

**SUBMISSIONS OF THE GOVERNMENT OF CANADA**

**TO**

**THE MILITARY JUDGES COMPENSATION COMMITTEE**

**Catherine A. Lawrence**  
**Craig Collins-Williams**  
Department of Justice  
Civil Litigation Section  
12<sup>th</sup> Floor, East Tower  
234 Wellington Street  
Ottawa, Ontario  
K1A 0H8

Tel: (613) 948-3463/948-3453  
Fax: (613) 954-1920

Counsel for the Government of Canada

## TABLE OF CONTENTS

<b>PART – INTRODUCTION</b>	<b>1</b>
<b>A. Overview of the Government’s Salary Proposal</b>	<b>1</b>
<b>B. Statutory Framework and Mandate of the Committee</b>	<b>2</b>
<b>PART II – CURRENT STATUS OF MILITARY JUDGES</b>	<b>4</b>
<b>A. The Military Justice System</b>	<b>4</b>
<b>B. Eligibility for Appointment</b>	<b>6</b>
<b>C. Role and Responsibilities</b>	<b>7</b>
<b>D. Current Salary Levels</b>	<b>9</b>
<b>PART III – MANDATORY CRITERIA</b>	<b>12</b>
<b>A. The Prevailing Economic Conditions in Canada, Including the         Cost of Living; and the Overall Economic and Current Fiscal         Position of the Federal Government</b>	<b>12</b>
<b>B. The Role of Financial Security of Military Judges in Ensuring         Judicial Independence</b>	<b>16</b>
<b>C. The Need to Attract Outstanding Officers as Military Judges</b>	<b>19</b>
<b>D. Other Objective Criteria</b>	<b>23</b>
<b>PART IV – CONCLUSION</b>	<b>28</b>
<b>JOINT BOOK OF AUTHORITIES / CAHIER CONJOINT DE SOURCES - Index</b>	
<b>ANNEXES - Index</b>	

## **PART I – INTRODUCTION**

### **A. Overview of the Government’s Salary Proposal**

1. The current salaries of military judges are adequate to ensure an independent judiciary and to attract outstanding officers to serve as military judges. Since 2006, military judges’ salaries have increased by more than 16 per cent from \$186,618.00 to \$220,009.00.<sup>1</sup> During that same period, others in the public sector were subject to more limited wage increases.

2. In light of prevailing economic conditions in Canada and in order to enhance public confidence in the independence of the judiciary, military judges should not be ‘singled out for preferential treatment’. Measures impacting the public sector should be considered in determining the adequacy of the remuneration of military judges. In the circumstances, only a modest adjustment to the current salaries should be made.

3. The Government recommends an annual increase of the current salaries based on the Industrial Aggregate Index (IAI) rate capped at a maximum of 1.5 per cent per annum for the quadrennial period<sup>2</sup>. The Government also proposes that military judges, like other senior officers of the Canadian Forces, cease accumulating severance benefits. To

---

<sup>1</sup> September 1, 2006 to April 1, 2012. During that same period, the Chief Military Judge’s salary increased from \$192,216.00 to \$226,609.00. See Table: Salaries of judges since 1999 to present in Background Pay Rates Package prepared by the Directorate of Pay Policy and Development (DPPD), Department of National Defence, May 2012, p. 2 [**Annex 1**].

<sup>2</sup> The IAI is the percentage change in an average weekly earnings across all industries, including overtime, as calculated by Statistics Canada on the basis of monthly labour income surveys of employers. Under the government’s proposal, if IAI turns out to be 1.5 per cent or less in a particular year, that IAI amount would apply. If IAI is more than 1.5 per cent, the salary increases would be capped at 1.5 per cent.

compensate for the loss of severance pay, the Government proposes a further increase to the salaries of military judges of 0.25 per cent in the first year that the severance pay changes take effect.

**B. Statutory Framework and Mandate of the Committee**

4. In accordance with section 165.22(2) of the *National Defence Act*<sup>3</sup> and article 204.23 of the *Queen's Regulations and Orders*,<sup>4</sup> the Committee's task is to review and inquire into the adequacy of the remuneration of military judges. In its inquiry, the Committee must take into account: the prevailing economic conditions in Canada, including the cost of living and the overall economic and current financial position of the federal Government; the role of financial security of military judges in ensuring judicial independence; the need to attract outstanding officers as military judges; and any other objective criteria that the Committee considers relevant.

5. The statutory work of the Committee will be carried out against the backdrop of the decision of the Supreme Court of Canada in *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island*,<sup>5</sup> ("PEI Judges"), which led among other things to the creation of the Committee.

6. According to *PEI Judges*, the fundamental purpose of judicial remuneration commissions is to preserve the independence of the judiciary. There are three essential

---

<sup>3</sup> R.S.C. 1985 c. N-5 [Joint Book of Authorities ("JBA"), Tab 3].

<sup>4</sup> QR&O.

