Workplace Conflict at the Halifax Operational Trauma and Stress Support Centre

September 12, 2003

Investigative Team

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Privacy Act

It is the policy of the Ombudsman for the Department of National Defence and the Canadian Forces to conduct investigations in private. However, the Ombudsman may publish a report concerning an investigation, if it is in the public interest to do so. This report concerns such an investigation.

The Office of the Ombudsman is a government institution that is subject to the *Privacy Act.* Under the *Privacy Act,* any personal information about identifiable individuals may only be disclosed by government institutions in accordance with that *Act.* While most of the information contained in this report concerns individuals' duties or functions, there is some information that could be considered personal. We have taken measures to minimize the extent of personal information about identifiable individuals published in the report by using the pseudonyms X and Y for two particular individuals. The Ombudsman reviewed the report and considered that the public interest in disclosing the report clearly outweighed any invasion of privacy that may result from the disclosure of the personal information contained therein.

All individuals who could be considered to have personal information about them in the report were contacted by Ombudsman staff to advise them of the report's impending public release. At that time they were invited to contact the Office if they had any concerns. The Privacy Commissioner of Canada was also given notification of our intention to publish the report in accordance with section 8(5) of the *Privacy Act*.

Questions or comments regarding the administration of the *Privacy Act* may be directed to Mary McFadyen, Privacy Coordinator at the Office of the Ombudsman, 100 Metcalfe Street, 12th Floor, Ottawa, Ontario, K1P 5M1.

Introduction

On December 6, 2001, the Office of the Ombudsman received a complaint from Dr. Diane McIntosh alleging that nothing was being done to resolve ongoing workplace tensions and conflicts among staff and health care providers at the Halifax Operational Trauma and Stress Support Centre (Halifax Support Centre). Dr. McIntosh, a civilian psychiatrist, was working as a third party contractor at the Halifax Support Centre. Dr. McIntosh was concerned that if no immediate action was taken to alleviate the situation, these tensions and conflicts were so serious and widespread that they would have a negative impact on patient care.

There are five Operational Trauma and Stress Support Centres (OTSSCs) located on Canadian Forces (CF) bases across Canada. They were established in 1999 to complement the existing CF health care system, and their mission is to provide assistance to CF members and their families who are dealing with operational trauma and stress issues arising from military operations, particularly from United Nations deployments abroad. The OTSSCs employ a multidisciplinary approach, through teams consisting of military and civilian health care professionals, including psychiatrists, psychologists, social workers, chaplains, and community health nurses.

The Halifax Support Centre provides care to over 200 CF members per year, the majority of whom suffer from post traumatic stress disorder (PTSD). Dr. McIntosh was not a Department of National Defence (DND) employee and was providing psychiatric services through a contract with Med-Emerg International Inc. (Med-Emerg), a company contracted to provide the services of civilian health care professionals to the CF. These contract health care providers work side by side with CF personnel at CF health care facilities.

Under the current *Ministerial Directives Respecting the Ombudsman for the Department of National Defence and the Canadian Forces,* Dr. McIntosh does not have a right to bring a complaint directly to the Ombudsman. However, given that the issues raised by Dr. McIntosh had the potential to directly affect the level of care available to CF members diagnosed with stress-related injuries, including PTSD, I advised the Minister of National Defence on December 11, 2001, that it was my intention to pursue an "own motion" investigation into these allegations, pursuant to paragraph 4(b) of the *Ministerial Directives*. On January 7, 2002, I received an acknowledgement from the Minister of our investigation and he thanked my Office for bringing this matter to his attention.

The matter was referred to the Special Ombudsman Response Team (SORT), with the initial objective of attempting to facilitate a resolution of the issues at the lowest level possible, without the need for a full investigation. SORT investigators met with several parties in mid-December 2001 to explore a possible resolution. These attempts were unsuccessful.

On December 20, 2001, during these resolution attempts, Med-Emerg advised Dr. McIntosh that her contract for services was being terminated effective immediately. Shortly thereafter, my Office received numerous complaints from CF members who were patients of Dr. McIntosh. They were concerned that they would no longer be able to receive treatment from Dr. McIntosh, or that no arrangements had been made for their continued care. Initially, DND/CF stated that patients who had been under the care of Dr. McIntosh would not be allowed to continue their treatment off base with Dr. McIntosh. However, on January 8, 2002, after the intervention of my Office, Halifax Support Centre management advised Dr. McIntosh's patients that any who wished to remain in her care could do so.

With the immediate concern of PTSD patients' care resolved, and given that our efforts to facilitate an informal resolution of the matter were not successful, SORT commenced a full investigation into the allegations of workplace conflict and harassment at the Halifax Support Centre. Specifically, SORT reviewed how these workplace tensions and conflicts developed, the friction between military and civilian health care providers, how these conflicts were managed, and how they could have been more readily resolved. Again, our overriding purpose for conducting this investigation was our concern for the quality of care of the patients being treated at the Halifax Support Centre.

It should be noted that during the course of our investigation, Dr. McIntosh commenced a civil action concerning the termination of her contract. Again, the purpose of our investigation was not to determine whether Dr. McIntosh's contract for services was rightly or wrongly terminated or whether the legal action was justified, as the court is the proper forum to determine those issues. The purpose of our investigation was to address the broad, systemic issues surrounding the workplace conflicts at the Halifax Support Centre, to ensure that the high standard of service provided to CF members with PTSD and their families is maintained.

During the course of this investigation, my Office was contacted by a number of Med-Emerg contractors at various locations across Canada complaining about their treatment by the CF. The contractors raised allegations of unfair dismissal, poisoned work environments, friction between military and civilian caregivers, unclear chains of command, and the lack of a transparent process to mediate and resolve workplace conflict: issues strikingly similar to the ones raised in this case.

We also received complaints from CF members who alleged that excellent health care providers had been dismissed without due consideration of patient needs. We have not yet determined whether we will be conducting full investigations into these other complaints. However, the fact that we have received such complaints indicates that the issues raised at the Halifax Support Centre are not unique and may have a systemic component. It is our strong desire that the CF use the findings and recommendations contained in this report not only to improve the situation at the Halifax Support Centre, but also to improve the administration, working conditions, and ultimately patient care at all OTSSCs and CF health care facilities.

Investigative Process

In the course of this investigation, Gareth Jones, Director of SORT, and Brigadier-General (Retired) Joe Sharpe, my Special Advisor on Operational Stress Injury, interviewed various parties, including:

- Current and former Halifax Support Centre staff members, including Dr. McIntosh;
- Halifax Support Centre patients and their families;
- Members of the CF chain of command at Stadacona Hospital, where the Halifax Support Centre is located;
- Members of the Maritime Forces Atlantic (MARLANT) chain of command;
- Senior members of the Canadian Forces Medical Service, including Brigadier-General M.J.L. Mathieu, the Director General Health Services (DGHS) and Commander of the CF Medical Group, and Colonel B.K. O'Rourke, the Deputy Chief of Staff of CF Medical Group responsible for health service delivery;
- Members of the Halifax mental health care community;
- Senior Veterans Affairs Canada staff in Charlottetown and Ottawa;
- The military police officer who investigated an incident at the Halifax Support Centre; and
- The Co-ordinator of the Good Working Relations (GWR) Programme at Canadian Forces Base (CFB) Halifax.

It should be noted that several individuals agreed to speak to the investigative team on the condition of anonymity, in part because of concerns about negative repercussions in the workplace.

My investigators also met with Dr. Ramesh Zacharias, President of Med-Emerg. Originally, Med-Emerg officials said they would provide us with documents relating to our investigation. However, after consulting with their counsel, who had discussed the matter with DND/CF counsel, Med-Emerg advised us that they would not be providing us with this material.

A request was made to DND/CF for all documents relating to the workplace conflicts and alleged harassment at the Halifax Support Centre so that we could carry out a full investigation and verify the allegations. We received some documents directly from Halifax Support Centre staff and the chain of command in Halifax. As well, certain documents were received from Dr. McIntosh through her counsel.

Summary of Facts

What follows is a chronology of the events concerning the Halifax Support Centre, from its establishment to the present. This information is provided to put the workplace conflict issues into context, so that we may then provide an analysis of how DND/CF handled the situation and make recommendations to improve how DND/CF responds to such situations in the future.

