

**Annex S  
to CMCR Draft Interim Report  
dated 21 July 2017**

**From:** [Payne LCol T@R Regt C@Toronto](mailto:Payne.LCol.T@R.Regt.C@Toronto)  
**To:** [+JAG-Consultations@JAG MJ Strat@Ottawa-Hull](mailto:+JAG-Consultations@JAG.MJ.Strat@Ottawa-Hull)  
**Cc:** [Milosh Lt.CG@R Regt C@Toronto](mailto:Milosh.Lt.CG@R.Regt.C@Toronto); [Turnbull.CWO.DC@32.CBG.HQ@Toronto](mailto:Turnbull.CWO.DC@32.CBG.HQ@Toronto)  
**Subject:** Court Martial Comprehensive Review - comments from Unit Command Team  
**Date:** November 24, 2016 9:36:56 PM

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Good evening,

We were asked as a Unit Command Team within 4 Div to provide relevant comments based on our experiences with the topics discussed on the website for the Court Martial Comprehensive Review. Under each of the headings from the website, we offer these observations.

**Tribunals and Courts:**

The expectations of military members are higher than that of regular citizens. There should remain the opportunity for military personnel to be involved in the court/trial process in order to monitor and impose the higher standard expected of the accused military person that would not otherwise be fully understood by non-military personnel.

**Prosecution Services:**

It could be considered that only military members should prosecute in a court martial. With the higher standards expected of military members, the military prosecutor would be better positioned than a civilian counterpart with a significantly deeper understanding of the impact of the allegations against the accused and the impact of the proceedings on the victim, the accused, the home unit and the institution.

**Defence Counsel Services:**

It could be considered that any civilian lawyer who will be representing a military member in a court martial should have the opportunity to be formally made aware of the unique aspects of the military court's processes prior to the commencement of the proceedings. This understanding would ensure that the military member who chooses a civilian lawyer would not be at disadvantage with a legal representative who may be inexperienced with the nuances and required additional formalities within a military court martial.

**Offences under Military Law:**

Based on the higher expectation from military members, there would need to be a military influence in the court proceeding if it were to be tried by civilians. This would ensure that the member is held to the higher standard for their actions if/when allegations are proven. The impact of the outcome of the proceedings on discipline within the unit is also a significant factor of consideration for the process.

**Punishments, Sanctions, and Sentencing Laws:**

No points to offer.

**Laws of Evidence:**

No points to offer.

Rights, Grounds and Mechanisms of Appeal:

No points to offer.

Specific Groups and the Military Justice System:

No points to offer.

If any further information or clarity of the above points is required, I may be contacted directly.

All best,

Tom Payne

Lieutenant-Colonel | Lieutenant-colonel

Commanding Officer | Commandant

The Royal Regiment of Canada | Le Royal Régiment du Canada

Fort York Armoury | Manège militaire Fort York

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**From:** Payne LCol T@R Regt C@Toronto

**Sent:** November-10-16 7:07 PM

**To:** +JAG-Consultations@JAG MJ Strat@Ottawa-Hull

**Cc:** Milosh Lt CG@R Regt C@Toronto; Turnbull CWO DC@R Regt C@Toronto

**Subject:** RE: Court Martial Comprehensive Review - questions from Unit Command Team

Good evening LCdr Colwell,

Thank you for the clarifying information.

We will have a close look at the review website and aim to provide any feedback that we are able based on our experience.

I do expect that there are only some areas of the review for which we will be positioned to comment – and in those areas we will focus.

All best,

Tom Payne

Lieutenant-Colonel | Lieutenant-colonel

Commanding Officer | Commandant

The Royal Regiment of Canada | Le Royal Régiment du Canada

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**From:** +JAG-Consultations@JAG MJ Strat@Ottawa-Hull  
**Sent:** November-09-16 2:31 PM  
**To:** Payne LCol T@R Regt C@Toronto  
**Cc:** Milosh Lt CG@R Regt C@Toronto  
**Subject:** RE: Court Martial Comprehensive Review - questions from Unit Command Team

Dear Sir,

Thank you for contacting the Court Martial Comprehensive Review Team. As the Judge Advocate General indicated in his letter to Armed Forces Council, the views of the chain of command are critical to the CMCRT being able to carry out its mandate. It is only through contemporary feedback from commanders and senior disciplinarians that we will be able to make informed recommendations to strategic leaders, and so we are keen to receive any and all contributions your command team might have.

I will try to answer your below questions:

1. The team does not require any specific format. We understand that units have busy operational schedules and/ or limited staff resources, and so in order to maximize the amount of input from the chain of command we have accepted a variety of formats. For example, we have already received 'point form' email submissions from some units and formations, whereas others have structured their response as internal military letters (though usually sent electronically). To us, what is important is making sure we have the views of the chain of command – the people whose responsibility it is maintain discipline, efficiency, and morale, and for whom the court martial system must be a useful, supporting tool.
2. Concerning what type of feedback is being sought, as your command team will have seen from reviewing our public consultation website, our mandate is quite extensive, and so any comments you may have touching on any of those subject areas will be helpful. This is concerning the system as it is now (e.g. what is working well or poorly, and what the consequences have been for your unit) and also what you, as a commander, would like to see change (and/or, what effects need to be better achieved). If your command team has any other recommendations, we would be very interested in that as well (e.g. that the court martial system should be more like the US system, or like the French system, etc). Nothing is off the table, and nothing is too specific, or too general. For example, some units have commented on court martial timelines, and others have commented on perceptions stemming from court martial results. I am reluctant to go into much more detail, in order to avoid situating the estimate, but should you wish Sir I would be happy to discuss this question further with yourself or any member of your team should you so desire. Bottom

line is, we would rather receive too much input, than too little.

I hope this response was sufficient. Please do not hesitate to contact me Sir if you have any further questions or concerns.

Yours Sir,

Lieutenant-Commander Clark J. Colwell, CD

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**From:** Payne LCol T@R Regt C@Toronto  
**Sent:** November-08-16 7:20 PM  
**To:** +JAG-Consultations@JAG MJ Strat@Ottawa-Hull  
**Subject:** Court Martial Comprehensive Review - questions from Unit Command Team  
**Importance:** High

Good evening,

As a unit command team, my RSM and I have been asked to contribute to the review process. We have been asked based on our recent experience with a court martial held within our unit.

We have reviewed the information on the website at <http://www.forces.gc.ca/en/about-reports-pubs-military-law-court-martial-comprehensive-review/index.page> and the attached letter but we are not clear on the format for providing feedback and we are not clear on what type of feedback is being sought.

I am writing to you to seek further clarification or to be directed to someone who can assist.

Best regards,

Tom Payne  
Lieutenant-Colonel | Lieutenant-colonel  
Commanding Officer | Commandant  
The Royal Regiment of Canada | Le Royal Régiment du Canada  
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