO HACHEY contacted M. [T] (retired MGen) to inquire if he could provide and recall details involving the details of this this [sic] investigation. He stated he could not recall any specific event that would constitute a sexual assault, however, did not feel comfortable discussing such matter over the telephone and agreed to meet investigators in person for an interview.** The interview will take place at 18h00, 20 Apr 21...<sup>50</sup> [emphasis mine]

104. This entry does not specify the duration of the call, and it does not say what specific details WO Hachey wanted MGen T. to recall. I assume that she asked him if he remembered X telling him about the alleged incident and if he could provide details about it. MGen T. was a key witness identified by X during her interview with the CFNIS. Not only should this call have been recorded, but it should have been made for the purpose of informing him that the CFNIS had received this complaint, that he had been identified as a potential witness, and that the CFNIS wanted to meet with him for an interview to discuss it.

105. On April 16, 2021, WO Hachey interviewed Col M., whom X had identified as her long-time friend. X had told investigators that she had disclosed the alleged sexual assault to Col M. three or four years before reporting it to the military police. During her interview, Col M. provided negative information about MGen T., including an allegation that he had harassed X daily when he was her supervisor during his final two years of service. WO Hachey asked Col M. for details about the alleged harassment, then told her she appreciated the information, adding:

It kind of gives me a better understanding of why he's [MGen T.] been hesitant to talk to us. Because I'm having, I'm having difficulty speaking with him and now I'm kind of getting a better picture of maybe what he thinks this investigation is about, maybe he thinks its about him harassing her now, that's why he has been hesitating to talk to me...<sup>51</sup>

106. This comment by WO Hachey was not only inappropriate but also suggests a possible bias or negative predisposition against MGen T. prior to his interview. Moreover, there is nothing in the police investigation file to indicate that MGen T. was “hesitant” to speak to the CFNIS or that investigators had “difficulty” speaking to him. However, as noted above, the April 15, 2021 telephone call between WO Hachey and MGen T. was not recorded. The summary of this telephone call only mentions that

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<sup>50</sup> GO 2021-5656, p 32 of 279.

<sup>51</sup> CFNIS ER audio-video recorded interview with Col M., April 16, 2021 at 0:12:13.

MGen T. “did not feel comfortable discussing such matter over the telephone.” This reiterates my recommendation on the need to electronically record telephone calls, as, when conducted properly, they provide an accurate record of the words, inflections, tone, and mood of the conversation.<sup>52</sup>

107. On April 20, 2021, WO Hachey and Sgt Léonard interviewed X a few hours before interviewing MGen T. During this interview, X stated that MGen T. had probably not spoken to MGen (retired) Fortin after the alleged incident, because he was not confrontational. She also added that he was upset after she broke up with him at some point after the school year. X did not believe that he would now support her allegation against MGen (retired) Fortin.

108. When the CFNIS investigators interviewed MGen T. on April 20, 2021, he stated that he had no recollection of an incident between X and MGen (retired) Fortin, nor that X had ever spoken to him about such an incident. There is no detailed summary or transcript of the interview in the police investigation file. The 47-minute audio-video recorded interview is summarized in less than one page in the investigation file.

109. MGen T.’s statement was important to CFNIS investigators in potentially corroborating X’s allegation. Confirming that X had disclosed the offence to MGen T. at the time of the incident would have carried more weight in support of her allegation than X’s statements to other witnesses, such as Col M. and BGen Cross, in recent years.

110. When a witness’s credibility is in doubt, a reasonable investigator will attempt to get the witness to commit to a specific version of events during the information gathering phase of the interview. A reasonable investigator will be able to do this without appearing to challenge or accuse the witness or imply that a witness is lying unless there are valid reasons for doing so.

111. In this case, WO Hachey changed the dynamic of the interview with MGen T. when she stated, “I don’t want to get confrontational; I’m trying ...to look at it from her [X’s] side of it, saying she went to see her boyfriend at the time that she’s been sexually

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<sup>52</sup> *Supra* note 19 at para 9.

assaulted, provided details of the assault, and as her boyfriend, you don't remember the conversation..." Starting a conversation with "I don't want to get confrontational," not only signals an inappropriate expectation that the witness will be uncooperative but, more importantly, her subsequent words demonstrate a clear abandonment of investigative neutrality. By explicitly adopting the complainant's perspective ("looking at it from her side"), WO Hachey moved from the role of an impartial fact-finder to that of an advocate. This questioning technique is an example of the confirmation bias and tunnel vision that undermined the integrity of this investigation, as it did not seek to test a witness's memory objectively but rather to challenge his failure to confirm a predetermined narrative. This approach was fundamentally improper and did not escape MGen T. at the time.

112. WO Hachey would have been better advised to approach the issue by simply asking MGen T. whether he was saying (a) that he did not remember such a conversation, or (b) that he was certain that the conversation had never taken place. As noted above, Ms. M. – who was X's roommate at the time of the alleged offence – also stated during her initial April 14, 2021 interview with WO Hachey that she did not recall any incident involving X and MGen (retired) Fortin while she was a student at the RMC, but WO Hachey only noted in the police investigation file "she wasn't stated [sic] that an incident never happened, however, she was dealing with her own issues at the time and her memory of those years is fuzzy."<sup>53</sup> This reveals an inconsistent and biased standard for assessing witness memory.

113. Properly clarifying MGen T's account might have been more useful in assessing, and possibly challenging, his credibility as the investigation progressed and in any subsequent trial. The opposite could also be true. A statement that is questionable today may prove to be very credible as new evidence becomes known or even steer the investigation in a different direction.

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<sup>53</sup> *Supra* note 20.

114. The police investigation file on the interview with MGen T. tends to discredit him by stating that he was not “forthcoming while providing answers to investigators,” a conclusion that aligns with a pre-existing narrative that required his evidence to be dismissed. The report gives no weight to the possibility that he was telling the truth when he stated that X had never revealed to him that she had been sexually assaulted by MGen (retired) Fortin.