During the 1990s, the nature of Canada's military operations changed and CF members on peacekeeping missions were exposed to situations and atrocities on a level not witnessed by CF members for decades. As a result, members and their families experienced extraordinary stresses, which in some cases led to substance abuse, addiction, depression, anxiety, and behavioural problems. In 1999, five OTSSCs were established to centralize resources available to deal with these problems. They were opened at bases in Victoria (Esquimalt), Edmonton, Ottawa, Quebec City, and Halifax. The OTSSCs were not intended to replace the existing health care services, but to complement them.

The Halifax Support Centre was established in the fall of 1999, originally at an off-base location. In October 2000, it was moved to its present location, on the fifth floor of the Stadacona Hospital located on CFB Halifax.

Captain Deborah March, a CF social worker, initially set up the Halifax Support Centre and recruited the professional staff, which originally consisted of one psychologist, two social workers, and one part-time psychiatrist. Captain March acted as the Director of the Halifax Support Centre. As Director, she reported to Commander [now Captain (Navy)] J.K. Keating, Commanding Officer of 3 Health Services Operational Training Unit (3 HSOTU), who is responsible for the Halifax Support Centre. As the Commanding Officer of 3 HSOTU, Commander Keating fell under the command of Brigadier-General Mathieu, the DGHS and Commander of the CF Medical Group. Commander Keating also commanded the Stadacona Hospital and in that capacity, he reported operationally to Captain (Navy) C.W. Preece, Commanding Officer of the CF Personnel Support Unit in Halifax.

Numerous interviewees told my investigators that during this start-up phase, the working environment within the Halifax Support Centre was positive. Dr. McIntosh joined the staff in October 1999 on a temporary contract with DND/CF and assumed the position of Acting Clinical Director. Dr. McIntosh is a recognized expert in the field of PTSD in the armed forces who had completed her residency in psychiatry in 1998. In the summer of 2000, Dr. McIntosh became the *de facto* Clinical Director.

The workload of the Halifax Support Centre expanded dramatically in the first two years of operations. In the summer and fall of 2000, in order to contend with its heavy workload, the staff was expanded to seven members. Until the summer of 2000, Dr. McIntosh had been the only psychiatrist on staff. In August 2000, Major Rakesh Jetly joined the Halifax Support Centre as a part-time psychiatrist, and was on full-time staff

by the fall of 2000. Major Jetly is an experienced military doctor who had completed his residency in psychiatry in June 2000.

Commander Keating immediately appointed Major Jetly Clinical Director, thereby replacing Dr. McIntosh. Dr. McIntosh was named Deputy Director, requiring her to report to Major Jetly. Dr. McIntosh advised my investigators that she understood that it was common practice for military personnel to be assigned command positions in a military environment; however, it was disappointing for her to report to someone she felt had less psychiatric experience than herself.

In February 2001, Commander Keating named Major Jetly (overall) Director of the Halifax Support Centre, thereby replacing Captain March. Captain March advised my investigators that she was not told that she was going to be replaced in her duties until minutes before it was announced to the entire staff.

It appears that change of leadership left Dr. McIntosh and Captain March unclear of their continued roles and contributions at the Halifax Support Centre. Commander Keating told my investigators that it became apparent that both Dr. McIntosh and Captain March were not happy that Major Jetly had been appointed as their supervisor. Dr. McIntosh indicated that she felt Major Jetly undermined her authority as Deputy Director. Major Jetly felt that Dr. McIntosh was making decisions without consulting him.

This change in leadership at the Halifax Support Centre also appeared to create friction among other staff members. Some staff accepted this change as legitimate but others did not, resulting in increased workplace tensions. As one member of the Halifax Support Centre staff commented, the transition "was not addressed or verbalised well." According to witnesses interviewed by our investigators, the unit began to divide into two groups. The original staff appeared to align themselves with Dr. McIntosh and Captain March, while the staff hired during the summer and fall of 2000 aligned themselves with Major Jetly. There was reportedly little social interaction between the two groups, although professional cooperation continued, albeit under increasingly strained circumstances.

Much of this conflict appears to be based on perceived differences in how the two psychiatrists, Dr. McIntosh and Major Jetly, approached their jobs and workload. Virtually everyone my investigators spoke to said Dr. McIntosh was a dedicated and competent psychiatrist. Many felt that Dr. McIntosh was carrying a considerably greater caseload than Major Jetly. However, others felt Major Jetly worked very hard, stating that he was often in the Halifax Support Centre after normal working hours, that he also treated patients at CFB Gagetown, and that he had significant administrative responsibilities in his capacity as the Director of the Halifax Support Centre.

In the spring of 2001, rumours began to circulate that Dr. McIntosh was planning to leave the Halifax Support Centre because she could not work with Major Jetly. Dr. McIntosh advised my investigators that she found these rumours harmful and asked

Major Jetly to discipline the civilian staff member (Y) she felt was responsible for starting them. While Major Jetly agreed to do so, Dr. McIntosh was not satisfied with his actions.

In March 2001, Public Works and Government Services Canada (PWGSC), on behalf of DND, contracted with Med-Emerg to provide health care services for the CF Health Services. Under this contract, Med-Emerg began to provide and manage civilian health care providers to supplement the services provided by CF medical personnel. Under the terms of the contract, Med-Emerg personnel are considered subcontractors and are not engaged as employees, servants, or agents of Canada.

As a result of this contract, civilian health care providers serving CF bases entered into contracts directly with Med-Emerg. In Dr. McIntosh's case, she entered into a three-year contract for services with Med-Emerg through a limited company, D. McIntosh Psychiatry Ltd.

Despite these contractual changes to how health care services were provided by the CF, workplace conflicts continued at the Halifax Support Centre. On May 31, 2001, an incident occurred that led to accusations of harassment by a civilian health care provider, X, against another civilian health care provider, Y. X felt fear about personal safety because of this encounter, while Y denied there was any threatening behaviour whatsoever.

X reported the incident to Major Jetly the next day. Major Jetly referred it to Commander Keating when it became apparent that it would not easily be resolved. On June 27, 2001, Commander Keating contacted X directly and asked if the conflict had been resolved. X advised him that it had not. Commander Keating asked X to submit a written formal complaint.

In June 2001, upon receipt of X's formal complaint, Commander Keating contacted the GWR Programme at CFB Halifax to see if the conflict between X and Y could benefit from mediation. GWR has a mandate to deal with allegations of workplace harassment and has members who are trained in conflict resolution. The GWR advisors assessed the situation and conducted interviews with X and another involved party. At that point, GWR reported to Commander Keating that there were allegations involving "threats and violence."

Commander Keating consulted with the local Assistant Judge Advocate General and, as a result, the matter was referred to the military police for investigation. The GWR process was put on hold pending the outcome of the investigation. To our knowledge, GWR was not asked to deal with any of the broader workplace conflict issues at the Halifax Support Centre.

On July 17, 2001, as a result of the police investigation, Y was suspended with pay. The police investigation was completed in November 2001, and found no grounds to lay criminal charges. Y was permitted to return to work. During the suspension of Y, divisions among the staff at the Halifax Support Centre became even more pronounced,

with one faction supporting Y while the other continued to feel threatened by Y's actions.

Throughout the summer and fall of 2001, working relationships among staff and Med-Emerg subcontractors at the Halifax Support Centre continued to deteriorate. On July 10, 2001, Dr. McIntosh made written complaints about Major Jetly and Y to Commander Keating, with an addendum submitted on July 11, 2001. She stated, "At the time of my complaints about [Y's] behaviour … I asked for and expected action to be taken. … If corrective action had been taken many months ago this problem may not have degenerated to this degree." She also said, "I will not work with [Y]. I will not work as a subordinate to Major Jetly."

Dr. McIntosh made a further complaint about Y in writing to Commander Keating on August 1, 2001, alleging inappropriate comments toward and about her and complaining about Y's professionalism as a health care provider. In the complaint against Y, Dr. McIntosh included an additional complaint about how Major Jetly had handled her complaint when she had raised it with him. She asked Commander Keating to intercede.

Major Jetly advised my investigators that he felt he had done everything in his power to resolve the ongoing difficulties. In his written response of August 13, 2001 to Dr. McIntosh's complaint against him, he wrote to Commander Keating, saying, "I have several times approached Dr. McIntosh ("hat in hand") attempting to make peace. I have apologized for any behaviour that may have been perceived as not supportive etc.… I wanted to keep her on board. I can do no more."

He further stated:

> Simply, I did reprimand [Y] earlier. … I do not have the power to change [Y's] views of Dr. McIntosh overnight. … [Y] was counselled on several occasions regarding issues such as boundaries (professional and interpersonal). Several other members of the team noted that [Y's] behaviour improved over time, and in fact [Y] has fit in well with most members of the team.

