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**Speaking Notes**  
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**Military Police Complaints Commission**  
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**Establishing the Military Police Complaints Commission:**

**A Commission Born**

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Check against delivery.

Good morning. It is a pleasure to be here today. I would like to extend my thanks to our conference president, Mr. Philippe Rabot, for the kind invitation to address this important group.

Let me begin by saying that I was asked to speak of my experience in setting up a new Commission: the Military Police Complaints Commission. I am certain that it will become clear very early in my remarks that the Commission I have worked so hard to establish is only six and a half months old. An infant if you will.

Like with all infants, there are growing pains.

I would also point out that I was asked to share with you both the good experiences and the challenges of the past several months and to provide suggestions that will assist the setting up of new agencies.

However, before I relate my experiences with the Commission, let me tell you a bit about myself.

I have over nineteen years of experience as a lawyer. Ten of those years were spent working with quasi-judicial boards in the province of Quebec. I possess an extensive knowledge of civilian oversight regarding policing activities as a result of my past experience as Secretary of the Quebec Police Commission and as Deputy Commissioner in the Office of the Police Ethics Commissioner.

I came to the Military Police Complaints Commission through an advertisement in the Canada Gazette. Following an interview with individuals from Senior Personnel Management at the Privy Council Office and others, I was offered the Chairperson's position.

I raise this in the context of the overall appointment process of members to quasi-judicial and administrative agencies. At last year's CCAT conference, held in Vancouver, Professor Alastair Lucas of the University of Calgary stated: "The manner in which agency members are appointed is a further contributing factor to agency underachievement. [...] Rarely, if ever, are positions advertised and applications invited".<sup>i</sup>

I believe the federal government has moved in recent years to address some of the problems that Professor Lucas identified. My appointment is evidence of that change.

Before sharing with you some of the lessons I have learned in establishing the Military Police Complaints Commission, I should explain the genesis of the Commission.

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<sup>i</sup> Quoted in part from LRCC, Independent Administrative Agencies, Report #26, 1985, p. 77.

## **A Commission Conceived**

The 1990's saw tremendous change within the Department of National Defence and the Canadian Forces. Inherent in this change was the need to modernize the military justice system. The last three years of the decade saw two Special Advisory Groups and one Commission of Inquiry that dealt specifically with military justice.

On March 14, 1997, the Special Advisory Group on Military Justice and Military Police Investigations, chaired by the late Right Honourable Brian Dickson, former Chief Justice of the Supreme Court of Canada, submitted its report assessing the Code of Service Discipline in light of its underlying purpose and the requirement for portable service tribunals.

A second Advisory Group, also chaired by Chief Justice Dickson, dealt with the quasi-judicial roles of the Minister of National Defence under the Code of Service Discipline. This second report was submitted to the Government on July 25, 1997.

There was also, as you will recall, the *Report of the Commission of Inquiry into the Deployment of Canadian Forces to Somalia* chaired by the Honourable Justice Gilles Lévesque.

Uniform in decision and direction, these three reports all concluded that there was a clear need for change.

In response to the recommendations of the Dickson reports and the Somalia Inquiry, the government introduced numerous amendments to the National Defence Act, aimed at modernizing and strengthening the military justice system.

The changes made in 1998 by Bill C-25 represent the most sweeping changes to the National Defence Act in fifty years. Among these amendments, Bill C-25 created the Military Police Complaints Commission. The Commission's mandate is to provide for greater public accountability by the military police and the chain of command in relation to military police investigations.

This federal Commission is composed of civilians, and only civilians, who are totally independent from the Department of National Defence and the Canadian Forces. The Commission reports annually to Parliament through the Minister of National Defence.

The Military Police Complaints Commission is possibly the first of its kind in any military environment. The power of the Commission to investigate complaints of interference by an officer, a non-commissioned member or a senior Department of National Defence official in military police investigations constitutes a major and innovative change in both military and civilian police circles around the world.

That, in itself, presents a number of challenges. In a military environment, the challenge can be defined in three words: New; Independent; Civilian. I cannot stress enough the importance of this development. This is a giant step for the military.

### **The Birth of a Commission**

I was appointed as Chairperson-designate of the Commission effective September 1, 1999. Appointed at the same time were two part-time members. Paul Duffie, Q.C., a criminal lawyer from New Brunswick and Tom Flanagan, formerly the Chief of Police of the City of Ottawa.

It was fixed by order of the Governor in Council that the Military Police Complaints Commission would come into force on December 1, 1999.

Hence, the creation of the Commission required an enormous amount of preparatory work beginning with the need to set rules and regulations in regards to the complaint-handling process, public hearings, etc. I also worked hard ensuring that meetings were held with the many stakeholders during the initial start-up period.

More daunting, however, was the thought of the actual physical set-up of the Commission. Immediately following my appointment, I came to the realization that I had only three months to have the Commission up and running. To assist me, the government gave me a copy of the National Defence Act, including the requisite amendments creating the Commission, and wished me luck.