115. As noted above, WO Hachey and Sgt Léonard both declined to be interviewed by the MPCC. However, there is considerable evidence to suggest, on a balance of probabilities, that this witness was not treated as a reasonable police officer would have done in similar circumstances. It is more likely than not that the CFNIS Investigators formed their opinion of MGen T. prior to interviewing him, based on the opinions previously provided about him by X and Col M.

116. These preconceived opinions about MGen T. may have been formed as a result of unconscious bias and tunnel vision, or allowing X and Col M. to taint their perspective or a combination of these factors. Reasonable investigators would have been able to keep an open mind prior to their interview with MGen T. and avoid reacting to assumptions or the opinions of others. The CFNIS investigators did not do so in this case and, as a result, dismissed his statement and his credibility as a witness.

### **Recommendation #13:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal provide WO Hachey and Sgt Léonard with refresher training in witness interviews and interviewing techniques. (Accepted by the CFPM)**

- *In the notice of action, the CFPM stated the following: “Action to be taken.”*

*The CFPM’s response lacks detail and does not specify the actions to be taken. However, because the recommendation is very specific — namely, to provide WO Hachey and Sgt Léonard with refresher training in witness interviews and interviewing techniques — I consider it accepted.*

**E. The decision to transmit the investigation file to the Quebec DCPD was reasonably supported by the available evidence**

117. In his complaint, MGen (retired) Fortin claims that the CFNIS ER transmitted the police investigation file (GO 2021-5656) to the Quebec DCPD on May 11, 2021, even though “there was clearly and unequivocally insufficient evidence to establish the identity of the alleged perpetrator.”<sup>54</sup>

*Jurisdiction in this case*

118. The alleged sexual assault occurred between January and April 1988. This was prior to the enactment and the coming into force of Bill C-25, which amended the *National Defence Act*<sup>55</sup>, to grant courts martial jurisdiction over sexual assault offences committed in Canada by individuals subject to the *Code of Service Discipline*. Before Bill C-25, such offences fell exclusively under the jurisdiction of the civilian criminal justice system. This case therefore had to be handled in the civilian court system. Furthermore, the alleged offence occurred at the Royal Military College Saint-Jean in the province of Quebec.

119. Quebec has a pre-charge screening system, also known as “charge approval.”<sup>56</sup> The pre-charge screening is a process during which a Crown prosecutor working for the DCPD reviews the police investigation file and all available evidence to determine whether there is a “reasonable prospect of conviction,” and whether prosecution would be in the public interest.<sup>57</sup> A “reasonable prospect of conviction” is an objective test. The standard is higher than a mere “prima facie case,” but does not require a probability of conviction to proceed.<sup>58</sup> Thus, in Quebec, it is the Crown prosecutor, not the police, who makes the final decision on whether to lay charges.

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<sup>54</sup> Complaint Form of MGen (retired) Fortin at p 2.

<sup>55</sup> The amendments made to the *National Defence Act* by Bill C-25, specifically s. 70, removed sexual assault offences from the list of offences subject to the exclusive jurisdiction of the civilian criminal justice system. Bill C-25 received Royal Assent on December 10, 1998 and came into force on September 1, 1999.

<sup>56</sup> The Federal Prosecution Service Deskbook, 2.7 *Relationship between Crown Counsel and Investigative Agencies*, 3. *Role of Crown Counsel Before and After Charges are laid*, 3.4 *Charge Review*, last updated March 1, 2014 at p 10 (online: <<https://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfp/fps-sfp/tpd/d-g-eng.pdf>>).

<sup>57</sup> DMP Policy Directive, Directive #002/00, March 1, 2000, Updated September 1, 2018, (online: <<https://www.canada.ca/en/department-national-defence/corporate/policies-standards/legal-policies-directives/pre-charge-screening.html>>).

<sup>58</sup> *Ibid* at para 30.

*Transmitting the file to the DCPD for pre-charge screening*

120. According to the police investigation file, on May 7, 2021, WO Hachey forwarded the investigation file for pre-charge screening to the DCPD Saint-Jean-sur-Richelieu, Quebec, for review by prosecutor. However, due to the location of MGen (retired) Fortin and X, the file was transferred to the DCPD in Gatineau, Quebec, and on May 25, 2021, WO Hachey was informed that the DCPD has received the file and that Me Legault had been assigned to the case as Crown prosecutor.<sup>59</sup>

121. The decision to transmit the file involves police investigative discretion, which is at the heart of policing duties and functions. In *R v Beaudry*<sup>60</sup>, the Supreme Court of Canada (SCC) affirmed that police have the discretion to decide how to investigate and whether to lay charges. The SCC made several key points about this discretion. First, police have a duty to enforce the law and can choose how to investigate or charge individuals. Second, this discretion is not unlimited; it must be supported by legal standards and justifiable reasons. Third, police cannot rely solely on common practices or policies to justify their actions; these may provide context, but the focus should be on what a reasonable officer would do in the circumstances.<sup>61</sup> It is beyond my mandate and jurisdiction to review the conduct of the Crown prosecutor. My role is limited to evaluating whether the subject MP members had reasonable grounds to believe that an offence had been committed and that the suspect, in this case, MGen (retired) Fortin, was responsible. Additionally, I must determine whether they possessed sufficient evidence to refer the case to the DCPD.

*Evidence in the police investigation file (GO 2021-5656)*

122. Before transferring the file to the DCPD in May 2021 for pre-charge screening, the CFNIS completed the following investigative steps according to the final case summary in the police investigation file prepared by WO Hachey on August 18, 2021<sup>62</sup>:

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<sup>59</sup> GO 2021-5656, p 76 of 279.

<sup>60</sup> *R v Beaudry*, 2007, SCC 5.

<sup>61</sup> *Ibid* at para 35-39.