On August 13, 2001, Y wrote directly to Commander Keating, responding to Dr. McIntosh's complaint and making complaints against Dr. McIntosh and X. In late August 2001, another staff member who blamed Dr. McIntosh for the increasing turmoil within the Halifax Support Centre also wrote to Commander Keating about the "negative repercussions of the OTSSC team problems on [the staff member's] personal and professional life."

As the ongoing workplace conflicts continued, there were some suggestions made as early as August 2001 that steps be taken to resolve the conflicts informally. For example, on August 10, 2001, Y's lawyer wrote to the local Acting Assistant Judge Advocate General, urging "DND and Med-Emerg to immediately establish a process designed to resolve the issues in this workplace" and noting that he "would also urge that Med-

Emerg be directly involved in this process, if indeed they are the true employer of these individuals."

However, on August 17, 2001, counsel with PWGSC wrote to Y's lawyer, taking the position that:

> …it is the view of the Crown that as the individuals to this dispute are all employees of Med-Emerg International Inc., and none are employees of the Department of National Defence or the Canadian Forces, the responsibility for mediating or otherwise settling the dispute lies with Med-Emerg.

In late August 2001, Med-Emerg wrote to Commander Keating stating that it "wished to avail itself of the mediation services offered by DND and to appoint a mediator to mediate the allegations made against each of the parties." It is unclear what action, if any, was taken to deal with this request.

The President of Med-Emerg told my investigators, that by this point, the Halifax Support Centre had become "a completely dysfunctional group of people." He added that he had "never, in 25 years involvement with health care across 60 hospitals in 13 countries, seen an organisation as dysfunctional as the OTSSC in Halifax." In mid-November 2001, Med-Emerg contracted with a private company to conduct a workplace assessment of the Halifax Support Centre, specifically to examine how collegial relationships among staff could be restored.

However, in early November 2001, Major Jetly issued an order concerning Halifax Support Centre staff meetings, which Dr. McIntosh felt undermined her authority. She again raised her concerns in writing with Commander Keating on November 21, 2001:

> You have asked me to trust you, and the process Med-Emerg has put in place, and I have committed to try and make this work. My trust is being broken by the above noted undermining of my role on the team and the continued splitting on the team…

The workplace assessment requested by Med-Emerg was conducted by two psychologists between November 16 and 26, 2001. They interviewed staff members directly involved in the X/Y incident, as well as the GWR Co-ordinator. No other outside parties or patients were interviewed.

The workplace assessment report was four pages long and did not contain any written rationale in support of its findings. My investigators were advised that none of the parties involved were given an opportunity to rebut the findings. Accordingly, I gave little, if any, weight to its conclusions.

It was after this workplace assessment was completed that Dr. McIntosh contacted our Office and expressed her concern that continuing conflicts at the Halifax Support Centre would affect patient care. She advised us that she was frustrated that nothing was being

done to resolve the situation. My Office took immediate action because of concern that these conflicts could affect patient care. We informed DND/CF that we had been contacted by Dr. McIntosh, that we would be reviewing the matter, and that we were available to facilitate a resolution to the issues she had raised.

In mid-December 2001, a meeting was held between representatives of DND, PWGSC, and Med-Emerg to discuss the problems at the Halifax Support Centre. No one from my Office was asked to participate in that meeting. Shortly thereafter, Dr. McIntosh's contract for services was terminated. She was on annual leave from December 7, 2001 to January 2, 2002. By letter dated December 20, 2001, Med-Emerg notified Dr. McIntosh that her contract to provide psychiatric services was terminated effective immediately. In the letter, Med-Emerg's counsel wrote, "MEII [Med-Emerg] has made arrangements to ensure continuing care for the patients that McIntosh provided services to effective January 2, 2002."

Despite the assurance that arrangements had been made for her patients' continuing care, Dr. McIntosh advised my investigators that she was concerned that her patients would be unprepared for a change in doctors. She had approximately 60 patients and had already scheduled patient sessions for when she was to return to work on January 2, 2002. She contacted the Canadian Medical Protective Association and received advice that it was her professional responsibility to contact her patients to explain to them what had happened and to ensure their treatment needs were looked after. She acted on this advice and informed her patients that she had left the Halifax Support Centre.

Despite the assurance that arrangements had been made to ensure continuing care for Dr. McIntosh's patients, my investigators concluded that no such arrangements had been made at the time of Dr. McIntosh's termination. In fact, my Office received approximately 20 complaints from Dr. McIntosh's patients expressing concern for their continued care. A number of patients went to the Halifax Support Centre for scheduled appointments with Dr. McIntosh, unaware that she was no longer working there. Many of those patients were told to return to their homes and await contact from the OTSSC to provide details for future appointments.

Originally, DGHS took the position that Dr. McIntosh's patients would not be permitted to continue treatment with her. Our investigators met with Commander Keating and Major Jetly on January 2, 2002. By that time, a draft letter to Dr. McIntosh's patients informing them that they could continue treatment with her had been written. Dr. McIntosh found a location to continue her practice and on January 8, 2002, advised the Halifax Support Centre of her new location. A letter dated January 14, 2002 was provided to her patients advising them that if they wanted to continue treatment with Dr. McIntosh, they would be allowed to do so. Our investigators understand that most of her patients chose to continue their treatment with her and this arrangement is ongoing. However, Dr. McIntosh has advised us that there continue to be difficulties with DND/CF related to her treatment of CF members.

In the spring of 2002, the Executive Director Conflict Management, a DND/CF body mandated to assist in the resolution of workplace disputes, became involved in

attempting to resolve issues between X and Y. Mediation was conducted between X and Y on April 24, 2002. A GWR staff member was present. Unfortunately, it was unsuccessful. X left the OTSSC in July 2002. CF patients who wished to do so were allowed to see X in private practice.

At the present time, Major Jetly continues to be the Director of the Halifax Support Centre, which has now expanded to 11 staff members. Three are CF members and the rest are civilian contractors. There are two psychiatrists, three psychologists, three social work positions, an office coordinator, an executive assistant, a chaplain, and a mental health nurse.

Issues Raised During the Investigation

Although the initial complaint concerning this matter was received from Dr. McIntosh, I wish to restate that the purpose of this investigation was not to look into the issues specifically surrounding the termination of Dr. McIntosh's contract for services with Med-Emerg. That said, based on the information that I am aware of, I am deeply troubled by the way that Dr. McIntosh was treated. However, that matter is now before the courts, where those issues will be determined.

The purpose of this investigation was to address the broad, systemic issues surrounding the workplace conflicts at the Halifax Support Centre, in order to ensure that a high level of service is maintained for CF members with PTSD and other stress-related injuries and their families.

During our investigation, the following issues were raised and will be addressed in this report:

1. *Are the roles of contractors/subcontractors providing services at DND/CF health care facilities, such as the Halifax Support Centre, understood and what are the responsibilities, expectations, and rights of those contractors?*

2. *What obligation does DND/CF have to alleviate and/or resolve workplace conflict issues arising in environments such as the Halifax Support Centre, where military and third party civilian health care providers work together to provide services to military members?*

3. *Should contractors or subcontractors working side by side with DND employees and CF members have access to the Office of the Ombudsman?*

4. *What procedure should be followed and what matters should be considered when there is a change of staff at OTSSCs in order to ensure continuity of patient care?*

Analysis

1. *Are the roles of contractors/subcontractors providing services at DND/CF health care facilities, such as the Halifax Support Centre, understood and what are the responsibilities, expectations, and rights of those contractors?*

Contract with Med-Emerg

Civilian health care providers at the Halifax Support Centre were originally hired on 2058 contracts, a CF administrative instrument used to contract with civilian medical personnel. Under section 210.61 of *The Queen's Regulations and Orders for the Canadian Forces*, the Chief of the Defence Staff can delegate the authority for hiring temporary civilian medical personnel. This delegated power may be used to fill medical staffing shortages with civilians. Arrangements made under this authority can be as short as one consultation or visit or as long as six months. However, the hiring process was slow and many civilian health care providers were serving on consecutive six-month 2058 contracts. My investigators were advised that as a result, OTSSCs experienced difficulty retaining staff, due to the uncertainty associated with renewal of the contracts.

