



## MILITARY POLICE COMPLAINTS COMMISSION

### IN THE MATTER OF a conduct complaint under section 250.18 of the *National Defence Act* by Mrs. Sarah Orton (MPCC 2024-037)

#### RULING ON NATURE AND EXTENT OF INTERVENOR RIGHTS OF THE CANADIAN FORCES PROVOST MARSHAL

##### Overview

1. On September 16, 2025, the Canadian Forces Provost Marshal (CFPM) brought a motion seeking interested party status in this hearing, pursuant to paragraph 250.44(b) of the *National Defence Act* (NDA).<sup>1</sup> This motion was heard in writing.

2. On November 13, 2025, I denied the CFPM's motion for interested party status, as I concluded that the CFPM did not demonstrate a substantial and direct interest in this case. I did, however, find that the CFPM could bring a significant perspective based on the particular facts of the case. Specifically, I indicated that “[s]ince the facts of this case will touch directly on the issue of welfare checks, the MPCC wishes to understand the CFPM's ongoing work on the issue to ensure its recommendations are timely, helpful, and informed.”<sup>2</sup> I granted the CFPM intervenor status. I invited the CFPM and the parties to make submissions on the nature and extent of this intervention.

3. On December 3, 2025, I received the written submissions of Mrs. Sarah Orton (the Complainant) and the submissions of the CFPM.

4. The CFPM requested the right to lead evidence and to provide written and oral submissions on all substantive issues. For the following reasons, I grant the CFPM the right to make written opening and closing submissions only on the historical context, current standards, training, and ongoing policy work specifically related to welfare checks, investigation of sudden deaths, and military police evidence-handling.

<sup>1</sup> [National Defence Act](#), RSC 1985 c. N-5 at s. 250.44(b)

<sup>2</sup> [Ruling on Standing of the Canadian Forces Provost Marshal](#) (November 13, 2025) at para 37 [Ruling on CFPM Standing].

## Governing Principles

5. The *Rules of Procedure for Hearings Before the Military Police Complaints Commission*, 2022 (the *Rules*) give me the discretion to allow an intervention if I am satisfied that “the potential benefits of the intervention outweigh any prejudice to the parties that might be caused by the intervention.”<sup>3</sup> An intervention can be limited to particular elements of the process, such as the cross-examination of witnesses, the right to lead evidence, or a specific portion of the hearing only.<sup>4</sup>

6. In coming to this decision, I am guided by the nature of the contribution or perspective that justified granting intervenor status and by the need to balance the potential benefits of the intervention against the prejudice to the parties. As I indicated in my initial decision on the CFPM’s motion, I intend to weigh arguments about prejudice to the parties in this.<sup>5</sup>

7. I am also mindful of my obligation to “deal with all matters before [me] as informally and expeditiously as the circumstances and the considerations of fairness permit.” Similarly, I take note of Commissioner Gillese’s recognition in her *Opening Remarks at the Participation Hearings* for the inquiry into long-term care homes that the “power to put limits and conditions on participants and different classes of participants enables the [Commission] to discharge its obligation... to conduct its work in accordance with the principles of proportionality.”<sup>6</sup> Here, one of the purposes of the *Rules* is to enable the MPCC to conduct its proceedings in a manner proportional to the significance of the issues and the complexity of the complaint before it and the public interest.<sup>7</sup>

8. I wish to clarify that the CFPM is intervening in a *public interest hearing*. Contrary to the submissions of the Complainant, the hearing is not “complainant-centred.”<sup>8</sup> Under the NDA, the basis for ordering a public hearing is that it is “advisable in the public interest.”<sup>9</sup> To that end, the *Rules* contemplate an inquisitorial process, and they entrench procedural rights for both the complainant and the persons who are the subject to the complaint.<sup>10</sup> The conduct of the hearing is guided by the public interest.

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<sup>3</sup> [\*Rules of Procedure for Hearings Before the Military Police Complaints Commission\*, 2022, SOR/2022-9, s. 44 \[Rules\].](#)

<sup>4</sup> *Rules* at s. 49.

<sup>5</sup> *Ruling on Standing of the Canadian Forces Provost Marshal*, 13 November 2025 at para 39.