<sup>62</sup> GO 2021-5656, pp 92-93 of 279.

- a) On March 15, 2021, the CFNIS CR investigators conducted an interview with X, during which X identified MGen (retired) Fortin as the suspect who sexually assaulted her.
- b) X stated she informed her boyfriend at the time, MGen T. “about the assault and he stated he would talk to MGen [retired] Fortin and ensure he left her alone. She never spoke about the incident or informed anyone else at the time, due to the fear of retaliation and being removed from RMC.”
- c) When the file was transferred from CFNIS CR to CFNIS ER, investigators conducted an interview with Ms. M. (X’s roommate at the time) and MGen T. (X’s boyfriend at the time) “however, no information was obtained to corroborate or elucidate the investigation.”
- d) Investigators conducted interviews with Col M. (X’s long-time friend) and BGen Cross (X’s supervisor at the time she reported her sexual assault complaint) “who were identified by [X] to whom she had previously reported and shared the details of the sexual assault. Both members corroborated the details and statements provided to CFNIS investigators by the victim.”
- e) On April 19, 2021, investigators contacted MGen (retired) Fortin “and requested he take part in a voluntary cautioned interview, to which he declined after speaking with counsel.”

123. Apart from these five points, the final case summary provides no other information on the outcome of the investigation. As discussed above, CFNIS ER failed to take certain additional reasonable steps that a reasonable investigator would have taken. Their investigation also suffered from a lack of adequate documentation, supervision, unconscious bias, and tunnel vision. However, based on the evidence available, investigators concluded that their investigation uncovered “sufficient evidence” to proceed: they obtained a statement from X, who identified MGen (retired) Fortin as the perpetrator, and they interviewed witnesses, two of whom, in their view, “corroborated the details and statements provided to CFNIS investigators by the X.”

124. Prior to charges being laid in August 2021, an additional investigative step was completed by the CFNIS ER, namely, a follow-up interview with Col M. on June 17, 2021 to obtain clarification regarding previous statements she provided.

125. On August 16, 2021, the DCPD of Quebec, decided to proceed with charges against MGen (retired) Fortin. During her interview with the MPCC, Me Legault was asked whether the police had to satisfy the reasonable grounds to believe test before transferring a case to the DCPD for review. She replied that police are expected to satisfy themselves that an offence has been committed before asking them (the Crown) to review it. Me Legault stated that she believed she had sufficient evidence to convince a judge of the guilt of MGen (retired) Fortin. She also indicated that no attempt had been made to influence the DCPD in its review of the investigation and/or its recommendations.

126. On August 19, 2021, WO Hachey wrote the investigation “concluding remarks” which reads as follows: “The investigation completed by CFNIS ER revealed sufficient evidence to charge MGen Fortin with one count of sexual assault [...]. On 18 Aug 21, MGen Fortin was arrested via Arrest Warrant and released on a Promise to Appear with undertaking, first court appearance: 20 Sept 21. The file is concluded.”

127. On August 20, 2021, LCol Eric Leblanc, Commanding Officer of the CFNIS, wrote a letter to the Vice Chief of the Defence Staff and the Chief of the Defence Staff informing them that the police investigation file (GO 2021-5656) had been reviewed by the DCPD, that the investigation had gathered sufficient evidence to lay a charge of sexual assault against MGen (retired) Fortin, and that the investigation was complete. A copy of the military police information report, a 5-page document, was attached to the letter.

128. It is difficult to determine with certainty that the shortcomings identified in this report, would have altered the police’s assessment that reasonable grounds existed to believe that MGen (retired) Fortin committed the alleged offence. Nor is it possible to state definitively that a reasonable police officer considering the same evidence would have reached a different conclusion.

129. The decision to refer a file to a prosecutor is not, and should not be, based on a certainty of conviction. There is an inherent tension in public discourse: police are criticized both for sending forward files with limited evidence, and for deciding not to, a choice which can prevent a case from ever being reviewed by a prosecutor. The pre-



charge screening process acts as the safeguard to manage this tension. Police investigate and refer; prosecutors independently assess and decide.

130. In recent years, police services in Canada, including the military police, have been criticized for prematurely closing sexual assault investigations. In response, policies and practices have increasingly emphasized the importance of thorough investigation and consultation with prosecutors, rather than having police make unilateral decisions on the ultimate viability of a case.

131. While this was not the strongest case and was compromised by the investigative failures I have identified, it cannot be said that the decision to refer it to the DCPD was itself unreasonable. The investigators had a direct complaint from a victim. To have refused to send the file to the DCPD for an independent prosecutorial opinion could, in itself, have been criticized as a failure to take the complaint seriously.

132. Ultimately, it is impossible to state with certainty whether a perfect investigation would have changed the police's decision to transmit the file. The CFNIS investigators exercised their discretionary power in accordance with the existing justice framework. Given that the final charging decision rested with the DCPD, which had all the evidence, including its weaknesses, before it, I cannot conclude that the subject military police members unreasonably transmitted the file for an independent prosecutorial review.

*Observation: non-compliance with CF MP Orders 2-126.7 and 2-126.8*

133. As noted above, WO Hachey wrote the final case summary in this case. CF MP Order 2-126.7, entitled "Drafting case summaries and prosecution summaries," requires that each General Occurrence (GO) report include a case summary, and the lead investigator is responsible for preparing this summary. Paragraph 18 specifies that case summaries should briefly summarize the incident under investigation and the results of the investigation. Not only was this case summary not prepared by the lead investigator, Sgt Léonard, but it also did not mention the results of the investigation.

134. Paragraph 2 of CF MP Order 2-126.8, entitled “Concluding remarks,” states that “it is the responsibility of the lead investigator to draft the concluding remarks.” As noted in the preceding paragraphs, Sgt Léonard was designated as the lead investigator, assisted by WO Hachey, but it was the latter who drafted the case summary and the concluding remarks of the investigation, which reinforced my previous observations in this report regarding the need for proper case management, as roles and responsibilities were not clearly defined. This would have ensured that the investigation was conducted in an effective and efficient manner.