In March 2001, Med-Emerg was awarded a three-year contract valued at $92 million to provide third party health care professionals to the CF Health Services. The contract runs through to March 31, 2004 and has an option period of an additional three years, exercisable by the Crown. Med-Emerg is a publicly traded corporation incorporated under the laws of the province of Ontario. The contract is administered on behalf of DND by the CF Medical Group Headquarters.

The contract provides that Med-Emerg is to act as a CF-wide resource to provide and manage civilian health service providers in support of base local health authorities, primarily on-base. These services supplement those provided by the military on-base health service personnel. Med-Emerg is intended to provide these services through its personnel and (sub)contractors. Med-Emerg is to pay its personnel and (sub)contractors and is reimbursed by DND/CF for that expense. We understand that Med-Emerg currently provides more than 600 civilian staff in support of DND/CF medical services within Canada. As well, on December 18, 2002, Med-Emerg announced that it was awarded a contract to provide aspects of health care services to deployed members of the CF under a contract recently awarded by DND to SNC-Lavalin PAE Inc.

Contractors/subcontractors vs. employees

The contract clearly states that personnel or (sub)contractors of Med-Emerg are not government employees. Clause 1.5.3 confirms that Med-Emerg is engaged as an independent contractor for the sole purpose of performing the "work" and that "neither the Contractor nor any of its personnel or subcontractors are engaged as an employee,

servant, or agent of Canada." Med-Emerg is responsible for all deductions and remittances required by law in relation to its employees and is also responsible for ensuring health care providers under contract have adequate liability insurance.

The contract also refers to and incorporates General Conditions[1] of the Standard Acquisition Clauses and Conditions (SACC) Manual, which is maintained and published by PWGSC. The SACC are standard clauses tailored to specific types of contracts and are included by reference in PWGSC contracts.[2] Again, clause 9676 03 of SACC confirms that neither the contractor (Med-Emerg) nor any of its personnel are engaged as employees, servants, or agents of Canada.

According to DGHS counsel, one reason why DND/CF chose to deliver health care to CF members through Med-Emerg was specifically to avoid creating an employer/employee relationship with these individual health care providers. Other reasons had to do with problems finding and keeping staff for CF medical facilities.

When the government hires an employee, certain benefits are available to that employee, such as insurance, pension, dental, and health care plans. Contractors are not entitled to the same benefits as government employees and are required to make private arrangements for any insurance, pension or health plans they want to access. Depending on their position, government employees may be entitled to union membership and representation, which is not always available to contractors. Government employees also have much better job security than contractors. However, they are generally subject to a greater degree of control by their employers. Contractors, generally, are given specific tasks or objectives and have a greater degree of independence and control over how they choose to perform or attain those tasks or objectives.

DND/CF control over Med-Emerg subcontractors: Parties' roles and responsibilities

The presence of third party contractors working side by side with employees complicates personnel management in any workplace situation. Both are subject to different rules and obligations. While persons under contract with the government are generally subject to less control over their working arrangements and conditions than employees are, this is not the case for the civilian health care providers supplying services under the Med-Emerg contract at CF facilities such as the Halifax Support Centre.

At the Halifax Support Centre, Med-Emerg contractors were expected to fit in, adhere to CF rules and regulations, and follow the orders of the chain of command. DND/CF appears to have treated Med-Emerg contractors the same as regular DND employees or CF personnel. They could be required to participate in regular coordination meetings,

[1] General Conditions – Services (identification number 9676, updated May 12, 2000)
[2] Available on the PWGSC Web site (www.pwgsc.gc.ca/sacc).

orientation, training, and briefings. The Med-Emerg contract specifically provides that health care providers are to abide by the standards for professional services as set out by DND.[3] Health care providers are not to intentionally disrupt patient care and are to "respect the culture and organization of the CF at all times."[4] In return, health care providers are to be treated "with respect and as part of the care team."[5]

Even though the Med-Emerg contract requires health care providers to conform to the ways of the CF, there appears to be significant confusion on the working level as to how exactly these subcontractors are to actually fit in to the OTSSC operations and what their roles and responsibilities in the workplace are. This confusion contributed to the poor working relationships within the OTSSC. It appears that tensions and conflicts started to occur with the change of management and the increase in staff at the Halifax Support Centre.

When major personnel responsibility changes are anticipated in a small self-contained unit like the Halifax Support Centre, which must function as a team, they must be considered in light of existing staff responsibilities and commitments to the team. Changes need to be done in an open and transparent fashion. Existing staff whose responsibilities will change should be consulted whenever possible. They should be informed of what the expectations are for their continued roles in the organization. The responsible chain of command must also remain involved and maintain open communications with those affected, to manage the change and any tensions or frictions that might result from the reallocation of authority or from confusion about continuing roles in the organization.

Unfortunately, there did not appear to have been any discussion with Dr. McIntosh or Captain March about the impact Major Jetly's appointment would have on their roles and the operation of the Halifax Support Centre. Lack of communication appears to have been a major contributor to the escalating problems. When the workplace tensions became evident, they were not dealt with openly. Instead, they were allowed to fester and then escalate into a full-blown conflict that ultimately overtook the organization.

No one appeared to be sure about who was responsible for dealing with Med-Emerg contractors. When my investigators interviewed Commander Keating, he indicated that DND/CF was responsible for the termination of Dr. McIntosh, even though she was working under contract through Med-Emerg. However, this standpoint was disputed by others within DND/CF.

Conflict resolution options available to subcontractors

Under the terms of the Med-Emerg contract, problems and contract issues are to be resolved at the lowest level possible. The parties are expected to cooperate and make

[3] Clause 3.8.1
[4] Clause 3.8.5
[5] Clause 3.8.4

every attempt to resolve complaints concerning the services being provided. However, the local health authority (the CF officer in charge of the health facility) is not to handle a problem or complaint without discussion with Med-Emerg. If Med-Emerg has a complaint about the treatment of a health service provider, it is to contact the local health authority immediately and attempt to resolve the issue. Written records are to be kept of complaints and responses. Clause 4.1.4 specifically provides that the local health authority is responsible for ensuring that health care providers and other staff treat one another with mutual respect and in a cooperative manner at all times. The local health authority is also to report to Med-Emerg if it is dissatisfied with any services being provided through the contract. Clause 4.2.3 of the contract states that the CF Medical Group is required to "work with both the local health authorities and the Contractor to resolve any disputes at the lowest level possible."

Although some sort of dispute resolution guidelines are suggested in the contract itself, there appear to be no specific procedures in place concerning how to resolve ongoing conflicts or harassment issues involving third party contractors, DND employees, the CF chain of command, and CF members. Senior members of the chain of command were also unclear about their responsibilities toward such persons and about the applicability of the DND/CF policy and procedures. For example, the DGHS told my investigators that such (sub)contractors were covered by the same workplace protections covering DND employees:

> Q. For example, if a Med-Emerg employee had an issue with a DND employee, would that Med-Emerg employee be able to use the DND process?
>
> A. You better believe it. … If there is a complaint, the direction has been very clear, because it is a bit of a challenge. … In terms of harassment, assault, anything related to the workplace, it is one of our facilities, and anybody can make a complaint and can expect to get a response, and I would certainly not see it lightly if anybody complained and got no answer.

However, the counsel for the DGHS was equally clear that they were not covered by the same rules:

> Q. Are those 640 some-odd people [Med-Emerg contractors] protected by the same workplace environmental conduct type of issues or conduct type of rules and regulations that DND employees or military members are protected by?
>
> A. They would not be covered by the Treasury Board indemnification policy, the Treasury Board policy on Indemnification of and Legal Assistance for Crown Servants. That was the whole object of the Med-Emerg exercise, was to avoid these people who previously, for the most part, were hired on 2058s [temporary contracts] … to avoid their becoming employees

> of the Crown, especially when you renew them. So they are in the same position, essentially, as hiring a temp secretary, in terms of law. … The object of the Med-Emerg process is specifically to avoid an employer/employee relationship with these individual health care providers. (emphasis added)

The confusion over who was responsible to take action to resolve developing conflicts and employee problems at the Halifax Support Centre – DND or Med-Emerg – also appears to have prevented timely action from being taken, and to have contributed to the escalation of the workplace tensions and conflicts. The applicability of DND workplace rules, regulations, and protections was unclear and remains unclear to many at the current time.

This is not the only OTSSC where unexplained decisions and confusion over roles led to unnecessary workplace tension. My investigators interviewed staff at a number of these centres to determine to what extent the recommendations made in my 2002 special report, *Systemic Treatment of CF Members with PTSD*, were being implemented. They found that a lack of communication down the chain of command was a common problem. One of the initiatives that has been introduced by DGHS since the termination of Dr. McIntosh is the creation of Mental Health Clinic Manager positions, which are filled by Med-Emerg personnel. Based on a number of complaints from other OTSSCs, it is apparent that this initiative has not defined roles for all staff members within a clear chain of command.

