

Office of the Minister
of National Defence



Cabinet du ministre
de la Défense nationale

Ottawa, Canada K1A 0K2

GOVERNMENT RESPONSE

APR 05 2019

The Honourable Kevin Sorenson
Chair
Standing Committee on Public Accounts
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Mr. Sorenson,

Pursuant to Standing Order 109 of the House of Commons, I am pleased to present the official Government Response to the report of the Standing Committee on Public Accounts, entitled: *Report 3, Administration of Military Justice in the Canadian Armed Forces, of the 2018 Spring Reports of the Auditor General of Canada*, which was tabled in the House of Commons on 6 December 2018.

The Government acknowledges that the efficient administration of military justice is of critical importance to maintaining service discipline, efficiency, and the morale of the Canadian Armed Forces. The Government remains committed to continuing to improve the timeliness and effectiveness of the military justice system and strengthen oversight of the system provided by the Judge Advocate General.

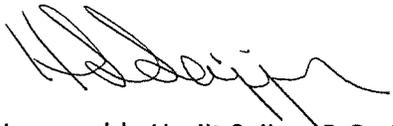
As you know, the Department of National Defence agreed to all nine recommendations made by the Auditor General in his report and provided a detailed Management Action Plan to explain the measures that National Defence is taking to address the issues identified by the Auditor General.

This Government Response provides the Standing Committee on Public Accounts with updates on the implementation of these measures ahead of the 30 April 2019 deadline requested by the Committee.

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I would like to thank you and the other members of the Committee for this report and for your continued commitment and service to Canadians.

Sincerely,

A handwritten signature in black ink, appearing to read 'Harjit Sajjan', written in a cursive style.

The Honourable Harjit Sajjan, P.C., O.M.M., C.D., M.P.

CC:

Angela Crandall

Clerk, Standing Committee on Public Accounts

GOVERNMENT RESPONSE

GOVERNMENT RESPONSE TO THE REPORT OF THE STANDING COMMITTEE ON PUBLIC ACCOUNTS, ENTITLED: *REPORT 3, ADMINISTRATION OF MILITARY JUSTICE IN THE CANADIAN ARMED FORCES, OF THE 2018 SPRING REPORTS OF THE AUDITOR GENERAL OF CANADA*

Introduction

The Department of National Defence would like to thank the members of the Committee for undertaking a study on Canada's military justice system. As requested by the Committee, this Government Response provides progress updates on the measures that National Defence is implementing to address the nine recommendations made by the Auditor General in his spring 2018 report. Canada's military justice system is integral to maintaining discipline, efficiency, and morale in the Canadian Armed Forces. As such, the actions presented in this response will have a positive impact on the Canadian Armed Forces as a whole.

The Department of National Defence is also taking other steps to improve Canada's military justice system. Most notably, Bill C-77, which is currently being considered by Parliament, would give victims of service offences clear statutory rights to information, protection, participation, and restitution. In addition, Bill C-77 will introduce Indigenous sentencing considerations by service tribunal. It also establishes that evidence that a service offence or service infraction was motivated by bias, prejudice, or hate, based on gender identity or expression, constitutes an aggravating circumstance that must be taken into consideration when a sentence or sanction is imposed. In addition, it reforms the summary trial into a non-penal and non-criminal summary hearing process.

Measures to improve administration and oversight of the military justice system presented in this Government Response, along with those identified in Bill C-77, underscore the Government's commitment to ensuring the effectiveness of Canada's military justice system.

Recommendation 1 - Identifying and Addressing Delays

That, by 30 April 2019, the Department of National Defence present the House of Commons Standing Committee on Public Accounts with a report detailing the progress made in identifying the causes of delays in the military justice process and in implementing corrective measures to reduce them.

In the report released in spring 2018, the Auditor General found delays throughout the various stages of the military justice process. As such, the Auditor General requested that the Canadian Armed Forces review its military justice processes to identify causes of delays and to implement corrective measures to reduce them.