<sup>5</sup> *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island; Reference re Independence and Impartiality of Judges of the Provincial Court of Prince Edward Island*, [1997] 3 S.C.R. 3 [JBA, Tab 17].

conditions of judicial independence: security of tenure, administrative independence and financial security. Judicial independence is assessed objectively by considering whether a “reasonable and informed person” would perceive that the court enjoys these three objective conditions of independence.<sup>6</sup>

7. Financial security is necessary to protect the judiciary from economic manipulation by the legislature or the executive.<sup>7</sup> In *PEI Judges*, the Supreme Court held that financial security has three components:<sup>8</sup>

- a. **First**, governments can increase, freeze or reduce judicial salaries and/or benefits, “either as part of an overall economic measure which affects the salaries of all or some persons who are remunerated from public funds, or as part of a measure directed at [judges] as a class.” However, such changes or freezes to judicial remuneration require prior recourse to an independent, objective, effective judicial remuneration commission.
- b. **Second**, negotiations between members of the judiciary or their representative organizations and members of the executive or legislature regarding remuneration are prohibited.
- c. **Third**, the salaries paid to members of the judiciary must not be so low that judges could reasonably be perceived to be susceptible to political pressure through economic manipulation.<sup>9</sup>

---

<sup>6</sup> *Ibid* at paras 112-115. The New Brunswick Court of Queen’s Bench considered this test more recently in *Provincial Court Judges Assn of New Brunswick v. New Brunswick*, (2002) 213 D.L.R. (4th) 329, 2002 NBQB 156 (CanLII) (Q.B.), at para 53 (“*New Brunswick Judges Q.B.*”) [JBA, Tab 15]; aff’d (2003), 231 D.L.R. (4th) 38, 2003 NBCA 54 (CanLII) (C.A.) (“*New Brunswick Judges C.A.*”) [JBA, Tab 16]; aff’d [2005] 2 S.C.R. 286 (“*Bodner*”) [JBA, Tab 8].

<sup>7</sup> *PEI Judges*, *supra* at para 131.

<sup>8</sup> *Ibid* at paras 131-137.

8. According to the Supreme Court in *Bodner*, this Committee must:

[...] make its assessment in its own context. However, this rule does not mean that each new compensation commission operates in a void, disregarding the work and recommendations of its predecessors. The reports of previous commissions and their outcomes form part of the background and context that a new compensation committee should consider.

[...]

The commission must objectively consider the submissions of all parties and any relevant factors identified in the enabling statute and regulations. Its recommendations must result from a fair and objective hearing. Its report must explain and justify its position.<sup>10</sup>

9. This Committee's recommendations are not binding. However, the Government can only vary or decline to follow them for legitimate reasons that are supported by a reasonable factual foundation, and in a manner that shows respect for this Committee's process and achieves its purposes of "preserving judicial independence and depoliticizing the setting of judicial remuneration."<sup>11</sup>

## PART II – CURRENT STATUS OF MILITARY JUDGES

### A. The Military Justice System

10. The *National Defence Act* authorizes the Canadian Forces to have its own separate and distinct military justice system to serve its unique disciplinary needs. The *Code of*

---

<sup>9</sup> The concept of an adequate minimum salary was further explored in *New Brunswick Judges C.A.*, *supra* at para 64.

<sup>10</sup> *Bodner*, *supra* at paras 15, 17.

<sup>11</sup> *Ibid* at para 19.

*Service Discipline* (Part III of the *National Defence Act*) is the foundation of the Canadian military justice system. It prescribes the disciplinary jurisdiction of the Canadian Forces, describes service offences (most *Criminal Code* offences can be dealt with under the *Code of Service Discipline*) and contains provisions on authority with respect to arrest, pre-trial detention, summary trials, courts martial and appeals.<sup>12</sup>

11. The military justice system consists of two tiers: summary trial and courts martial. Most disciplinary matters are dealt with at the unit level by summary trial. Commanding officers, delegated officers or superior commanders who are certified in the administration of the *Code of Service Discipline* may preside over summary trials.<sup>13</sup>

12. Military judges preside over the formal court martial system through which the more serious offences, including most *Criminal Code* offences, must be tried. Military judges have jurisdiction over the offences in the *Code of Service Discipline*, including offences under federal and foreign law (subject to the limitations in section 70 of the *National Defence Act*).<sup>14</sup>

13. Courts martial follow rules and procedures that are similar to those in civilian criminal courts and have the same rights, powers and privileges as a superior court of

---

<sup>12</sup> *NDA*, ss. 55-249.17. See also Section 4 of the Annual Report of the Judge Advocate General to the Minister of National Defence on the administration of military justice in the Canadian Forces, A Review from 1 April 2009 to 31 March 2010 [Annex 2].

<sup>13</sup> *NDA*, ss. 163, 164.