In any work environment, particularly one dependent on teamwork such as an OTSSC, the status of all staff members, who they are responsible to, and the rules that apply to them must be clear. This was not the case. There was, in my view, continuing confusion over the status of the Med-Emerg subcontractors, specifically with regard to who they were accountable to and the rules and procedures that applied to them, particularly in their interactions and conflicts with DND employees and CF members.

The degree of control exerted by the chain of command over the OTSSC and its personnel may be warranted by the fact that it is a military medical facility. Subcontractors of Med-Emerg and CF personnel are required to work together, provide care to the same patients, and answer to the same authority: the chain of command. However, if third party subcontractors are to play a continuing role in the provision of medical services on base, they should be explicitly told about their place in the system and what the CF expects of them.

There appears to be no clear statement or policy concerning the roles and responsibilities of these two diverse work groups, or what exactly the responsibility of the CF chain of command to the subcontractors is. They should also be told up-front which internal DND/CF dispute resolution and complaint mechanisms are available to them. If these matters are made clear at the outset, it will serve both to inform the military personnel involved and allow civilian third party contractors to make informed choices about whether to pursue the relationship with the CF facility. It is also important that all of this information be understood by the responsible chain of command and

communicated to their co-workers. Without clear guidelines about the roles and status of third party contractors, it cannot be expected that the unit will function smoothly.

We have reviewed the Med-Emerg contract and the clauses that deal with roles and responsibilities. It would be beneficial to create a separate framework or policy to clarify how the principles in the Med-Emerg contract apply at each OTSSC. That way, third party contractors, CF members, and DND employees at the OTSSCs who are not parties to the Med-Emerg contract would understand their specific roles and responsibilities.

I therefore recommend that:

1. **A framework be established to clearly set out the roles, responsibilities, and expectations of all parties, including the contractor, subcontractors, CF personnel, DND employees, DND management and the CF chain of command.**

2. *What obligation does DND/CF have to alleviate and/or resolve workplace conflict issues arising in environments such as the Halifax Support Centre, where military and third party civilian health care providers work together to provide services to military members?*

As stated above, it is clear that the tensions and conflicts among the staff at the Halifax Support Centre arose in part due to uncertainty about the roles and responsibilities among the staff and management, and uncertainty about who should be responsible for solving the problems.

It appears there was considerable confusion and uncertainty as to who was responsible for addressing and resolving these workplace conflict issues involving military and civilian staff at the Halifax Support Centre. It was unclear what dispute/grievance mechanisms subcontractors would have access to, in the event of a dispute with another subcontractor, a CF member, or the CF chain of command. Subcontractors of Med-Emerg working at the Halifax Support Centre were not DND/CF employees, even though they worked under the authority of Major Jetly and the CF chain of command. It was unclear what, if any, departmental mediation or conflict resolution or grievance processes were available to them to resolve their disputes. This confusion appears to have contributed to the lack of any real action being taken to resolve the workplace conflicts.

When personality conflicts began to arise in part due to the ambiguities around responsibilities, the unit began to splinter into two groups. In this circumstance, even minor lapses in behaviour escalated into serious issues. Specific incidents fuelled the friction between staff members.

It is apparent that the chain of command was aware of the workplace tensions and conflicts among staff at the Halifax Support Centre. It is unfortunate that the chain of command did not intervene to mediate issues at an early juncture. There is, of course, no guarantee that earlier intervention would have ultimately created a more harmonious workplace, but it should have been attempted.

It is my view that the health services chain of command should have taken concrete steps to facilitate a mediation process among staff members at the Halifax Support Centre as soon as workplace conflict issues became apparent in late 2000 and early 2001. If this had been done, it is possible that many of the resulting destructive conflicts, including the confrontation between X and Y, could have been avoided or more easily diffused.

After receiving the formal complaint from X concerning Y, Commander Keating contacted the GWR Programme at CFB Halifax and asked them to assist with the situation. In view of the greater problems affecting the entire staff, it may have been appropriate for the chain of command to attempt to resolve that larger issue through mediation. However, only the X/Y incident was referred to the GWR Programme.

Clearly, the July and August 2001 correspondence to Commander Keating from Dr. McIntosh and Major Jetly indicated the extent to which their working relationship had deteriorated. Mediation at that point or well before it – before trust in the mediation process was lost – may have resolved some or all of the issues raised. Instead, opportunities to resolve the ongoing disputes through mediation were lost as neither DND/CF nor Med-Emerg stepped forward to take responsibility for instigating the process. Again, one of the reasons for this appears to be the confusion about the status of Med-Emerg contractors.

In August 2001, both Y and Med-Emerg, through their respective lawyers, asked for some form of dispute resolution. Med-Emerg engaged private consultants but did not pursue mediation. X pursued the mediation by contacting the DND Conflict Management Project directly in the spring of 2002 but it was not successful.

When initially trying to reach an informal resolution of the issues, my investigators raised the possibility of mediation with the DGHS, who agreed that a potential solution was 'strong mediation' by professional mediators. My investigators left the meeting feeling confident that a mediation process could be facilitated. However, while this meeting was taking place, Med-Emerg sent a letter to Dr. McIntosh's lawyer terminating Dr. McIntosh's contract.

The issue has been raised that Dr. McIntosh's termination was a direct result of her complaining to my Office. That was certainly the perception in some quarters, given that the termination occurred within a matter of days of her approaching us. The investigative team interviewed DND and CF personnel who were involved in the decision to terminate her. They strenuously denied any connection. Ultimately, the investigators were unable to find any concrete evidence linking Dr. McIntosh's termination with her decision to complain to my Office.

It is easy to say that mediation is unlikely to be successful because the parties are too entrenched in their positions, they do not trust each other, and the conflicts are too severe. It is also true that some degree of trust must exist and be built upon for mediation to work. Professional, experienced mediators, however, are trained to deal with such situations. When parties are encouraged through a formal process to deal with interests as opposed to positions, significant progress can be made, despite initial scepticism and reluctance. This is especially the case when the parties are professionals who have the same goal in their work – the treatment and well-being of CF members and their families. With, and in my view, even without the benefit of hindsight, it is clear that the chain of command should have proactively intervened far earlier than it did to resolve the ever-increasing workplace tension through mediation.

DND/CF is increasingly relying on forms of mediation as a way of resolving differences. While this had always been done informally within units, in recent years, a number of initiatives within DND/CF have made mediation by an independent party an option for dispute resolution.

The Med-Emerg contract imposes a duty on both Med-Emerg and the Crown to encourage cooperative and respectful relationships among the staff members at CF medical facilities. Among other things, it calls for disputes to be settled at the lowest possible level. This cooperation requires both parties to take direct and early action when disputes arise, so that they can be dealt with early and efficiently.

There is a hybrid dispute resolution system established under the contract, which envisions cooperation between Med-Emerg and the appropriate level of the CF health administration. Clause 3.15 sets out the general principle of working toward resolving problems at "the lowest possible level." Any problems or complaints referred to the local health authority about the provision of health services concerning Med-Emerg are to be discussed with Med-Emerg before the local health authority attempts to resolve them (clause 3.15.1). The same goes for any problems referred to higher levels of the CF administration. With respect to complaints about the treatment of Med-Emerg personnel, Med-Emerg is expected to contact the CF administration to attempt to resolve the problem.

I understand that some in DND/CF take the position that Med-Emerg is responsible for workplace conflict resolution involving civilian health care providers, given that they are contractors with Med-Emerg. However, given the complicated and intertwined working relationship between the parties at places such as the Halifax Support Centre, policies or guidelines must be in place to define the roles and responsibilities of all persons working at such a clinic, regardless of who is their employer.

As the Med-Emerg contract requires that the civilian health care providers respect CF culture and not disrupt patient care, arguably this could be seen to give civilian health care providers access to DND/CF dispute resolution and complaint mechanisms.

It seems clear that if the local health authorities are to carry out their responsibilities to Med-Emerg personnel, consult with Med-Emerg about issues concerning the contract, and work toward resolving problems at the lowest possible level, there should be recourse to internal DND/CF mechanisms for resolving disputes. Some subcontractors at the Halifax Support Centre who were involved in conflict issues (Y and X) were given access to DND/CF programs. The military police also investigated the events surrounding a workplace conflict between two Med-Emerg contractors.