In response to the Auditor General report, the Department of National Defence agreed to review its military justice processes to identify the causes of delays, and implement corrective measures to address them. National Defence highlighted that it is prioritizing the development of a military justice case management tool and database as a systematic way of better understanding the causes of delays and as a means of developing measures to address these delays.

This system, called the Justice Administration and Information Management System (JAIMS), is expected to deliver measurable data on the performance of the military justice system, including delays. In addition, National Defence is already taking a number of immediate steps to correct weaknesses already identified.

Enabling data-driven analysis

Previous attempts to address delays, such as the establishment of the Delay Working Group and the efforts undertaken by the Administration of Military Justice Committee from 2008-2010, were hampered by an absence of reliable, quantitative data that could inform a system-

wide analysis. While these past efforts identified potential sources of delay, conclusions were drawn largely on anecdotal assessments and, as a result, prevented the type of overall data-driven assessment necessary to improve administrative processes.

Recognizing the need to fill this information gap, the Office of the Judge Advocate General launched a project to develop an improved case management system that could generate data to assist in conducting a statistical and trend analysis of military justice processes. This system, the JAIMS, will provide information on the time it takes for a file to complete each stage of the military justice process. It will electronically track discipline files from the receipt of a complaint through to closure of the file. The JAIMS will also allow military justice stakeholders to access real-time data on files as they progress through the military justice system and will prompt individuals when they are required to take action. Better data and the ability to pinpoint bottlenecks in the system will enable the development of targeted measures to address causes of delay.

The introduction of the JAIMS will be complemented by the establishment of a new Performance Measurement Framework. The indicators that will be part of the Performance Measurement Framework are being developed in consultation with a leading expert in the field, and will be designed to analyze large amounts of data on aspects of the military justice system. The data obtained through the JAIMS will be analyzed through this framework as a means of monitoring performance of the military justice system. The new system will highlight potential challenges and track progress in making improvements.

The JAIMS and the Performance Measurement Framework are scheduled to be operational in September 2019.

Immediate steps to implement corrective measures

In addition to the JAIMS, National Defence has taken several steps to further improve the efficiency of the military justice system in the short term. In fall 2018, the Office of the Judge Advocate General conducted an internal review of time standards for every phase of the military justice process. In 2019, key military justice actors and stakeholders will be consulted to seek their views as part of this review of time standards. Agreed timelines will be communicated to relevant actors and will form the basis for time standards going forward.

The Office of the Judge Advocate General has also notified commanding officers of their obligation to immediately inform the Director of Defence Counsel Services of an accused's decision on whether they wish to be represented by defence counsel. The Judge Advocate General further requested that the Director of Defence Counsel Services notify the Judge Advocate General should any commanding officer fail to do so immediately. This may help reduce delays in the early stages of a case.

Furthermore, the Canadian Forces Military Police Group Commander issued a comprehensive set of military police orders on disclosure. These orders will address the timelines, quality of reports, and supporting materials that are distributed and disclosed. These orders will provide additional guidance in the conduct of investigations and are expected to increase efficiency.

Finally, the Director of Military Prosecutions has revised policies to improve the efficiency of prosecution procedures. Notably, the Director of Military Prosecutions has created a new policy on scheduling courts martial which sets out guidelines to ensure cases are scheduled in a timely manner. The Director of Military Prosecutions also amended his policies requiring supervising prosecutors to request disclosure before the file is assigned to a prosecutor to ensure the release of disclosure to the accused is not delayed.

Recommendation 2 - The Proper Collection and Use of Data

That, by 30 April 2019, the Department of National Defence present the House of Commons Standing Committee on Public Accounts with a report detailing what progress has been made regarding 1) the development and implementation of the Justice Administration and Information Management System; and, 2) the development and implementation of training and sound business practices pertaining to its use.

In the report released in spring 2018, the Auditor General criticized the Office of the Judge Advocate General for not providing effective oversight of the military justice system. The Office did not have the information needed to oversee the system, nor did it develop methods to assess performance. The Auditor General recommended that the Canadian Armed Forces put in place a case management system that contains the information needed to monitor and manage progress and the completion of military justice cases.