**Recommendation #14:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal direct WO Hachey and Sgt Léonard to review Canadian Forces Military Police Orders 2-126.7 (Drafting Case and Prosecution Summaries) and 2-126.8 (Concluding Remarks) to reinforce their understanding of proper procedures for drafting case summaries and concluding remarks in the Security and Military Police Information System. (Accepted by the CFPM)**

- *In the notice of action, the CFPM stated the following: “Action to be taken.”*

*While the CFPM’s response lacks detail about what action will be taken, given the specificity and limited scope of the recommendation – namely, to direct WO Hachey and Sgt Léonard to review specific CF MP Orders – I consider it accepted.*

**Recommendation #15:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal amend Canadian Forces Military Police Orders 2-126.7 (Drafting Case and Prosecution Summaries) and 2-126.8 (Concluding Remarks) to include a mandatory quality control check. This procedure must require the responsible supervisor to formally verify and electronically attest in the Security and Military Police Information System that the designated lead investigator has personally drafted and finalized the case summary and concluding remarks. (Partially accepted by the CFPM)**

- *In the notice of action, the CFPM stated the following: “Action to be taken. MP policy/procedures to be reviewed and updated as applicable based on Canadian best policing practices.”*

*I consider this recommendation partially accepted. Although the CFPM has stated that “action will be taken,” the response is vague. It does not*

*specify which military police policies and procedures will be reviewed and updated. The MPCC recommended a concrete amendment — a mandatory quality control check — to be added to CF MP Orders 2-126.7 and 2-126.8, yet these are not mentioned in the CFPM’s response.*

*The statement by the CFPM that MP policy/procedures will be reviewed and updated “as applicable based on Canadian best policing practices” suggests a general intent to consider changes but does not confirm whether the specific amendment will be made or whether the verification and attestation process will be implemented. The conditional phrasing (“as applicable”) and absence of direct reference to the quality control mechanism indicate that the response aligns only partially with the recommendation, rather than constituting clear and full acceptance.*

**F. Assertion that the military police attempted to construct a predetermined narrative and “patch holes” not supported by the evidence**

135. I do not consider that this aspect of the allegation, namely that the military police attempted to construct a predetermined narrative and try to “patch holes” in the case, to be supported by the available evidence.

136. In his complaint, MGen (retired) Fortin states:

The investigator appears to have had multiple phone discussions following the charge laid on August 18, 2021, with X. and one of the individuals previously interviewed and who had not witnessed the alleged incident, in an attempt to further build a predetermined narrative and try to “patch holes” in the case.<sup>63</sup>

137. In his interview with MPCC investigators on October 6, 2023, MGen (retired) Fortin stated that he had reviewed many hours of CFNIS interviews with X and other witnesses. He observed that WO Hachey occasionally made comments such as, “as we discussed previously before the recording.” MGen (retired) Fortin raised concerns about the timing of these off-the-record statements, and they had not been disclosed.<sup>64</sup>

138. MGen (retired) Fortin also expressed concerns about the lack of information provided to him and his lawyer prior to the trial, as well as the apparent lack of cooperation on the part of the prosecutor’s office (which is ultimately responsible for providing disclosure). MGen (retired) Fortin emphasized that he had received email

<sup>63</sup> Complaint Form of MGen (retired) Fortin at p 2.

<sup>64</sup> MPCC audio-video recorded interview with MGen (retired) Fortin, October 6, 2023 at 0:21:00.

chains instead of actual reports and recordings, which he considered to be “snippets” of disclosure. These are legitimate concerns that reinforced MGen (retired) Fortin’s suspicions about the military police trying to build (and disclose) a predetermined narrative.

139. According to MGen (retired) Fortin, some information and discussions that took place during the CFNIS investigation were not recorded or noted, in an effort to “patch up” the holes and that X “was led to remember evidence.” He also cited as an example of “patching holes” a telephone interview recorded with Ms. M. by WO Hachey. He explained that during the conversation, the investigator attempts to suggest to Ms. M. that she may have been X’s roommate prior to the date she had previously indicated in her statement.<sup>65</sup>

*Evidence regarding date on which X and Ms. M. were roommate: 1987 versus 1988*

140. As noted in the preceding paragraphs, on October 13, 2021, almost two months after MGen (retired) Fortin was charged, WO Hachey conducted a follow-up interview with X to discuss the conversation she had with BGen Cross regarding the alleged incident.

141. WO Hachey noted in her police notebook that before she and X entered the interview room, X had told her that she had new information about the alleged sexual assault. WO Hachey responded that it would be best to discuss it “on camera,”<sup>66</sup> which was the correct thing to do. Recording this in her notebook also ensured that a record of what was discussed was kept.

142. Towards the end of this interview with X, WO Hachey asked her if she had anything else to add, referring to a discussion they had had before the formal interview began. X then revealed that, through therapy, new details were “coming to light” and that the incident involving MGen (retired) Fortin may have occurred as early as October 1987. She now wondered when she and Ms. M. had actually been roommates. Following that statement from X, it was reasonable for WO Hachey to re-interview Ms. M. to

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<sup>65</sup> *Ibid* at 0:24:27.

<sup>66</sup> GO 2021-5656, p 183 of 279.

confirm the period during which they were roommates. The purpose of this follow-up interview was to clarify information and gather additional details. This was a reasonable investigative step. This also led WO Hachey to request the academic records of X and MGen (retired) Fortin to determine when they were both at RMC. It should be noted that these tasks were not completed until January 2022.

143. On January 13, 2022, WO Hachey sent X an email asking her to specify who her roommates were at RMC in 1987-1988 for each semester. X replied that she would check her yearbooks, but that she was certain that MGen (retired) Fortin was in his second year, and she was in her first year at the time of the alleged incident.