I therefore recommend that:

2. **Where a contractor is responsible for hiring civilian health care providers at OTSSCs or other CF health care facilities, concrete steps be taken to ensure the responsibility and process for resolving conflicts and disputes among the contractor's personnel and subcontractors and DND/CF employees and members is clearly set out. Third party health care providers at CF health care facilities should be advised exactly which conflict resolution mechanisms are available to them.**

3. *Should contractors or subcontractors working side by side with DND employees and CF members have access to the Office of the Ombudsman?*

The *Ministerial Directives* set out the categories of people who are entitled to bring complaints to the Office of the Ombudsman. The Office's mandate is to make substantial and long-lasting improvements to the quality of life of members of the DND/CF community. The categories of people who may bring complaints were established on that basis. The purpose of limiting the categories of people who may come to the Office was to restrict access to people whose treatment and well-being were directly affected by DND/CF.

In September 2001, my mandate was amended to allow applicants to the CF and people on exchange with the CF to bring complaints to my attention. When this amendment was negotiated with DND/CF, it was acknowledged that other groups might be identified in the future as deserving of access to the services of the Office of the Ombudsman. The Office was invited to come forward with new categories of complainants if and when such circumstances demonstrated the need.

Third party contractors were not listed among those groups who could bring a complaint directly to my Office. The rationale was twofold: such contractors usually provide a type of service that does not require them to work along side DND employees and CF members; and the quality and types of service provided are usually controlled by the contractor and not by DND/CF.

When the Ombudsman's mandate was initially negotiated in 1999, the OTSSCs had not been established and there was no indication that health care services, such as counselling and treatment for members suffering from PTSD, would be carried out by third party contractors. The fundamental purpose of creating the Office of the Ombudsman was to provide an independent venue where people who are significantly affected by chain of command decisions are able to have their problems addressed, investigated, and remedied. The introduction of a large number of third party contractors into DND/CF operations certainly makes a strong argument that these people should have access to the Office and other internal mechanisms. Even though they are employed or have a contract with a third party, they work under the direct control of the chain of command and are expected to respect it. The Med-Emerg contract specifically states that health care service providers are to respect the culture and organization of the CF at all times.[6]

I must add that throughout the course of this investigation, my investigators encountered resistance from certain parties within the chain of command and from certain DND legal advisors. They were of the opinion that the Office of the Ombudsman had no authority to conduct this investigation. Some feel that if a complaint or issue is raised by a third party service contractor, regardless of the circumstances or the impact

[6] Clause 3.8.5

for CF members, the Office of the Ombudsman should not interfere. This opinion stems from a very narrow view of our mandate.

This view is particularly hard to understand in the context of this complaint for a number of reasons. Firstly, the third party contractors involved were working side by side with DND employees and CF members and in many other respects were treated no differently. From the information we gathered, the third party contractors involved were subject to DND/CF workplace policies and were able to make harassment complaints under the current policy. Some were allowed to avail themselves of other employee resources such as the GWR Programme and the services of the DND Conflict Management Program. Secondly and most importantly, the services being provided by such contractors have a direct and significant impact on the quality of life of many CF members suffering from PTSD. This was evidenced by the large number of complaints received by my Office subsequent to Dr. McIntosh's termination.

Where third party contractors provide services to DND/CF, are working together with DND employees and CF members, and are providing services that directly affect the quality of life of CF members, they should be entitled to bring any issues of concern to my Office as a resource to help resolve problems and remedy systemic issues. This is especially the case where their treatment may have a direct impact on the quality of care received by CF members and their families. It also needs to be made clear that such subcontractors are required to cooperate with the Office of the Ombudsman during the course of our investigations, especially where their conduct directly affects the rights and well-being of the DND employees and CF members they work alongside and the CF members and their families who depend on their services.

Those who would prefer to see my mandate limited and restricted in its most narrow sense may argue that it is impossible to give third party contractors the right to bring complaints to my Office or to require them to cooperate with my investigations because such persons are not subject to DND/CF control and my Office has no jurisdiction over contracting agencies such as Med-Emerg. These arguments, however, do not bear the weight of scrutiny. In this case, Med-Emerg subcontractors were required to adhere to DND/CF workplace policies and to respect the culture and organization of the CF at all times. Furthermore, the Med-Emerg contract provides that the CF chain of command should be responsible for ensuring that relations between contractors and staff are respectful and cooperative. The Office of the Ombudsman can serve as a valuable tool in ensuring this obligation is met.

My Office's role is to attempt to resolve problems and make recommendations to improve the quality of life of CF members and their families. Contractual or jurisdictional issues should not arise. My Office could serve as an invaluable resource to help DND/CF deal with the unique workplace conflict situations that may arise from having third party service providers working side by side with DND employees and CF members. The *Ministerial Directives* for my Office already make clear that my role is limited to dealing with complaints about treatment by DND/CF. Furthermore, should DND/CF be of the view that any recommendation made by the Ombudsman unduly affects a contractual relationship, they obviously are free not to implement it.

I therefore recommend that:

3. **The *Ministerial Directives* be amended to allow third party contractors, such as those who are providing health care services to CF members, who are working along side DND employees and CF members, in operations that directly effect the welfare of CF members and/or their families, be allowed to bring complaints forward to the Ombudsman, where those complaints relate directly to DND/CF.**

4. *What procedure should be followed and what matters should be considered when there is a change of staff at OTSSCs in order to ensure continuity of patient care?*

After January 2, 2002, my Office received approximately 20 complaints from Dr. McIntosh's patients about her sudden termination and the lack of notice. They were concerned that there appeared to be no plan in place for their continuing care. Most patients received no communication from DND/CF about Dr. McIntosh's termination until they arrived for their scheduled appointment with her at the clinic. Many also expressed the concern that they would be unable to find alternate psychiatric care if Dr. McIntosh's services were not made available to them.

One patient reported that she telephoned the Halifax Support Centre to ask for her next appointment with Dr. McIntosh. She was told:

> … that she didn't work there anymore. And I asked the receptionist to give me a location or a number where I could reach her or how I can get an appointment with her and they… she just said we don't know where she is and we don't know how to reach her. So she took my number and she said that they would get back to me, she would have some information from the clinic. [The receptionist said] …we might know something next week so if you want to phone in a week's time we might have more information then.

When asked about her concerns when she was told that Dr. McIntosh was no longer at the Halifax Support Centre, this patient went on to say:

> When I found out that Dr. McIntosh wasn't there anymore, I was totally floored because it took a long time for me to get to trust people and then I finally got that relationship with Dr. McIntosh. And the option was given to me to see somebody else but I refused.

Another patient described what occurred upon arriving for a scheduled appointment with Dr. McIntosh:

> I showed up, I went to the desk, and I said I was there to see Dr. McIntosh, and said who I was, and the secretary said, well, she's not here. …I said what do you mean she's not here? Well, she said just wait a minute, and then she went out somewhere out the office, came back, she said, well, Major Jetly will speak to you. I said, well, I don't want to talk to him. Well, he'll explain what's going on … and he says, something happened over the holidays … and Dr. McIntosh is no longer with us. I said, what does than mean? … He said I don't have any details right now, and I can't tell you what's going to happen.

This patient described the impact on her:

> I get thrown into crisis easily…so if something gets me distraught I get really disturbed…. I was really pissed off… I think the system sucks because, you know, it took me that long to get someone that I feel comfortable with and all of a sudden she's gone.

Another patient described her reaction when told that Dr. McIntosh's contract had been terminated:

> For me… one of the biggest issues has to do with trust. It has to do with the failure of the command system in the military… and have it pulled away from you without having any input or having any say, is exactly the same issue that I have had with the military all along – that I don't matter, that what I say or what I feel or what I am going through is of zero consequence…I am just this little drop in the bucket. You are working really hard to get a handle on things … you work really hard to establish this trust with somebody and it takes so long because I put up walls around me to protect myself from people … who have control over me. … And if you pull that rug from under me again, then all these bricks that have been built will crumble. It's very fragile.

Other Halifax Support Centre patients we spoke to expressed these same sentiments. Several indicated they felt betrayed by the CF in that the system had not, in their view, factored their needs into the decision to terminate Dr. McIntosh's contract.

It appears from the information we received that these patients were profoundly affected by the uncertainty and lack of information surrounding what was happening at the Halifax Support Centre concerning the change of staff and what alternate arrangements had been made for their care. Patients take time to grow to trust a psychiatrist, and the doctor-patient relationship in psychiatry is probably more important than in other health matters.