Like a good parent, I set out to provide a secure home and a safe environment for the Commission. My first impression upon walking into the new offices of the Military Police Complaints Commission provided by Public Works and Government Services Canada, was: "Nice offices, who stole the furniture?"

I was taken aback, frankly, as I realized the size of the task!

The experience of securing from scratch the necessities of life, such as furniture and stationary, was unique and I recommend it to no one.

Matters as simple as moving and travel allowances became irritants. In the process of establishing a Commission, one should not have to be distracted by reading the fine print on a moving expense claim.

The matter of my security clearance became an issue when I was informed that the Military Police would undertake it. I had to inform them that it was unreasonable that an independent, quasi-judicial agency, created for the purposes of investigating complaints against the Military Police and the chain of command, would have its security clearance done by the very agency it is

overseeing. I indicated that the security clearance should be undertaken by an agency such as CSIS, and this is what eventually happened. Again, I raise this in the context that the Chairperson of a newly established Commission has bigger fish to fry and infinitely more serious problems to resolve.

As I was passed back and forth between Public Works, National Defence and the Privy Council Office, I remember feeling at one point that the infant Commission that had so lovingly been created by the Government, only months before, was now an abandoned child.

### **First Steps**

With the Commission safely housed and equipped with the necessities of life, there began the task of establishing the Commission's personality and characteristics.

- (1) Using the enforcing legislation, I identified our mission, powers and responsibilities.
- (2) I then secured the services of an expert in police ethics to help establish the procedures for complaints which had to be in place by December 1, 1999. This individual was also instrumental in preparing me for the many meetings that would take place with Department of National Defence, Canadian Forces and Military Police personnel.

A word to the wise: Never lose sight of your mandate. Always be prepared. Set your priorities; prioritize your priorities; be flexible and ready to reprioritize your priorities; and start working on your business plan.

- (3) I believe that one of the most important tasks one faces is hiring the staff. I was both fortunate and unfortunate. An important lesson I learned was that temporary agency personnel rotate in and out of your organization often and quickly. Even in the short term it is difficult to achieve any sense of continuity with temporary services. You also end up repeating the same instructions to different people in a very short period of time.

It is essential to understand that the hiring of staff will affect the success of the Commission. Speaking from experience, I have had to staff and re-staff a position on more than one occasion. This will happen. Take the necessary time to hire your permanent staff even if it takes longer than you would wish.

This includes seeking professional help from human resources experts, both from outside and within the Public Service, to assist you in making sure that all your "i"'s are dotted and your "t"'s crossed, regarding the many strict rules and guidelines. Unless you are made aware of the Public Service staffing rules, you will undoubtedly find out about them the hard way.

As you know, it is imperative to find staff capable of dealing with the stress of establishing a new agency. These individuals have to be very flexible, resourceful, autonomous and highly motivated.

The single most important factor on the subject of staffing must be: remember your mandate! Always keep in mind the reason your agency was created and that the staff you are choosing will be instrumental in contributing to the success of your mandate. This is why you must take an active role in hiring the right people.

(4) As soon as I was appointed I began preparing the organization chart for the Commission and its requisite job descriptions. Although your chart will undergo several revisions, start preparing it from day one. Do not wait for advisors.

(5) As I mentioned, the first person I hired was an expert in police ethics. One role he filled was to help prepare for the many meetings that would take place over the course of the three month set-up period with Department of National Defence and Canadian Forces personnel.

I deemed it essential to start promoting the role, mandate and vision of the Commission as early as possible.

At the end of the day I hoped these meetings would meet a number of goals:

1. Allow me to get to know some of the key players within the Department of National Defence and the Canadian Forces, and to provide them with an opportunity to get to know me and the aims and goals of the Commission.
2. Explain and shed light on the role of the Commission and its *modus operandi*. I felt it was very important at this point to dispel any myths or misunderstandings – before they could take on a life of their own.
3. Take the principles of independence, arms-length approach, openness, fairness and impartiality – the hallmark of the Military Police Complaints Commission – and turn them into a workable reality.
4. Open a dialogue to ensure the ongoing success of the Commission.

So, as you can see, those first three months were an intense period. As Chairperson, my role was to act as a catalyst to help the Canadian Forces, the Military Police and the Department of National Defence understand the new Commission, its role, ethics, mission, vision and values.

Other challenges I faced along the way included:

- Making Department of National Defence personnel understand that Commission travel and expenses fell under Treasury Board guidelines, not Department of National Defence guidelines.
- Making the Department of National Defence, the Canadian Forces and the Military Police understand that we were completely independent of them, in all senses – administratively, operationally, etc.
- Dealing with Public Works for permanent office space.
- Moving to the National Capital Region. Did I come under the military or executive program?

Given the environment in which the Military Police Complaints Commission has to live, the three months to have the Commission up and running was short indeed – especially when one is told that the average time to staff a permanent position with the federal government is six months. A challenge indeed. I therefore had to be both focused and intense if I was to have the Commission prepared.