The Department of National Defence agreed with the recommendation and committed to the development of a military justice case management tool, called the Justice Administration and Information Management System (JAIMS). Once implemented, the JAIMS will be a key tool to monitor and manage the progress and completion of military justice cases. The JAIMS remains on target to be launched across the units of the Canadian Armed Forces in September 2019. National Defence has also made progress in the design of training processes and the establishment of sound business practices to enable its utilization.

The JAIMS has been undergoing user testing on parts of the system since November 2018. Select CAF users from across Canada have been given access to the JAIMS to perform hands-on testing using simulated data. The testing is expected to be expanded in March 2019 to begin using real, current data in progressively more complicated cases. The feedback from the testing of the JAIMS has been and, will continue to be, used to improve and refine its development. The development of the JAIMS's core functionality is expected to be completed in early 2019. More advanced functionality, including integration with other DND systems, will continue through 2019.

Effective usage of the JAIMS will rely on properly trained users. Training for the JAIMS is being developed in cooperation with the Learning Support Centre at the Canadian Defence Academy. The training material for the JAIMS may include multiple formats and mediums to be accessible to the full spectrum of users. Materials will include user guides, a learning portal, discussion groups, interactive training with images and video, local peer support, as well as telephone and web-based support. Training on the JAIMS will be included in individual training courses applicable to the military justice domain, such as the Presiding Officer Certification Training and the Legal Officers Qualification Course.

National Defence is also emphasizing the development of sound business practices related to the use of the JAIMS. The JAIMS will include reminders to prompt users to complete their work within the applicable time standards. However, in instances where a user does not complete a task within the applicable time standard, the user will be required to input a justification for the delay. This feature alone is anticipated to provide considerable improvement to the efficiency of the military justice system by enhancing the individual accountability of users for meeting time standards.

Recommendation 3 - Time Standards for the Military Justice Process

That, by 30 April 2019, the Department of National Defence present the House of Commons Standing Committee on Public Accounts with a report detailing what progress has been made with regard to defining, implementing, and communicating time standards for every phase of the military justice process and ensuring there is a process for tracking and enforcing them.

In the report released in spring 2018, the Auditor General found systemic weaknesses in the process that contributed to delays in enforcing discipline and administering justice. The Auditor General recommended that the Canadian Armed Forces define and communicate time standards for every phase of the military justice process and ensure that there is a process for

tracking and enforcing them.

The Department of National Defence agreed with the recommendation and committed to conducting a review of time requirements for every phase of the military justice process and, by January 2019, introduce these time standards in a manner that respects rules of fairness and legal requirements.

The Department of National Defence recognizes that clear time standards that are tracked and enforced enable a more efficient military justice system. National Defence began taking steps to identify, formalize, and implement time standards for each stage of the military justice process. Due to competing priorities in addressing the Auditor General's other recommendations, the implementation of this recommendation has been delayed from January 2019 to June 2019.

The Office of the Judge Advocate General conducted an internal review of time requirements for every phase of the military justice process in fall 2018. As an element of its review, the Office of the Judge Advocate General identified existing time standards and areas within the military justice system that did not have time standards, but would benefit from their introduction. In addition, in early 2019, the Office of the Judge Advocate General will conduct an external review by consulting independent actors such as the Director of Military Prosecutions, the Canadian Forces Provost Marshal, and the Canadian Armed Forces leadership. This review will collect feedback on existing and desirable time standards within the respective areas of responsibility of these actors.

In June 2019, the new system of time standards is scheduled to be formalized for key phases of the military justice process.¹ This will occur in cooperation with stakeholders and actors in the system. The time standards will then be incorporated into the JAIMS and will prompt actors when they are required to take action to meet a time standard. If an actor does not complete their task within the expected timeframe, they will be required to provide a justification to explain the cause of the delay.

Furthermore, the Director of Military Prosecutions completed a detailed policy review in summer 2018 and communicated amendments to his policies and procedures related to the administration of military prosecutions to all members of the Canadian Military Prosecution Services on 1 September 2018. In addition to enhancing clarity and communications, the revised policies provide flexibility in determining the length of time that prosecutors have to conduct post-charge reviews. The Director of Military Prosecutions has also created a new policy which sets out guidelines for the scheduling of courts martial so that cases are scheduled faster.