144. That same day (January 13, 2022), WO Hachey conducted a less than 14-minute audio recorded interview with Ms. M. to clarify when she was roommates with X at the RMC. Ms. M. stated that she remembered being roommate with X from January to May 1988. WO Hachey asked her if it was possible that they had been roommates earlier during the autumn of 1987, i.e. from September to December 1987, and Ms. M. replied “no.”

145. During this interview with Ms. M., WO Hachey made a few comments to her about the discussions they had had prior to the interview. As noted above, MGen (retired) Fortin legitimately questioned why he had not received any disclosure about these conversations. Moreover, WO Hachey did not have any notes in the police investigation file to explain what had been discussed. As indicated in the preceding paragraphs, this is a shortcoming of the CFNIS investigation, and a recommendation is made in this regard.

146. Many of the investigative actions taken after MGen (retired) Fortin was charged for sexual assault on August 18, 2021 ought to have been completed during the initial phase of the investigation.

147. In the context of a historical investigation, it is not uncommon for some information to be inaccurate due to the passage of time and the natural erosion or blending of memories. In this investigation, the prosecutor’s office was unable to disclose what it did not have. The lack of detailed notes, reports, or recordings of some of the interviews

conducted by CFNIS ER investigators is a shortcoming of their investigation and reflects a lack of competence of the importance of conducting a thorough and properly documented investigation. However, I do not find that these shortcomings, on the balance of probabilities, constitute an attempt to “patch holes” in the case or establish a pre-determined narrative.

**Finding #1:**

**The Military Police Complaints Commission finds that, on a balance of probabilities, the CFNIS ER investigators failed to conduct a thorough and rigorous investigation (General Occurrence file #2021-5656) into the sexual assault complaint filed against MGen (retired) Fortin, and that their investigation suffered from tunnel vision and exhibited signs of investigative bias.**

- *In the notice of action, the CFPM stated the following: “No identifiable action required.”*

***Question #2: Did external considerations influence the CFNIS ER investigation?***

148. The evidence available to me does not support the conclusion that external considerations influenced this CFNIS investigation. Here is why.

149. At the time the allegation of sexual assault was made against him, MGen (retired) Fortin, a senior officer in the Canadian Forces, had been seconded to the Public Health Agency of Canada (PHAC) as Vice President of Logistics and Operations. In this capacity, he led the distribution of the COVID-19 vaccine in Canada. The CFNIS investigation and the proceedings brought against him were widely reported in the national news media, as was his simultaneous removal in May 2021 from the COVID-19 Vaccine Roll-out Task Force under the PHAC.

150. In his complaint, MGen (retired) Fortin states that there is currently a “mantra” within the Canadian Forces that “we believe victims,” which, in his view, had a decisive influence on the CFNIS investigation.<sup>67</sup> He claims that the CFNIS investigation was motivated “in part by the significant political and public pressure” aimed at ensuring that the Canadian Forces and the CFNIS were perceived “to be seen to be doing something”

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<sup>67</sup> Complaint Form of MGen (retired) Fortin at p 3.

against several senior Canadian Forces officers who were then under investigation for sexual misconduct.

151. To assess whether external considerations influenced the investigation, I reviewed hundreds of pages of documents related to this aspect of MGen (retired) Fortin's allegations, as well as several hours of audio-video recordings of interviews. MPCC investigators interviewed several key witnesses, including MGen (retired) Fortin, to gather information and evidence.

152. On October 6, 2023, MPCC investigators interviewed MGen (retired) Fortin, who stated the following from the outset:

[Translation]

**“So, when an allegation was made against me and I was notified on March 17, 2021, I suspected that it was highly politicized, but it was only when certain documents were provided to me that I saw the extent of the scheming, this backroom maneuvering [...]**

And I'll finish by saying that the two stories are a bit mixed up: the fact that I was removed from the public health agency and then I accuse the government of removing me without due process, presumption of innocence [...] and then they went with a “single historic allegation,” and then they destroyed someone's career.”<sup>68</sup> (emphasis mine)

153. When MPCC investigators asked him if he had direct evidence that the decision to charge him was politically motivated, MGen (retired) Fortin replied in the negative. He added that he did not expect such interference to be openly documented anywhere, pointing out that most of the available notes from senior Canadian Forces officials had been redacted.<sup>69</sup>

154. On October 25, 2023, MGen (retired) Fortin provided the MPCC with a copy of the “certified tribunal record”<sup>70</sup> of his sexual assault trial, which contains extracts from the notebooks of Gen (then LGen) Eyre, Acting Chief of the Defence Staff (A/CDS), and BGen (now retired) Mulawyshyn, Chief of Staff to the CDS, at the time of the events.

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<sup>68</sup> MPCC audio-video recorded interview with MGen (retired) Fortin, October 6, 2023 at 0:12 :41.

<sup>69</sup> *Ibid* at 1:33:59.

<sup>70</sup> *Fortin v AGC*, Court file No. T-957-21, *Certified Tribunal Record*, July 30, 2021.

*Examination of police notes and other notes*

155. According to the notes of CFNIS CR investigators Lt McMillan and PO2 McLachlan, a meeting was held on March 17, 2021, with several senior CFNIS officers during which the investigation was discussed. This meeting took place less than a week after the complaint against MGen (retired) Fortin was received at the CFNIS. PO2 McLachlan's notes of the March 17, 2021, meeting indicate that the CFPM had informed the A/CDS of the investigation, who was to then inform the subject.

156. Neither the police notes of Lt McMillan nor PO2 McLachlan mention any external pressure regarding the conduct of the investigation. According to the notes, Maj Eric Périard (CFNIS Deputy Commander), Maj Charles Neufeld (CFNIS CR Officer Commander), WO Warren Groeneveld (CFNIS CR Team A Lead) and RCMP Inspector Pallister also attended the meeting.

