



MILITARY POLICE COMPLAINTS COMMISSION

IN THE MATTER of a conduct complaint under section 250.18 of the *National Defence Act* by Mr. Shaun Fynes and Mrs. Sheila Fynes.

PROCEDURAL GUIDELINES

MPCC 2011-004 (Fynes) Public Interest Hearings pursuant to
Section 250.38(1) of the *National Defence Act*

PREAMBLE

The *Rules of Procedure for Hearings Before the Military Police Complaints Commission*,¹ set out the statutory framework for the conduct of hearings before this Commission. These *Rules* give the Commission a broad discretion, at the request of a Party or “on its own initiative”, to “suspend in whole or in part any of these Rules,”² to deal with any questions not provided for in the Rules that arises in the course of the proceedings,³ and to “determine any question with respect to jurisdiction or practice or procedure.”⁴

I intend to conduct this Hearing in a manner that ensures procedural fairness is respected for all Parties and all Parties can fully exercise their right to participate in the Hearing. To that end, these Procedural Guidelines are issued to ensure all Parties are advised in advance of the general rules that will govern matters not directly addressed in the *Rules of Procedure*, and of the manner in which my discretion will be exercised in this respect.

In particular, prior disclosure is essential to ensure that the Parties can participate fully and that fairness is safeguarded. As they address disclosure and notice issues, the following Guidelines are meant to ensure that all Parties can receive timely disclosure sufficiently in advance of the hearing to enable them to prepare for the Hearing and to exercise their statutory right of participation in a meaningful way. As such, I consider the

¹ SOR/2002-241,

² Rule 3.

³ Rule 6.

⁴ Rule 7.

guidelines addressed to these issues to be essential components of procedural fairness in this Hearing. The other listed guidelines are equally intended to ensure fairness to the parties and to witnesses who testify at the hearings.

To the extent that case-by-case rulings are required about matters not addressed in the *Rules of Procedure*, they will be made in accordance with the principles and guidelines in this document.

GUIDELINES

1. Commission counsel will provide disclosure to the Parties, in advance of the Hearing, of all relevant documents received in response to the Commission's requests or documentary summonses.
2. Documents received from the Parties or other organizations or individuals will be treated as confidential by the Commission unless and until they are made part of the public record or the Chair otherwise declares. This does not preclude Commission counsel, in the context of a pre-hearing interview with a proposed witness, from producing a document to the proposed witness.
3. Commission counsel will notify the Parties, in advance of the Hearing, of the documents they intend to file as exhibits.
4. Parties shall provide notice to Commission counsel of any documents that they wish to file as exhibits or otherwise refer to during the Hearing at the earliest opportunity, and in any event no later than ten days before the document will be referred to or filed.
5. Parties who wish to file documents not otherwise in the possession of the Commission as exhibits will comply with Rule 12 of the *Rules of Procedure for Hearings Before the Military Police Complaints Commission* in filing and serving the document at least 14 days before the Hearing, and will also notify Commission counsel and provide them with a copy of the document as soon as its existence or relevance is discovered.
6. Commission counsel will interview persons who may have information or documents potentially relevant to the subject matter of the Hearing. Persons who are interviewed are entitled, but not required, to have a legal counsel present at their expense.
7. If Commission counsel determine that a person will be called as a witness following an interview, Commission counsel will prepare a statement of the witness' anticipated

evidence. Commission counsel will provide a copy of the statement of anticipated evidence to the witness for review before the witness testifies before the Commission.

8. Commission counsel will provide the Parties with a statement of each witness' anticipated evidence and a list of documents relevant to the witness' testimony, seven days in advance of the testimony.
9. The statements of anticipated evidence provided to the Parties will be deemed confidential and unless otherwise ordered by the Chair shall not be disclosed to third parties and shall be used solely for the purpose of the Hearing.
10. Before using a document for purposes of cross-examination, counsel for a Party shall provide a copy of the document to the witness, to Commission counsel and to other Parties no later than two business days prior to the commencement of the witness' testimony.
11. Parties will advise Commission counsel of the names and contact information of all witnesses they wish to have called at least 14 days in advance and, if possible, will provide a summary of the information the witnesses may have.
12. Witnesses are entitled to have their own counsel present while they testify. Counsel for a witness will have standing only for the purpose of that witness' testimony to make any objections thought appropriate and for other purposes as directed by the Chair in his discretion.

DATED at Ottawa, Ontario this 15th day of November, 2011.



Glenn M. Stannard, O.O.M
Chair