All of the Director of Military Prosecutions' policies and directives, including these amendments, are available to all members of the public.

Recommendation 4 - Formal Communications Processes

That, by 30 April 2019, the Department of National Defence present the House of Commons Standing Committee on Public Accounts with a report detailing what progress has been made with regard to the implementation of formal communication processes to ensure that the Military Police, the Director of Military Prosecutions, the Judge Advocate General's legal officers, and the military units receive the information they require in a timely manner.

In the report released in spring 2018, the Auditor General found inadequate communications between Military Police investigators and other parties, including the Canadian Military Prosecution Service. The Auditor General recommended that the Canadian Armed Forces establish formal communication processes to ensure that the Military Police Group, the

¹ Consistent with general police practice and the need to ensure that investigators are able to take the time needed to thoroughly investigate complex and severe cases, the Military Police will not specify investigative time standards. Going forward, investigations will be conducted as quickly and efficiently as possible, taking into account the complexity and severity of cases.

Director of Military Prosecutions, the Judge Advocate General's legal officers, and the military units receive the information they need to carry out their duties and functions in a timely manner.

The Department of National Defence agreed with the recommendation and committed to ensuring that all of these actors have access to the Justice Administration and Information Management System (JAIMS). In addition, the Office of the Judge Advocate General committed to undertaking a full review of the policies respecting the disclosure of military police reports by summer 2018.

The Department of National Defence agrees that appropriate formal communication processes are essential to ensuring stakeholders receive the information they require in a timely manner. To achieve this, National Defence will enhance communication channels among key actors on a day-to-day basis and is introducing measures to facilitate regular discussions on a broader, more strategic level.

On a day-to-day basis, communications among key actors of the military justice system will be enhanced greatly by the introduction of the JAIMS, scheduled for September 2019. All relevant actors within the military justice system, including the military police and CAF stakeholders, will have access to the JAIMS. This case management system will become the shared interface for decision makers, enabling them to access real-time information concerning files and therefore facilitating the exchange of information within the military justice system.

To enhance interactions between Military Police and military prosecutors, the Office of the Judge Advocate General is examining means of providing additional legal support to the Military Police Academy at Canadian Forces Base (CFB) Borden by summer 2019. This support would facilitate the provision of information between military prosecutors and the Military Police, and improve the quality of future investigations through improved coordinated training and feedback.

Additionally, the Director of Military Prosecutions has reviewed and revised its suite of policies to improve communication between military prosecutors and other actors, such as the Canadian Forces National Investigation Services (CFNIS). Under the revised policy, prosecutors must actively follow-up with the investigator when the military prosecutor performs a post-charge review. Military prosecutors must also provide the investigator a copy of the Court Martial Summary Sheet and provide feedback to the investigator to address any concerns which may have arisen during the course of the court martial. It is anticipated that these new procedures will result in better communications and strengthened review processes, enhancing overall efficiency.

To enable a longer-term, more strategic exchange among military justice actors, the Office of the Judge Advocate General has re-established the Military Justice Round Table. In the past, this served as a forum for discussing issues of common interest in the administration of military justice, but ceased its activities in 2007. The re-establishment of this forum provides an opportunity for all of the military justice stakeholders named in the *National Defence Act* (for example, the Judge Advocate General, the Director of Military Prosecutions, the Director of Defence Counsel Services, and the military justice judiciary) to meet. The Military Justice Round Table had a successful first meeting in June 2018 and a second meeting is scheduled in February 2019. Going forward, meetings will occur semi-annually.

Recommendation 5 - The Timely Delivery of Disclosure

That, by 30 April 2019, the Department of National Defence present the House of Commons Standing Committee on Public Accounts with a report detailing what progress has been made with regard to defining and communicating expectations for the timely disclosure of all relevant information to members charged with an offence.

In the report released in spring 2018, the Auditor General found that commanding officers did not immediately inform Defence Counsel Services of the accused's decision regarding

representation by defence counsel. The Auditor General recommended that the Canadian Armed Forces define and communicate expectations for the timely disclosure of all relevant information to members charged with an offence.