157. During its PII, the MPCC requested that PS disclose a copy of all notes taken by participants at the March 17, 2021, meeting, as well as a copy of all notes relating to this CFNIS investigation. PS responded indicating that Maj (now LCol) Périard had responded that he had no notes regarding this meeting. Inspector Pallister's notes were provided and reviewed. Although there is an entry for March 17, 2021, the notes consist of a few words, contain no detailed information about the meeting or the CFNIS investigation, and make no mention of external pressure.

158. With regard to the police notes of Maj Neufeld and WO Groeneveld, PS initially informed the MPCC in May 2024 that Maj Neufeld and WO Groeneveld had both been released from the Canadian Forces and that the CFPM office therefore did not have access to this information. Following a request for additional clarification in July 2025 regarding the retention period for retired MP members' notebooks and where CFNIS members' notebooks are kept post-retirement from the Canadian Forces, PS replied that these notebooks are held by the MP unit – in this case, CFNIS – through the evidence custodian and retained for a minimum of seven years after the conclusion of any active judicial or administrative inquiry as per CF MP Order 2-301, entitled "Police Notes." This order sets out direction with regard to police notebooks. PS then indicated that it had



contacted the CFNIS CR to inquire whether Maj Neufeld and WO Groeneveld notebooks are held there, to which CFNIS responded: “there does not appear to be any notes held for Maj Neufeld and WO Groeneveld.”

159. I note that rather than informing the MPCC that the notes were not held by the office of the CFPM, PS ought to have contacted the CFNIS unit when the MPCC initially made the request in April 2024. Furthermore, the response from the military police regarding the police notebooks of these two retired members is concerning. CF MP Order 2-301 requires that all MP members engaged in policing functions keep and maintain a police notebook to reflect their involvement and activities related to all police matters and investigations.<sup>71</sup> It is puzzling why there are no notes for Maj Neufeld and WO Groeneveld given the MP policy and the seven-year retention period.

**Recommendation #16:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal ensure that their policy regarding “police notes” be updated to ensure that police notebooks are safeguarded when military police members retire from the Canadian Forces. (Not accepted by the CFPM)**

- ***In the notice of action, the CFPM stated the following: “Action already taken. MP policy/procedures currently address this issue.”***

***I do not consider this recommendation accepted. While the CFPM has acknowledged the recommendation, the response lacks detail and fails to specify which military police policies and procedures currently address the issue.***

***This decision found that the current CF MP Order was not followed in practice, as the police notes of Maj Neufeld and WO Groeneveld were not safeguarded upon their retirement, contrary to MP policy requiring a seven-year retention period. To strengthen accountability and ensure consistent adherence to proper procedures, the order concerning police notes should be updated as recommended.***

160. The MPCC also requested that PS disclose a copy of the notes of BGen Trudeau, Gen Eyre, and BGen (retired) Mulawyshyn regarding a meeting they attended on March 19, 2021, during which the CFNIS investigation was discussed, and/or any documents in

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<sup>71</sup> CF MP Order 2-500, *Investigation Management* at paras 17 and 18, December 5, 2018, and CF MP Order 2-301 at para 3.

their possession regarding that investigation. BGen Trudeau provided three pages of handwritten notes relating to two meetings he had with Gen Eyre on March 19, 2021, and on March 25, 2021. Both Gen Eyre and BGen (retired) Mulawyshyn stated during their interview with the MPCC that the notes contained in the certified tribunal record represented all the notes they had on the case.

*Information provided during MPCC interviews*

161. Key witnesses provided the following information regarding the allegation that external considerations influenced the CFNIS investigation. All witnesses were found to be credible, as their accounts were direct, detailed, without contradictions or inconsistencies. Their account also aligned with the evidence.

162. BGen (retired) Mulawyshyn was interviewed by the MPCC on May 22, 2024. He explained that when such an allegation was made against a senior officer his role was to accompany the CDS, to be his second ear, his sounding board and his advisor, to take notes and to be able to represent the interests of the CDS. He does not recall any directives at the time that could have influenced the CFNIS investigation.

163. Deputy Minister (now retired) Jody Thomas was interviewed by the MPCC on June 6, 2024. She openly described the environment within the Canadian Forces at the time, indicating that many senior officials and officers were the subjects of allegations of sexual misconduct, and the Canadian Forces as an institution was “shell shocked.” She said that she became aware of the allegation against MGen (retired) Fortin on March 19, 2021. The CFNIS did not inform her of this. She believes she heard about the allegation from Public Affairs or from the CDS. She informed the Clerk of the Privy Council, as MGen (retired) Fortin held a very senior, high-profile, and critical position. She believes the Minister was informed by the then President of PHAC. She did not receive any information from the CFPM or the CFNIS during the investigation. She asked questions about the case, but received no information and therefore knew very little about the investigation. She added that her questions were not intended to influence or direct the investigation, which she believes would have constituted interference, but that it was her duty to be informed. To her knowledge, no guidance or advice was given by any member

of the government, including herself, to the Canadian Forces, or the Crown prosecutor's office, regarding the CFNIS investigation and/or the decision to charge or prosecute MGen (retired) Fortin.

164. Gen Eyre was interviewed by the MPCC on June 16, 2024. He told MPCC investigators that he knew little about the CFNIS investigation, adding that he stayed at arm's length. He also stated that most of his notes related to administrative actions that could be taken at the time in relation to the employment of MGen (retired) Fortin.

165. BGen Trudeau was interviewed by MPCC investigators on October 10, 2024. He stated that he never felt pressure from the CDS to do or not do anything regarding an allegation or investigation. As far as he knew, there was no political influence affecting the investigation of MGen (retired) Fortin or the proceedings against him. He would not have allowed it.

166. Capt Paré told MPCC investigators that his unit received no external communication or pressure from the Canadian Forces and/or the government regarding the investigation. He added that WO Hachey may have felt some pressure, considering this was one of her first sexual assault investigations, but that she was a person who does not easily become nervous and manages stress well.

