

Minister
of National Defence



Ministre
de la Défense nationale

Ottawa, Canada K1A 0K2

MAR 16 2012

Mr. Glen Stannard
Chairperson
Military Police Complaints Commission
270 Albert Street, 10th Floor
Ottawa, ON, K1P 5G8

Dear Mr. Stannard:

On October 26, 2011, you recommended that the Government of Canada fund the cost of the legal representation of the complainants for the public interest hearing the Commission decided to hold into their complaint.

This recommendation is highly unusual. Where a publicly funded investigative body such as the Military Police Complaints Commission (MPCC) employs counsel to assist in its investigation and the presentation of the evidence at a hearing, the Government is not obligated to also assume the costs associated with the representation of a party at that hearing.

In this case, however, the Government of Canada chooses, on the basis of compassionate grounds, to implement the Commission's recommendation. This decision is based entirely on the unique and unusual circumstances of this case. It should not be considered either as an endorsement of the Commission's analysis or as a precedent for any future request from these or other complainants before the Commission or any other administrative tribunals under federal jurisdiction.

Based on the Commission's recommendation, the amount of the funding will be capped at \$158,200, including disbursements and HST, the details of which are provided at Annex A. To ensure that the funding requested complies with the details set out below, I have asked the Legal Aid Directorate of the Department of Justice to review the accounts of the complainants' solicitor. The complainants' counsel can forward their bills in relation to the MPCC public interest hearing directly to Mr. Ted McNabb at the Legal Aid Directorate:

284 Wellington Street
Ottawa ON K1A 0H8
Telephone: 613-952-5620
Fax: 613-954-9423
Email: ted.mcnabb@justice.gc.ca

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As the complainants' prior counsel, Mr. Michel Drapeau, recently removed himself as their solicitor of record, it is incumbent on the complainants to retain counsel of their choice on the terms set out in Annex A.

A copy of this letter has been sent to the Fynes.

I trust this is of assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peter MacKay", with a stylized flourish at the end.

Peter MacKay

Enclosure

c.c. Shaun and Sheila Fynes

ANNEX A

In accordance with the Commission's recommendation, the hourly rates and maximum allowable hours will be as follows:

Hourly Rates

Senior Counsel:	\$175 + HST
Assisting Counsel:	\$100 + HST

Maximum Allowable Hours (per counsel)

Preparation time prior to commencement of hearing:	40 hours
During the hearing:	384 hours
Total	424 hours

The maximum of 384 hours was calculated as:
6 hours/day attendance + 2 hours/day preparation = 8 hours/day
Estimated 12 weeks of hearing @ 4 days/week = 48 days
48 days X 8 hours/day = 384 hours

<u>Maximum Fees During Hearing</u>	\$131,398
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The maximum of \$131,398 was calculated as:
424 hours X \$100/hour + 13% HST = \$47,912
424 hours X \$175/hour + 13% HST = \$83,486
Total \$131,398

The remaining \$26,802 is intended to cover any reasonable disbursements, and to provide funding for additional hearing days should the hearing run longer than the estimated 48 days. As stated above, the provision of this funding should not be considered as a precedent for future requests. Should the hearing run longer than anticipated, it is not the Government of Canada's intention to provide additional funds.

This payment schedule does not provide or allow for additional daily hours in excess of those set out in the Commission's recommendation.