The Department of National Defence agreed with the recommendation and committed to a review of timelines by the Office of the Judge Advocate General for the delivery of disclosure to those charged with an offence by January 2019.

The Department of National Defence recognizes the importance of defining and communicating expectations for the timely disclosure of all relevant information to members charged with an offence. National Defence has taken immediate action to expedite disclosure processes to Defence Counsel Services.

To enable the information disclosure procedure to begin, the Director of Defence Counsel Services must first be informed of an accused member's desire to be represented by defence counsel and must then assign counsel to the case. The Office of the Judge Advocate General has taken several steps to systematize this process. In July 2018, the Office of the Judge Advocate General advised Commanding Officers of their obligation to immediately inform the Director of Defence Counsel Services of an accused's decision on whether they wish to be represented by defence counsel. The Judge Advocate General also sent a formal request to the Director of Defence Counsel Services to immediately inform the Judge Advocate General when a commanding officer does not comply with this request. To emphasize further the importance of timely disclosure, the Judge Advocate General reinforced this message at the Armed Forces Council, a body comprising the CAF's senior leadership.

In September 2018, the Director of Military Prosecutions revised his policies to improve and accelerate disclosure processes. The amended policies require that, before a prosecutor is assigned to a file, the prosecutor's supervisor must request disclosure from the appropriate investigative agency. The prosecutor assigned to the file is then required to prepare the disclosure package to be sent to defence counsel, contemporaneously with their decision on whether or not to pursue charges by court martial. If there are any delays in obtaining the requested information, prosecutors are required immediately to notify their supervisor.

Finally, following a review by the Office of the Judge Advocate General, the Canadian Forces Military Police Group Commander issued a comprehensive set of military police orders on disclosure of military police reports to charged members. These orders address the timelines and quality of reports and supporting materials that are distributed and disclosed.

Recommendation 6 - Human Resources Management

That, by 30 April 2019, the Department of National Defence present the House of Commons Standing Committee on Public Accounts with a report detailing what progress has been made with regard to the new policy mandating five year postings within the *Office of the Judge Advocate General* to support the development of litigation expertise necessary for prosecutors and defence counsel.

In the report released in spring 2018, the Auditor General found that human resource practices did not support the development of the necessary expertise and experience in litigation for prosecutors and defence counsel, contributing to delays in the administration of military justice. The Auditor General recommended that the Office of the Judge Advocate General ensure that its human resource practices support the development of litigation expertise necessary for prosecutors and defence counsel.

National Defence agreed with the recommendation and committed to the development of better approaches to the posting of legal officers into positions as prosecutors or defence counsel, taking into account operational requirements, within the Office of the Judge Advocate General by spring 2019. In addition, the Judge Advocate General made a commitment that most of the legal officers assigned to the Canadian Military Prosecution Service and the Defence Counsel Services would remain in their position (and not be posted elsewhere) to ensure

organizational stability and further development of litigation expertise in 2018.

As an immediate response, the Judge Advocate General directed that prosecutors and defence counsel not rotate out of their positions in the 2018/2019 annual posting transition season, except in cases where this was not possible due to operational requirements.

Since then, National Defence, through the Office of the Judge Advocate General, has implemented a new approach mandating five year postings to support stability and the development of litigation expertise for prosecutors and defence counsel. This approach will be institutionalized through a formal message, which will be issued by 1 April 2019, and will be subject only to the availability of a vacant position on the establishment at the appropriate rank, or to Director of Military Prosecutions' or Director of Defence Counsel Services' assessment of their respective operational requirements.

In the longer term, an analysis of the legal officer occupation is planned that will provide the requisite data to formalize legal officer career management, and this may result in a different approach.

Recommendation 7 - Ongoing Monitoring of the Military Justice System

That, by 30 April 2019, the Department of National Defence present the House of Commons Standing Committee on Public Accounts with a report detailing what progress has been made with regard to its efforts to regularly assess the efficiency and effectiveness of the administration of the military justice system and to correct any identified weaknesses.