167. MWO Parent told MPCC that he does not recall anyone from the Canadian Forces or the government contacting his unit about the investigation and attempting to direct or influence the investigation.

168. Me Legault, the prosecutor who prosecuted MGen (retired) Fortin, stated during her interview with the MPCC on November 12, 2024, that the police (CFNIS investigators) did not try to influence her decision to charge or prosecute MGen (retired) Fortin.

*Examination of notes in the certified tribunal record with key witnesses*

169. The personal notes included in the certified tribunal record were reviewed with Gen Eyre, BGen (retired) Mulawyshyn and BGen Trudeau as well as Deputy Minister (retired) Thomas during their interviews with the MPCC. The notes are reproduced

below, in part, to assist the reader in understanding the subsequent comments provided by these witnesses.

Notes of Gen Eyre – March 18, 2021	
DM <sup>72</sup>	...increasingly worried. Duty of care to institution.
CFPM	<ul style="list-style-type: none"><li>- Increasing pressure on us to act</li><li>- Nature of allegations – what does that change?</li><li>- Can't rush investigation.</li><li>- Push – leads</li><li>- Would someone phone RCMP Commissioner for details.</li><li>- Can't divulge nature – needs to protect integrity of investigation – needs to keep right. MPCC will prob review [sic] could affect integrity.</li><li>- Info divulged could affect integrity – could get [sic].</li><li>- Police independence there for reason</li><li>- ...</li></ul>
DM	<ul style="list-style-type: none"><li>- Gov could fall</li><li>- Political pressure</li><li>- What say to public?<sup>73</sup></li></ul>

170. As mentioned earlier in this report, all witnesses were credible and responded openly to the MPCC questions. During their interviews with the MPCC, they stated that the notes and/or comments stemmed from discussions about MGen (retired) Fortin high-profile role within PHAC at the time and how best to navigate this role in light of the criminal complaint against him. While summary information was shared about the nature of the complaint, details about the investigation itself were not discussed.

171. Regarding his notes referencing the “DM,” Gen Eyre said that the Deputy Minister at the time expressed concerns about how the public might react to the complaint against MGen (retired) Fortin, given his very public and important position at the national level in the vaccine roll-out. Her comments were administrative in nature and did not relate to the criminal investigation itself. Similarly, his notation about “political pressure” stemmed from a discussion during which they were “spit balling” what would happen if MGen (retired) Fortin was removed from his position. The pressure focused on the following question: “do we move him or leave him in that position.”

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<sup>72</sup> DM means Deputy Minister.

<sup>73</sup> *Supra* note 69 at pp 12-13 of 112.

172. With respect to the notation about contacting the RCMP Commissioner, Gen Eyre indicated that, if he recalled correctly, they were wondering what information other police services could share with their headquarters for administrative considerations or actions. In any case, the CFPM was “pretty adamant about the integrity of the investigation” and would not disclose any details.

173. BGen Mulawyshyn’s comments regarding the notes in the certified tribunal record were similar to those of Gen Eyre. He also made the following comments: Given that MGen (retired) Fortin had been seconded to the PHAC at the time of the allegations, the decisions were not purely military in nature, and all parties should have been involved. Discussions took place regarding the roll-out of the vaccine at the height of the COVID-19 pandemic and at a time when Canadians’ confidence in the government was shaken. This is the “political lens” referred to in the notes.

174. BGen Trudeau indicated that the reference in Gen Eyre’s notes to “increased pressure on us to act” was related to pressure on the Canadian Forces to respond. It was not directed at the criminal investigation, hence the reference that the investigation could not be rushed.

175. Deputy Minister (retired) Thomas indicated that she was “increasingly worried” about the government’s confidence in the department and what was happening within the Canadian Forces, both from an outside perspective and from the perspective of Canadian Forces subordinates’ confidence in their senior leadership. According to Deputy Minister (retired) Thomas, none of the notes that referenced her in the certified tribunal record had anything to do with the CFNIS investigation itself.

176. The MPCC acknowledges that concerns regarding potential interference in the CFNIS investigation were sincerely held and warranted this careful examination. However, based on a review of all available information obtained during this PII, including police notes, witness testimony, and entries in MGen (retired) Fortin’s certified tribunal record, the evidence does not support a finding that external considerations improperly influenced the CFNIS investigation. While senior DND officials and officers

did pose questions about the investigation, the evidence indicates these inquiries were not intended to influence its outcome, nor is there any indication that they had such an effect.

**Finding #2:**

**The Military Police Complaints Commission finds that, on the balance of probabilities, that external considerations did not influence the CFNIS ER investigation (General Occurrence file #2021-5656) into the sexual assault complaint filed against MGen (retired) Fortin.**

- ***In the notice of action, the CFPM stated the following: “No identifiable action required.”***

*Concluding remarks*

177. This public interest investigation has identified serious deficiencies in the conduct of the CFNIS investigation into the complaint against MGen (retired) Fortin. While the evidence does not support the allegation of improper external influence, it reveals an investigation compromised by tunnel vision, a lack of supervisory oversight, and a failure to adhere to fundamental investigative principles. These are not minor administrative errors; they are failures that risk undermining the integrity of the military justice system and eroding public confidence.

178. The findings and recommendations in this report are therefore directed not only at correcting the specific lapses of the individual members but also at addressing the systemic weaknesses within the CFNIS that allowed these failures to occur. True accountability requires both individual learning and institutional reform. However, CFPM’s responses to the MPCC recommendations were laconic and lacked the clarity or detail necessary to demonstrate a meaningful commitment to implement them, raising concerns about the organization’s commitment to meaningful change. It is imperative that the CFPM swiftly implement these recommendations to ensure that all future investigations are conducted to the high standards of rigour, impartiality, and professionalism that Canadians expect and that members of the Canadian Forces deserve.