As well, my investigators were repeatedly advised throughout the course of this investigation that there is a lack of qualified psychiatrists in Nova Scotia, especially those with knowledge and experience of the military, which is a huge advantage in dealing with CF members. In fact, during the investigation leading to my 2002 special report, *Systemic Treatment of CF Members with PTSD*, many CF members expressed their frustration that they had to spend lengthy periods explaining the idiosyncrasies of the military to civilian caregivers who had no knowledge of the CF. Psychiatrists with knowledge of the military are an enormously valuable and rare resource, which is in great demand within DND/CF. Indeed, during this investigation, Commander Keating summed up the utility of psychiatrists having some knowledge of the military ethos and culture:

> The psychiatrist in [a non-military environment] doesn't understand PTSD. He doesn't understand the Canadian Forces. He doesn't understand the operational scenario that went on in the Medak Pocket.

> He doesn't understand what went on with the divers crawling around the bottom of the Atlantic after Swissair. They don't, and why would they?

As I reported in *Systemic Treatment of CF Members with PTSD*, a significant number of PTSD sufferers have a lack of trust in the CF that prevents many of them from coming forward for help. Some estimates by CF caregivers put the number of members who may have PTSD and who are not willing to seek treatment at between three and five times the number who do seek assistance. When members do come forward, it often takes a considerable period of time to build a trusting relationship with a caregiver and to begin the healing process. My investigative team was advised that severing the caregiver relationship can be extremely traumatic to patients, who are often in a very vulnerable and fragile condition. It is often difficult for patients to find the stamina and courage required to create bonds with a new caregiver. As Major Jetly noted in an interview with my investigators, "continuity of care is a huge principle in psychiatry."

I fully appreciate that it is not always possible to plan for staffing changes. However, the consequences and the impact on patients must be properly considered. PTSD patients take a long time to establish a level of trust with their caregivers. They are entitled to an explanation that allows them to understand why the arrangements for their treatment are being changed. Patients are entitled to be informed of such decisions as far in advance as possible, to allow them time to adjust and adapt. Failure to properly plan for changes in providing treatment to PTSD patients causes needless confusion and stress. It also creates a lack of trust and confidence in the OTSSC's ability to manage the patient's care. The decision-makers should also give thought to how the departure of a caregiver should be communicated to patients and who will take over their care and treatment. When these things are not considered in advance, all involved suffer needless distress and confusion.

I therefore recommend that:

4. **Director General Health Services develop a policy directive to ensure that when staffing changes are made by OTSSC administrators and/or the chain of command, proper consideration is given for the continued treatment of affected patients, the impact the change will have on patients, and how the change should best be communicated to patients.**

Conclusion and Recommendations

In February 2002, I made 31 recommendations in *Systemic Treatment of CF Members with PTSD*, including recommendations relating to adequate resourcing for OTSSCs and steps to reduce caregiver burnout. PTSD remains one of the major concerns of my Office and continues to generate complaints, many of which are a reaction to the special report. As I noted in that report, there is strong agreement among military and civilian personnel that the OTSSC caregivers are doing an outstanding job despite being considerably short-staffed and overworked. Since their inception, workloads at most OTSSCs have been exceedingly high and the health of the caregivers themselves has frequently been under tremendous pressure. Although steps are being taken to alleviate the burden, including increased resources being made available to OTSSCs, the nature of the work itself takes a toll on caregivers. In my follow-up report, *Review of DND/CF Actions on Operational Stress Injuries*, which was given to the Minister of National Defence on November 5, 2002, I noted that although there had been some improvement in resources provided to OTSSCs, caregiver burnout was still a concern.

During the 2000-2001 period, workplace conflict at the Halifax Support Centre developed and continued to escalate. Much of the conflict can be traced to confusion and the ambiguity of roles and responsibilities created by the environment. Civilian contractors and subcontractors were brought in to work side by side with military personnel within the chain of command structure. Unfortunately, opportunities to resolve conflict at early stages were missed. As a result, conflicts escalated to the point that the work environment became severely dysfunctional.

My investigators found no evidence to dispute the fact that the Halifax Support Centre was providing excellent care to CF members, notwithstanding the internal difficulties that plagued the clinic. This is a testament to the professionalism and dedication of everybody involved. All parties told my investigators that the most important factor in the equation was the provision of excellent treatment to the CF members who were patients at the Halifax Support Centre.

However, it is my firm view that the proper administration of OTSSCs, including the management and fair treatment of caregivers, is an essential component of providing quality treatment and support to CF members with PTSD and their families. I strongly urge the chain of command to accept the recommendations in this report in order to clearly define the roles, responsibilities, and expectations of third party contractors working with DND employees and CF members at OTSSCs, and that their access to internal DND/CF dispute resolution be clarified. This will ensure resort is had to effect conflict resolution and mediation earlier to prevent the escalation of similar disputes.

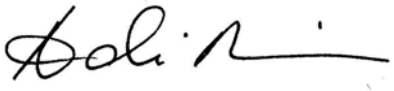
I recommend that a clear framework or policy be drafted to clearly set out the roles, responsibilities, and expectations of all parties working at CF health facilities, including the contractor, subcontractors, DND employees, CF personnel, and the CF chain of command. A clear plan or protocol should be established to ensure that all parties are

aware of the responsibilities and processes available for resolving conflicts among the contractor's personnel, subcontractors, DND employees, and CF members.

As our investigation has revealed, patients take time to gain trust in a health care provider. Therefore, any staffing changes being considered must take into account the treatment of affected patients, the impact on patients, and how the decision should be communicated to them. Patients were needlessly distressed by Dr. McIntosh's termination without clearly defined steps to notify them or make arrangements in advance for their care.

Finally, as the constituency of the DND/CF workforce has changed, the mandate of the Office of the Ombudsman must be amended accordingly. Therefore, I recommend that third party contractors who are providing health care services to CF members, who are working side by side with CF members and DND employees, in operations that directly affect the welfare of CF members and/or their families, be allowed to bring complaints forward to the Ombudsman, where those complaints relate directly to DND/CF.

These recommendations will ultimately improve the treatment of all health care providers and improve the working environment at all OTSSCs so that in the end, the quality of service provided to CF members and their families will be maintained and improved.



André Marin
Ombudsman
Department of National Defence and Canadian Forces

Summary of Recommendations

1. **A framework be established to clearly set out the roles, responsibilities, and expectations of all parties, including the contractor, subcontractors, CF personnel, DND employees, DND management and the CF chain of command.**

2. **Where a contractor is responsible for hiring civilian health care providers at OTSSCs or other CF health care facilities, concrete steps be taken to ensure the responsibility and process for resolving conflicts and disputes among the contractor's personnel and subcontractors and DND/CF employees and members is clearly set out. Third party health care providers at CF health care facilities should be advised exactly which conflict resolution mechanisms are available to them.**

3. **The *Ministerial Directives* be amended to allow third party contractors, such as those who are providing health care services to CF members, who are working along side DND employees and CF members, in operations that directly effect the welfare of CF members and/or their families, be allowed to bring complaints forward to the Ombudsman, where those complaints relate directly to DND/CF.**

4. **Director General Health Services develop a policy directive to ensure that when staffing changes are made by OTSSC administrators and/or the chain of command, proper consideration is given for the continued treatment of affected patients, the impact the change will have on patients, and how the change should best be communicated to patients.**

Appendix I:
Responses to Interim Report

1. **Lieutenant-General C. Couture**
2. **Dr. Diane McIntosh**

Assistant Deputy Minister (Human Resources -Military)

Sous-ministre adjoint (Ressources humaines - Militaires)

National Defence Headquarters Ottawa, Ontario K1A OK2

Ouartier général de la Défense nationale Ottawa (Ontario) K1A OK2

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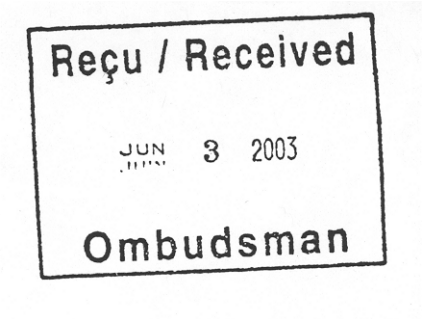
30 May 2003



André Marin
National Defence and Canadian Forces Ombudsman
100 Metcalfe Street, 12th Floor
Ottawa, ON KIP 5M1

DND/CF OMBUDSMAN FILE # 01-1188

Dear Mr. Marin,

I have reviewed the interim report that you forwarded to me which details your investigation into allegations of workplace conflict at the Halifax OTSSC. I appreciate the opportunity to comment on the report prior to its official release.