<sup>6</sup> Commissioner Eileen E. Gillese, Report of the Public Inquiry into the Safety and Security of Residents in the Long-Term Care Homes System (2019), Vol 4, Appendix N, [\*Opening Remarks at the Participation Hearings\*](#) at p. 70.

<sup>7</sup> *Rules* at s. 2.1.

<sup>8</sup> Complainant Submissions at para 3.

<sup>9</sup> NDA at s. 250.38(1).

<sup>10</sup> NDA at s. 250.44.

## Analysis

9. In light of the submissions I received and the governing principles, I conclude that the CFPM's rights to participate in the hearing should be comprised of making opening and closing written submissions.

### *The CFPM will not have the right to lead evidence*

10. The CFPM has requested the right to lead evidence and to provide written and oral submissions on *all substantive issues*. She argued that granting these rights would ensure that the Military Police Complaints Commission (MPCC) benefits from her institutional knowledge and that the hearing is comprehensive, complete, and accurate.<sup>11</sup>

11. With respect to the right to lead evidence, the CFPM argued that granting this right will allow the MPCC to receive accurate and relevant information regarding “the applicable policies, training standards, and ongoing training initiatives for members of the military police, particularly with respect to welfare checks, attendance at sudden death scenes, and the handling of suicide notes.”<sup>12</sup> The CFPM noted that while the members of the military police who are subjects of the complaint may provide their individual knowledge, they are unlikely to have the CFPM’s institutional knowledge or systemic view of the issues.<sup>13</sup>

12. I accept that this information is relevant to the hearing and appreciate the CFPM’s commitment to leading evidence only where appropriate or necessary and to avoid unreasonably prolonging or complicating the hearing.<sup>14</sup>

13. The CFPM’s argument does not, however, provide a basis for granting her the right to lead evidence. The *Rules* already require that “intervenors must provide to the Complaints Commission all documents that are in their possession, power or control and that are relevant to the subject matter of the hearing.”<sup>15</sup>

14. Further, the CFPM was already subject to a summons issued on June 17, 2025, which required her to submit any information relevant to the complaint.<sup>16</sup> The MPCC has also made several subsequent requests for relevant information. If the CFPM is in possession of relevant material regarding the facts at issue, policies, training standards, ongoing training initiatives or anything else that has not been provided to the MPCC, I invite her to share it in accordance with her existing obligations.

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<sup>11</sup> Intervenor’s Submissions on Nature and Extent of Intervention (December 3, 2025) at paras 7-8 [CFPM Submissions].

<sup>12</sup> CFPM Submissions at para 9.

<sup>13</sup> CFPM Submissions at para 9.

<sup>14</sup> CFPM Submissions at paras 9-10.

<sup>15</sup> *Rules* at s. 51(1).

<sup>16</sup> Summons to Brigadier-General Vanessa Hanrahan (June 17, 2025), Appendix A.

15. Cross-examination is not the only means through which relevant information can be obtained. The CFPM may also be called as a witness so that any further relevant evidence can be provided. Of course, the CFPM remains free to propose relevant evidence for admission at the hearing to Commission counsel.

16. The CFPM did not make any specific arguments regarding calling witnesses or examining the witnesses called by the Commission and parties.

17. The Complainant submitted that she did not oppose “limited, carefully circumscribed participation by the CFPM.”<sup>17</sup> However, she argued that the CFPM’s participation needed to be confined, in order to (a) preserve the “inquisitorial and complainant-centred” nature of the proceeding; (b) prevent perceived or actual institutional pressure on military police witnesses; and (c) ensure that the CFPM’s command relationship over the Canadian Forces Military Police Group does not detract from the MPCC’s mandate.<sup>18</sup>

18. On this basis, the Complainant submitted that the CFPM’s role should be limited to: (a) written submissions on the “evolution, content, and implementation of Canadian Armed Forces and Military Police policies relating to welfare checks, suicide prevention, and intervention”; (b) factual evidence, if called by the Commission; and (c) post-hearing written commentary on the “feasibility and implementation of any recommendations the Commission may make that touch on training, professional standards, or policy under s. 18.4 NDA.”<sup>19</sup>

19. I am guided by the reasoning expressed by Justice O’Connor in his *Ruling on Standing in the Arar Inquiry*. As he noted, “the role of Commission counsel is to represent the public interest”, and I am confident that Commission counsel will “fully explore” all matters related to the complaint.<sup>20</sup> It remains open to the CFPM to approach Commission counsel regarding “issues to be canvassed, witnesses to be called, or areas of evidence to be explored.”<sup>21</sup> I expect that Commission counsel will pursue all reasonable suggestions in the public interest.