## **IV Summary of the Findings and Recommendations**

### **Finding #1:**

The Military Police Complaints Commission finds that, on a balance of probabilities, the CFNIS ER investigators failed to conduct a thorough and rigorous investigation (General Occurrence file #2021-5656) into the sexual assault complaint filed against MGen (retired) Fortin, and that their investigation suffered from tunnel vision and exhibited signs of investigative bias.

### **Finding #2:**

The Military Police Complaints Commission finds that, on the balance of probabilities, that external considerations did not influence the CFNIS ER investigation (General Occurrence file #2021-5656) into the sexual assault complaint filed against MGen (retired) Fortin.

### **Recommendation #1:**

The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal formally instruct all military police investigators, and in particular WO Hachey and Sgt Léonard, that:

- all investigative interviews, whether in person, by telephone, or by videoconference, are to be recorded;
- where recording is not possible, a clear and documented justification must be included in the investigation file; and
- supervisors must review these justifications as part of their oversight responsibilities. (Partially Accepted)

### **Recommendation #2:**

The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal take further measures to ensure that military police members consistently document all important exercises of discretion in investigation files, including reasons for not interviewing a potential witness, and to ensure this documentation is subject to supervisory review. (Partially Accepted)

### **Recommendation #3:**

The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal require military police investigators to prepare comprehensive, accurate and detailed summaries and/or transcripts of interviews. These records must clearly identify key facts, potential witnesses and investigative leads and be properly documented and annotated in the investigation file. This practice must be enforced as a standard of investigative accountability and subject to regular supervisory review. (Partially Accepted)

#### **Recommendation #4:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal implement further measures to ensure that supervisors at all levels consistently document their observations and direction in the Security and Military Police Information System under the title “Supervisory Comments” in each investigation file. These entries must include clear, specific, and actionable guidance provided to investigators, in accordance with Canadian Forces Military Police Order 2-500, to reinforce accountability, ensure meaningful oversight, and uphold the integrity of the investigative process. (Partially Accepted)**

#### **Recommendation #5:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal develop and implement a formal policy that clearly defines the situations and offences requiring major case management. This policy must ensure that all military police members receive continuous training on major case management throughout their careers. (Not Accepted)**

#### **Recommendation #6:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal develop and implement a structured mentorship and leadership development program for military police investigators, with particular emphasis on complex and sensitive investigations. While the current practice of seconding experienced police officers from civilian enforcement agencies offers valuable support, this program should formalize and expand mentorship opportunities, drawing from both seconded civilian police officers and experienced members of the military police. The program should include clear selection criteria for mentors, formalized roles and expectations, and mechanisms to ensure continuity across postings. It should be supported by written policy and monitored for its impact on investigative quality, consistency, and institutional knowledge transfer. (Partially Accepted)**

#### **Recommendation #7:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal implement mandatory and ongoing trauma-informed investigative training for all CFNIS members conducting investigations where complainants may have experienced trauma. This training should include guidance on the effects of trauma on memory, the distinction between credibility and reliability, and how to address inconsistencies during interviews in a manner that is both fair and evidence-based. (Partially Accepted)**



**Recommendation #8:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal establish clear investigative protocols to guide CFNIS members in how to document, raise, and assess inconsistencies in complainant statements. These protocols should help ensure that discrepancies are fairly considered and appropriately addressed before referring cases to prosecutors. All such assessments should be documented in the investigative file to support transparency and oversight. (Not Accepted)**

**Recommendation #9:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal reminds all military police members, but in particular WO Hachey, of their obligation to ensure that all investigation related emails in their possession are promptly scanned and entered into the relevant investigation file in the Security and Military Police Information System. (Partially Accepted)**

**Recommendation #10:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal remind CFNIS investigators, and in particular WO Hachey, that they are required to obtain all potentially probative evidence, including contemporaneous notes from complainants and witnesses, at the earliest possible stage of an investigation. (Accepted)**

**Recommendation #11:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal direct all military police members to identify and document in the investigative file any discrepancies in statements that may identify new investigative avenues. Supervisory direction or decisions related to these discrepancies must also be clearly documented to support accountability and oversight. (Partially Accepted)**

**Recommendation #12:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal implement targeted training for all military police members on unconscious bias, cognitive bias, and tunnel vision, with particular attention to reinforcing investigative objectivity and critical thinking during decision-making. The military police subjects should be required to participate in such training. The training should equip members to detect, critically assess, and mitigate the effects of these biases throughout the investigative process, in order to uphold impartiality, preserve investigative integrity, and align with professional policing standards. (Partially Accepted)**

**Recommendation #13:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal provide WO Hachey and Sgt Léonard with refresher training in witness interviews and interviewing techniques. (Accepted)**

**Recommendation #14:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal direct WO Hachey and Sgt Léonard to review Canadian Forces Military Police Orders 2-126.7 (Drafting Case and Prosecution Summaries) and 2-126.8 (Concluding Remarks) to reinforce their understanding of proper procedures for drafting case summaries and concluding remarks in the Security and Military Police Information System. (Accepted)**

**Recommendation #15:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal amend Canadian Forces Military Police Orders 2-126.7 (Drafting Case and Prosecution Summaries) and 2-126.8 (Concluding Remarks) to include a mandatory quality control check. This procedure must require the responsible supervisor to formally verify and electronically attest in the Security and Military Police Information System that the designated lead investigator has personally drafted and finalized the case summary and concluding remarks. (Partially Accepted)**

**Recommendation #16:**

**The Military Police Complaints Commission recommends that the Canadian Forces Provost Marshal ensure that their policy regarding “police notes” be updated to ensure that police notebooks are safeguarded when military police members retire from the Canadian Forces. (Not Accepted)**

Ottawa, November 27, 2025

*Original document signed by:*

Me Tammy Tremblay, MSM, CD, LL.M  
Chairperson