General Comments:

I am pleased to note that your overriding purpose for conducting this investigation was your concern for the quality of care of the patients being treated at the Halifax OTSSC. Rest assured that quality patient care is also my main concern. I am also convinced that the primary reason that Med-Emerg terminated the employment of Dr. McIntosh was to enhance the ability of the OTSSC team of clinicians to provide quality, interdisciplinary care to members afflicted with a psychological illness or injury. The DGHS is inherently aware that individual patients were impacted by this change, but for the greater benefit of current and future patients as a cohort, the change was necessary.

I also note that your investigation was not to determine if Dr. McIntosh's contract for services was rightly or wrongly terminated. In light of the civil action currently underway, you may wish to reconsider your comment on lines 427/428 of the report stating that "you are deeply troubled by the way that Dr. McIntosh was treated."

Recommendations:

1. *"A framework be established to clearly set out the roles, responsibilities, and expectations of all parties, including the contractor, subcontractors, CF personnel, DND employees, DND management and the chain of command.* "

   The contract between the Government of Canada and Med-Emerg International Inc. (Contract No. W2203-99CAO2/001/SS) clearly articulates the roles and responsibilities of the contractor and the Local Health Authorities. As you point out in the report, the contractor is also obliged to comply with the terms, conditions, and clauses outlined in the Standard Acquisition Clauses and Conditions Manual issued by Public Works and Government Services Canada (PWGSC). There are also specific contracting documents issued by Treasury Board and ADM(Mat) that prescribe the roles and responsibilities of contractors and government employees with respect to contract management. Granted, the contracting documents described above are complex and not readily available to all of the parties that you have identified in your recommendation. As a result, I believe that there is some merit in establishing a framework and user-friendly information package that will allow all parties to better understand their roles and responsibilities. DGHS will consult with ADM(Mat) and PWGSC and produce such a document.

2. *"Where a contractor is responsible for hiring civilian health care providers at OTSSCs or other CF health care facilities, concrete steps be taken to ensure the responsibility and process for resolving conflicts and disputes among the contractor's personnel and subcontractors and DND/CF employees and members is clearly set out. Third party health care providers at CF health care facilities should be advised exactly which conflict mechanisms are available to them.* "

   In order to comply with the Treasury Board Contracting Policy, DND/CF employees must ensure that there is no intent to form an employer-employee relationship of any kind with individuals who provide services under contract. The comments attributed to the DGHS on page 15 of your report, were simply to imply that Commanding Officers and Managers of clinics where employees and sub-contractors of Med-Emerg are employed, need to be cognizant of the potential for conflict between the contractors and DND/CF employees. They also need to institute preventive strategies and intervene locally to resolve minor disputes; however, they must ensure that whatever action they take does not evolve into an employer-employee relationship. Conflict resolution involving a Med-Emerg employee or sub-contractor, was identified by PWGSC as an area where Med-Emerg, as the contractor, is required to intervene. The close working

relationship between Med-Emerg employees/subcontractors and DND/CF employees creates a difficult challenge in trying to balance the Manager's responsibilities to the Med-Emerg staff, with their requirement to prevent an employer-employee relationship. A further complicating factor is the fact that the formal chain of command for the Halifax Clinic at the time of the alleged incident, was Base Halifax and not the Health Services chain of command as you state on line 725 of your report. Based on your investigation and recommendation, DGHS will consult with the contracting authority at PWGSC to ensure that Med-Emerg is clearly aware of their responsibilities and that their employees and sub-contractors are advised accordingly. Additionally, DGHS will provide further direction to Commanding Officers and Clinic Managers regarding conflict in the workplace as it relates to contractors. Conflict resolution is also an area that will be more clearly defined in the Statement of Work for the next iteration of the third party contract.

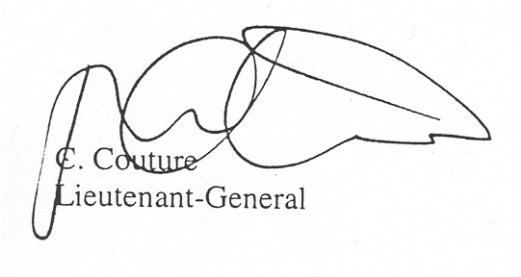
3. *"The Ministerial Directives be amended to allow third party contractors, such as those who are working along side DND employees and CF members and/or their families, be allowed to bring complaints forward to the Ombudsman, where those complaints relate directly to DND/CF.* "

4. *"DG Health Services develop a policy directive to ensure that when staffing changes are made by OTSSC administrators and/or the chain of command, proper consideration* is *given for the continued treatment of affected patients, the impact the change will have on patients, and how the change should best be communicated to patients.* "

All physicians who provide services to members of the Canadian Forces, whether they be DND/CF employees or contractors, are required to hold a valid license to practice medicine from a provincial licensing authority. Provincial colleges and medical associations will typically provide direction to physicians regarding the physician/patient relationship, including guidance on terminating this relationship. Physicians intuitively understand this requirement, as does the leadership of the Canadian Forces Health Services. When a physician's services are terminated for whatever reason, the senior medical authority at the affected clinic will take the necessary action to ensure a plan is in place to allow for the continuity or transfer of care, and for communicating the change to patients. In retrospect, the timing of Dr. McIntosh's termination by Med-Emerg, immediately following the Christmas and New Years leave period, should probably have been delayed by a few weeks. This would have permitted the development of a more structured transition plan and better consultation with the patients affected. You are correct in stating that the DGHS does not have a formal policy in this regard. DGHS will task the

Surgeon General and the Directorate of Medical Policy to develop a Medical Services Instruction regarding this very important issue.

In summary, I again thank you for the opportunity to review and comment on your report prior to its official release.



Dr. Diane McIntosh
[redacted]

June 19, 2003

Andre Marin
Ombudsman
National Defence and Canadian Forces
100, Rue Metcalfe
12th Floor
Ottawa, Ontario K1P 5M1

Dear Mr. Marin,

I would like to thank you and your investigators for what I viewed as a very thorough investigation and response to the serious systemic issues at the OTSSC at CFB Halifax. Many of the problems that ultimately proved devastating to my personal and professional life were identified and I agreed with all of the recommendations you made to remedy these failures in the system.

Unfortunately, you determined that your investigation could not extend to the issues of harassment and the poisoned work environment as it impacted on my patients and me. I want to thank you for your general expressions of concern about the way I was treated, however, the behaviour of some staff members at the OTSSC, [redacted], was not addressed. I believe the behaviour of these individuals had serious negative implications for patients, which implications continue today.

In July 2001, I wrote and spoke directly to Major Jetly and Commander Keating expressing my concern about the unprofessional and inappropriate behaviour of [redacted] Maj. Jetly and Cmdr. Keating took no action, [redacted] was never investigated by DND/Med-Emerg for unprofessional/inappropriate behaviour (only for criminal action (none was found)). .

Two weeks ago, in late May 2003, twenty-three (23) months after my concerns were first raised, [redacted] was fired and banned from the base at CFB Halifax.

When I was terminated, in late December 2001, I was six months pregnant and I had endured more than a year of harassing behaviour from some members of the OTSSC and inaction from many levels in the chain of command. This ultimately led me to you. Cmdr Keating had repeatedly told me, directly, that I was doing an "excellent" job, up to the week before I left for vacation and filed the Complaint to you in early December 2001. After I complained to you about the failure of the chain of command to respond to my harassment complaint, I was terminated. The fact that I was terminated by DND/Med-

Emerg, within the same month of filing a formal complaint to the Military Ombudsman's office about DND/Med-Emerg's operations, strongly implied retaliation for my Complaint. This has not only been extremely unfair to me, but also discourages others in the Military from filing complaints against DND/Med-Emerg.

[redacted] at the OTSSC tried to prevent me from seeing my patients, lowered my rate of pay, opened my personal mail, blocked new referrals to me, told patients I was gone and that they did not know where I was, and continue to make negative comments about me to other professionals and patients. Since I was terminated, Cmdr.Keating has been promoted and Maj. Jetly has continued to lead the OTSSC, and to my knowledge no one has been held accountable for their egregious behaviour.

Yours Truly,

Diane McIntosh