It is important to realize that the Military Police Complaints Commission was the first independent agency that was in any way related to the Department of National Defence. Understandably, the Department of National Defence and the Canadian Forces did not have the experience in dealing with a quasi-judicial board, unlike for example, the Solicitor General Secretariat that has a number of agencies, such as the National Parole Board.

### **More Steps**

Obviously, the Commission had to be prepared to receive complaints as of December 1, 1999. And receive them we did.

But in addition to officially receiving complaints, hiring staff and revising the organization chart, we also had to provide information on the Military Police Complaints Commission; begin touring the various Canadian Forces Bases; put a face to the Commission; prepare an important submission to the Treasury Board; and present our first annual report.

### **Communications**

As communications is a top priority, it is imperative to begin with a proactive approach that ensures openness and transparency. The Commission's mandate, role and vision must be communicated to all constituents in terms that are easily understood. This means using every

available medium: news releases, news conferences and information packages. An outreach program is also essential.

Although some people are more comfortable in interviews than others, it is imperative to get your message out. The added advantage of doing a press conference and interviews is that the media is given the chance to put a face to the Commission.

If you have little or no experience in communications, or if you are not as comfortable as you would like to be in dealing with the media, do not hesitate to take media training courses. It is quite beneficial.

### Treasury Board Submission

To become a financially and administratively independent agency, you need to go through the Treasury Board submission process. The challenge in preparing such a submission is that you must be able to identify your workload, resources and needs for the upcoming years. All this without the benefit of precedents, or historical data. It is history in the making.

Equally important is the estimates process. Like any other department or agency, you will need to provide an individual expenditure plan. It is through the Annual Report on Plans and Priorities that Parliament votes your agency's budget. The Report provides an increased level of detail over your annual report on your plans and priorities, as well as an overview of the financial and non-financial performance of your agency.

Nonetheless, I strongly recommend that anyone in the position of setting up a new agency quickly become familiarized with the finance and the financial management framework estimates.

### Annual Report

Legislation requires us to submit an annual report to the Minister of National Defence for tabling in the House of Commons and the Senate at the end of every calendar year. Coming into force on December 1<sup>st</sup> meant that after only one month of operations, we were in the process of preparing our first annual report.

### **Next Steps**

In light of my experience in setting-up the Commission, I would now like to discuss with you certain suggestions that I believe to be beneficial in ensuring that chairpersons of newly created agencies not have to continuously try to reinvent the wheel.

(1) I strongly feel that the government should provide a liaison team to new agencies. Such a liaison team, composed of senior officials from central agencies and departments, would be there



to assist a new agency and its managers in the early stages of start-up. The Chairperson, Members and staff of a new agency would all benefit from this. In the case of the Military Police Complaints Commission, such a team would have allowed me to more fully concentrate my energies and focus on the agency's mandate, mission and service to its stakeholders – the very reasons the Commission was created.

Such a liaison team, which could be lead by the Privy Council Office, working in collaboration with the Treasury Board Secretariat, the Public Service Commission, Public Works and Government Services and others, could assist a new agency with every facet of organizational set-up: from office allocation to staffing to budgeting to understanding the many intricacies that are the federal bureaucracy. Access to this type of knowledge is invaluable.

Without this knowledge and experience, trivial matters and simple tasks end up unnecessarily consuming time and resources that would be better spent focusing on the mandate, mission and "business" of the newly established Commission. Ironically, everyone seems to take the building, staffing and start-up of the agency for granted.

(2) I also feel that phone lists, policies and regulations, guidelines and a set of relevant manuals should all be provided to the Chairperson at the outset. A contact person, possibly from the Privy Council Office, should coordinate these efforts and ensure that official notification of establishment be sent to client groups, stakeholders and related or involved departments and central agencies.

Whenever I would call someone, who did not refer me to someone else, the answer to my queries was often: "Oh, that can be found on the internet!" Well, more is needed than an individual recommending you get what you need from the internet. While the internet is a useful tool, it cannot set up an agency, and it is only helpful if you have the computer first. And obtaining the computer, let alone getting onto the internet ... well that's another story.

This being said, I was very fortunate to know the Chairperson of the RCMP Public Complaints Commission, Shirley Heafey. I found in Shirley Heafey a wealth of knowledge and understanding. I will never be able to thank her enough for the support that she and her team offered to me and the Military Police Complaints Commission, and I suggest that such networking is invaluable.

(3) I would therefore also suggest that an official mentor relationship be established and coordinated by an agency or department such as the Privy Council Office. PCO could ensure that chairpersons of established agencies contact the chairpersons of new agencies to offer their knowledge, experience and assistance. This could promote a smooth transition from childhood to adulthood.

Lastly, let me say that despite some of the initial pitfalls and difficulties, it has been, and continues to be, a wonderful adventure. I would not trade the past nine and a half months for anything. Certainly, to be successful and to get things done, one has to be resilient and also bring a few attributes of their own to such a position. Namely:

- Good health;
- Dedication;
- Patience and determination;
- A commitment to serve; and
- A good sense of humour.

I am now at the stage where I am looking forward to seeing the Commission continue to mature and reach its full potential. Thank you.