20. This serves to protect against any pressure on the military police witnesses to be called at the hearing. If the evidence supports findings of misconduct against any of the named subjects, then the MPCC will make recommendations to the CFPM. It will be up to the CFPM to then implement, or justify a decision not to implement, the recommendations as well as to make any disciplinary or command decisions she deems appropriate. It would be unfair for the CFPM to be allowed to cross-examine the subjects, many of whom still report to her, since any future disciplinary or professional consequences will be hers to impose. This would place an undue

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<sup>17</sup> Written Submissions of the Complainant on the Nature and Extent of the Participation of the Intervenor, Canadian Forces Provost Marshal (CFPM) (December 3, 2025) at para 3 [Complainant Submissions].

<sup>18</sup> Complainant Submissions at para 3.

<sup>19</sup> Complainant Submissions at para 5.

<sup>20</sup> Commissioner Dennis O’Connor, Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, *Ruling on Standing and Funding* (May 4, 2004) at p. 9.

<sup>21</sup> *Ibid.*

amount of pressure on the subjects in providing their evidence and blurs the lines between the MPCC process and the CFPM's own authority.

21. In addition to these concerns, the CFPM and most of the subjects are represented by the same legal counsel, which further complicates the fairness of the process. Shared representation creates an inherent tension between the interests of the CFPM and those of the subjects, particularly where their positions may diverge or where the subjects' evidence could call into question CFPM's decisions, supervision, or leadership. This overlap risks compromising the independence of the subjects' testimony and may place counsels in a position of divided loyalty. In these circumstances, permitting the CFPM to participate in a manner that affects the subjects' evidence could raise the perception of a conflict of interest and risk undermining the integrity of the hearing.

22. I also considered whether the CFPM ought to be allowed to cross-examine witnesses who are not subjects. I determined this, too, risks prejudice to the fairness of the hearing and presents the appearance of a conflict of interest. Many of the witnesses likely to be called are also members of the military police. They need to be able to give evidence without the pressure that may be caused by the potential for cross-examination by their commanding officer.

23. The events in question have been investigated by two separate files with the Canadian Forces National Investigation Service and an internal investigation by the Office of Professional Standards, all of whom report to the CFPM. The interviews conducted in these investigations already form part of the record. In this sense, the CFPM through her staff has already had an opportunity to pose questions to many of the witnesses involved.

24. Finally, the CFPM is likely to be called as a witness at the hearing and can present any specific perspective or commentary during her examination by Commission counsel. That question was already before the Office of Professional Standards as well as the CFPM directly when she chose not to investigate this complaint at the first instance. It is now the MPCC's role to make these determinations, and the CFPM ought not to appear to have prejudged the issue of what, if any, disciplinary or other measures should result from any recommendations that the MPCC may make. For this reason, I agree with counsel for the Complainant that the CFPM's testimony ought not to provide any opinion on the reasonableness of actions taken by individual members of the military police in the events in question.

*The CFPM will have the right to make written submissions*

25. I grant the CFPM's request to provide written submissions. Granting such a right will enable her to fully and clearly communicate her position and her expertise on issues other than the facts or the question of misconduct findings. Moreover, it will not unduly prejudice the parties or complicate the proceedings. By contrast, oral submissions would provide little added

benefit beyond what can be achieved through written submissions, and they would prolong the proceedings.

26. The Complainant proposes that any written submissions be limited to a principal brief on the “evolution, content, and implementation of Canadian Armed Forces and Military Police policies relating to welfare checks, suicide prevention, and intervention” and to post-hearing written commentary on the “feasibility and implementation of any recommendations the Commission may make that touch on training, professional standards, or policy under s. 18.4 NDA.”<sup>22</sup>

27. In my view, the scope of the CFPM’s right, particularly at the post-hearing stage, ought not be so prescriptive. I also note that the Complainant’s suggestion that the CFPM file its post-hearing representations within 30 days *after* receiving the MPCC’s final report<sup>23</sup> does not accord with the scheme of the NDA. Once the MPCC has sent an interim report setting out its findings and recommendations, the CFPM is required to notify me in writing of any action that has been or will be taken, accompanied by reasons for any findings or recommendations that she decides not to act on.<sup>24</sup> The MPCC’s final report will include the CFPM’s notice of action and consideration of the response. The CFPM’s evaluation of the feasibility and implementation of any recommendations by the Commission is therefore governed by her obligations under ss. 250.51 NDA, not by my decision on the nature and extent of her intervention rights in the hearing.