In the report released in spring 2018, the Auditor General criticized the Office of the Judge Advocate General for not providing effective oversight of the military justice system. The Auditor General recommended that the Office of the Judge Advocate General and the Canadian Armed Forces regularly assess the efficiency and the effectiveness of the administration of the military justice system and correct any identified weaknesses.

The Department of National Defence agreed to the recommendation and committed to developing a military justice performance measurement framework, in line with the development of the Justice Administration and Information Management System (JAIMS), which will enable the assessment of the efficiency and effectiveness of the military justice system on an ongoing basis.

Regular reviews are important to ensuring the efficiency and effectiveness of the administration of the military justice system and to correct any identified weaknesses. To this end, National Defence is in the process of implementing immediate and longer-term measures to ensure that it has the data necessary to conduct thorough reviews.

These review efforts will be aided greatly by the introduction of the Justice Administration and Information Management System (JAIMS) and the new Performance Measurement Framework (PMF), which will both be operational in September 2019. This will help collect and analyze data on all aspects of the military justice system, enabling an enhanced assessment of the efficiency and effectiveness of the system on an ongoing basis. This will allow for the identification of weaknesses in the system and enable targeted measures to address them. This data-driven effort will transform the government's capacity to strengthen military justice procedures.

Prior to the implementation of the JAIMS in September 2019, the Office of the Judge Advocate General is developing the Military Justice Stakeholders Engagement Project. Beginning in spring 2019, legal officers will consult members of the chain of command (including the Canadian Armed Forces Discipline Advisory Council) and other actors concerning their roles within the military justice system. This engagement will provide a forum for military justice stakeholders to assist in identifying and discussing issues of concern to the military justice system. Improved stakeholder engagement will complement the quantitative data available through the JAIMS.

These new review mechanisms will complement and reinforce measures already in place. Most notably, the Judge Advocate General reports annually to the Minister of National Defence on

the administration of military justice. The most recent of these annual reports was tabled in parliament on 3 October 2018. These reports provide statistics on service tribunals, as well as an overview of jurisprudence in the military justice system and key legislative and policy initiatives. Statistical and trend analysis in future annual reports will likely improve as a result of the capabilities of the JAIMS and the Performance Measurement Framework.

Moreover, pursuant to section 273.601 of the *National Defence Act*, an independent review is anticipated within the next two years. This mandated independent review will study the provisions of the Code of Service Discipline and their operation. Similar reviews were completed in 2003 by the Right Honourable Antonio Lamer, and in 2011 by the Honourable Patrick J. LeSage.

Recommendation 8 - Assigning Cases to Prosecutors and Documenting their Decisions

That, by 30 April 2019, the Department of National Defence present the House of Commons Standing Committee on Public Accounts with a report detailing what progress has been made with regard to ensuring that the policies and processes for assigning cases to prosecutors, and for documenting decisions made in military justice cases, are well defined, communicated, and fully implemented by the members of the Canadian Military Prosecution Service.

In the report released in spring 2018, the Auditor General found inadequate implementation of a prosecution policy. In particular, the delegation of duties and functions from the Director of Military Prosecutions to individual prosecutors was not always clear; and, the procedure for assigning cases and decision making authorities to prosecutors was not clear and this assignment was not always documented. The Auditor General recommended that the Director of Military Prosecutions ensure that the policies and processes for assigning cases to prosecutors, and for documenting decisions made in military justice cases, are well defined, communicated, and fully implemented by the members of the Canadian Military Prosecution Service.

The Department of National Defence understands the importance of ensuring that the policies and processes for assigning cases to prosecutors and documenting decisions are well-defined, communicated, and fully implemented by the members of the Canadian Military Prosecution Service. National Defence has taken a number of steps to uphold these principles.

As immediate first steps, the Director of Military Prosecutions altered the instruments for the appointment of prosecutors to better reflect the role of the prosecutor and the authorities granted to them by the Director of Military Prosecutions. Certificates are used for prosecutors within the Canadian Military Prosecution Service, legal officers acting as second chairs, and special prosecutors.

Working towards a more institutionalized solution, the Director of Military Prosecutions has performed a thorough review of the existing policies resulting in eighteen directives that will ensure that the policies and processes for assigning cases to prosecutors, and for documenting decisions made in military justice cases, are well defined, communicated, and fully implemented by the members of the Canadian Military Prosecution Service.

First, on the assignment of cases, the Directives have clarified the process for assigning cases, determining who has final disposition authority among prosecutors, and requiring prosecutors to seek the necessary approval from their supervisors, as required, within specified timelines.

Second, the Directives include a new policy on the scheduling of courts martial which sets out guidelines for prosecutors to schedule courts martial in a more efficient manner.

Third, to improve documentation, the Directives further specify documentation requirements for all prosecutorial decisions at all stages of the court martial process and introduce new procedures to determine the length of time that prosecutors should take to conduct post-charge reviews.

Finally, the Directives aim to enhance communications between prosecutors and investigators through all stages of the court martial process.

In addition to the work done by the Director of Military Prosecutions, the Canadian Military Prosecution Service has successfully launched a new case management system to better track files through the court process. Going forward, this case management system will improve supervision and facilitate up-to-date tracking of cases. This new case management system may be connected to the Justice Administration and Information Management System to allow for an exchange of data between the two systems.

Recommendation 9 - The Independence of the Director of Military Prosecutions and the Director of Defence Counsel Services

That, by 30 April 2019, the Department of National Defence present the House of Commons Standing Committee on Public Accounts with a report assessing whether the practices and processes of the *Office of the Judge Advocate General* affect the independence of the Director of Military Prosecutions and the Director of Defence Counsel Services, and whether any adjustments or mitigation measure should be established in response.

In the report released in spring 2018, the Auditor General found that the Judge Advocate General's general supervision of the Director of Military Prosecutions and the Director of Defence Counsel Services presented a risk to the independence of these two primary positions. The Auditor General recommended that the Judge Advocate General assess whether its practices and processes affect the independence of the Director of Military Prosecutions and the Director of Defence Counsel Services, and whether any adjustments or mitigation measures should be established.

The Department of National Defence agreed to the recommendation and committed to a thorough review conducted by the Office of the Judge Advocate General of its relationships with the Director of Military Prosecutions and the Director of Defence Counsel Services to ensure that their respective independent roles within the military justice system are respected.

The Office of the Judge Advocate General completed a review in September 2018 of all 41 Judge Advocate General policy directives to assess whether they affect the independence of the Director of Military Prosecutions and the Director of Defence Counsel Services. This review, conducted in consultation with the Director of Military Prosecutions and the Director of Defence Counsel Services, determined that none of these directives compromises the independence of these actors.

The relationship between the Judge Advocate General and the Directors of Military Prosecutions and of Defence Counsel Services is prescribed in the *National Defence Act*. Though these two actors are under the "general supervision" of the Judge Advocate General, numerous practices and policies ensure their independence within the military justice system. The necessity of maintaining independence was reinforced in the Judge Advocate General's 2018-2021 Office of the Judge Advocate General Strategic Direction, released in February 2018. This Direction mandates that the superintendence of the administration of military justice be accomplished while respecting the independent roles of each statutory actor within the military justice system, including the Director of Military Prosecutions and the Director of Defence Counsel Services.

Moreover, the Judge Advocate General has supported additional practices to provide the Directors of Military Prosecutions and of Defence Counsel Services with more autonomy within their respective directorates to manage their personnel and practices. The Judge Advocate General has, for example, committed to keeping legal officers in prosecution and defence counsel positions for a minimum of five years. The Judge Advocate General also gave the Director of Military Prosecutions and the Director of Defence Counsel Services authority to approve the Personnel Evaluation Reviews of personnel in their organizations.

Furthermore, the Judge Advocate General supported the new practice of having the Director of Military Prosecutions communicate directly with the Minister of National.

Finally, the Director of Military Prosecutions and the Director of Defence Counsel Services are, moreover, able to raise issues regarding their independence, including in their annual reports, which are made available to the public.