28. That said, I agree that some direction on the scope of the CFPM’s written submissions *after* the conclusion of the hearing but *before* the MPCC issues its interim report is necessary, for the following reasons.

29. First, the CFPM sits in a somewhat unique position in the hearing. Under the NDA, the CFPM determines complaints at first instance. Indeed, the referral of a complaint to the MPCC arises because a complainant is dissatisfied with a decision of the Office of Professional Standards of the CFPM.<sup>25</sup> The Complainant referred her complaint to the MPCC for review because the current CFPM, then the Deputy CFPM, decided to close the complaint without investigating it under Part IV of the NDA.

30. Further, the MPCC’s interim report will ultimately be sent to the CFPM, who is then required to review the complaint “in light of the findings and recommendations set out in the report.”<sup>26</sup> There is a risk that, for example, if she were to take a position on the reasonableness of the conduct of any of the subjects of the complaint, the CFPM would give the appearance of

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<sup>22</sup> Complainant Submissions at para 5.

<sup>23</sup> Complainant Submissions at para 7, item 7.

<sup>24</sup> NDA at s. 250.51.

<sup>25</sup> NDA at s. 250.31(1).

<sup>26</sup> NDA at s. 250.49(1).

prejudging what measures are warranted or not before having received the MPCC's findings and recommendations. The potential prejudice to the parties and to the independence of the MPCC's proceedings weighs in the balance.

31. Second, I am mindful of the basis upon which I granted the CFPM intervenor status. As I stated in my ruling of November 13, 2025, the MPCC has previously made recommendations on the issue of welfare checks in MPCC 2023-010 (signed July 25, 2024). Having accepted those recommendations, the CFPM has worked to implement them. The issue of welfare checks is again before the MPCC, and so I found in my November 13, 2025, ruling that the CFPM would bring a significant perspective as to her office's ongoing work on this issue and a new order issued on welfare checks in particular. This is to ensure the recommendations made in this case are "timely, helpful, and informed."<sup>27</sup> My determination of intervenor rights under s. 49 of the *Rules* ought to be informed by the nature of the contribution and perspective that justified granting the CFPM intervenor status in the first place.

32. Third, the way in which the CFPM herself framed her expertise is relevant. The CFPM argued that her participation would assist the MPCC in "understanding the context and standards governing welfare checks, the related issue of the attendance of members of military police at sudden death scenes, and investigative standards as they relate to attempts to discover suicide notes."<sup>28</sup> Each of these points relates to the systemic, policy-level dimensions of the complaint, rather than any factual findings regarding the conduct of the particular subjects of the complaint.

33. Considering the above, I conclude that the CFPM should be permitted to make opening and closing written submissions, but only on the historical context, current standards, training, and ongoing policy work at issue in this hearing. The submissions must be limited to the issues of welfare checks, investigation of sudden deaths and military police evidence-handling. The CFPM's submissions shall not extend to the conduct of the subjects of the complaint.

34. This scope of intervention allows the CFPM to provide a significant contribution and perspective, while ensuring that the benefits of her intervention outweigh any prejudice to the parties.

## **Decision**

**I GRANT** the CFPM the right to make written opening and closing submissions only on the historical context, current standards, training, and ongoing policy work related to welfare checks, investigation of sudden deaths, and military police evidence-handling.

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<sup>27</sup> Ruling on CFPM Standing at para 37.

<sup>28</sup> CFPM Submissions at para 7.

Should the CFPM or the parties disagree with this decision, they may seek judicial review before the [Federal Court](#) under section 18.1 of the *Federal Courts Act*, within 30 days of receiving this order, or within such time as the Court may allow.

DATED at Ottawa, Ontario, this 29<sup>th</sup> day of January 2026.

*Original document signed by:*

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