<sup>14</sup> *NDA*, ss. 70, 130, 132.

criminal jurisdiction with respect to all “matters necessary or proper for the due exercise of its jurisdiction.”<sup>15</sup>

14. Since the *National Defence Act* was amended in 2008, there are two types of courts martial: general and standing courts martial.<sup>16</sup> One military judge and a panel of five Canadian Forces members comprise the general court martial.<sup>17</sup> The panel is analogous to a jury in a civilian criminal court and makes the finding on the charges. The military judge makes all the legal rulings and imposes the sentence.<sup>18</sup> A single military judge makes up the standing court martial.<sup>19</sup> He or she makes the finding on the charges and, if the accused is found guilty, imposes the sentence.

15. Both an accused tried by court martial and the Minister of National Defence may appeal court martial decisions to the Court Martial Appeal Court of Canada, a civilian court composed of Federal Court and Superior Court judges.<sup>20</sup>

## **B. Eligibility for Appointment**

16. There are four military judges including the Chief Military Judge.

17. Military judges are appointed by the Governor in Council following a process similar to the selection process for other federal judicial appointments. The

---

<sup>15</sup> *NDA*, s. 179; QR&O, Chapter 112 [JBA, Tab 5].

<sup>16</sup> *NDA*, ss. 166-175. Prior to 2008 amendments to the *NDA*, there were four types of courts martial. See also QR&O paras. 111.021- 111.022.

<sup>17</sup> *NDA*, s. 167.

<sup>18</sup> *NDA*, ss. 191, 193; QR&O paras. 112.07, 112.48.

<sup>19</sup> *NDA*, s. 174.

<sup>20</sup> *NDA*, ss. 230, 230.1, 234.



Commissioner for Federal Judicial Affairs administers military judicial selection processes and interested candidates are assessed by a Military Judges Selection Committee.

18. A military judge must be an officer in the Canadian Forces and a barrister or advocate of at least ten years standing at the bar of a province.<sup>21</sup> Although any officer from the Regular Force and the Reserve Force meeting the eligibility criteria may be appointed, legal officers are most likely to meet the eligibility criteria.

19. As of April 1, 2012, 100 Regular Force legal officers were eligible to apply for appointment as a military judge and 39 Reserve Force legal officers met the eligibility criteria.<sup>22</sup>

20. Military judges hold office during good behaviour as long as they remain members of the Canadian Forces or until age 60. They may be removed by the Governor in Council for cause on the recommendation of an inquiry committee.<sup>23</sup>

### **C. Role and Responsibilities**

21. The principal responsibility of military judges is to preside at courts martial. They can also perform other judicial duties under the *National Defence Act* and the QR&Os

---

<sup>21</sup> *NDA*, s.165.21.

<sup>22</sup> Statistics on CF Legal Officers Eligible for Appointment as a Military Judge – Page 2 of 2 (As of 1 April 2012) prepared by the Canadian Forces Offices of the Judge Advocate General – Chief of Staff Division [Annex 3]. Although there are other non-legal officer members of the Canadian Forces with law degrees, no information is available regarding whether any of those members were ever called to the Bar of a province and, if called, have maintained membership.

<sup>23</sup> *NDA*, s. 165.21.

including the review of pre-trial custody orders and, on application, the determination of a question, matter or objection for which the presence of a panel of the court martial is not required, in preliminary proceedings. With the agreement of the Chief Military Judge, they may also be appointed as a board of inquiry.<sup>24</sup>

22. In addition to regular judicial duties, the Chief Military Judge is responsible for assigning military judges to preside at courts martial and for assigning them other judicial duties.<sup>25</sup>

23. In fulfilling their responsibilities, the military judges travel extensively in Canada and may occasionally have to travel overseas to preside over courts martial wherever Canadian Forces members are located.

24. In the past four years, military judges have presided at an average of 64 courts martial per year. Just over half of the courts martial between 2008-2011 (51 per cent) required full trials. Of the 257 courts martial during that period, 120 were resolved by guilty plea and five were terminated before trial.<sup>26</sup>

25. The role of military judges is unique and inseparable from their identity as members of the Canadian Forces. They are members of the legal profession, but they also remain officers of the Canadian Forces during their tenures. The Chief Military

---

<sup>24</sup> *NDA*, ss. 159, 165.23, 187.

<sup>25</sup> *NDA*, s. 165.25.

<sup>26</sup> Spreadsheet of Court Martial Statistics 2003-2012YTD prepared by the Directorate of Law/Military Justice Policy and Research, Office of the JAG [Annex 4].

Judge currently holds the rank of Colonel, while the three remaining military judges hold the rank of Lieutenant-Colonel. While judges' pay cannot be based on military rank,<sup>27</sup> the dual role of military judges is a reality which must be taken into account. Their place within the military structure distinguishes military judges from other Canadian judges. As the 2008 Committee noted:

[...] the fact remains that military judges have opted into a career of military service. While fully independent of the chain of command, they remain a part of the military, with all attendant advantages and disadvantages this brings.<sup>28</sup>

26. There are important distinctions between military judges and judges sitting in other Canadian courts: courts martial are statutory rather than constitutional creatures; apart from custody reviews,<sup>29</sup> military judges do not possess any powers of review or appeal, rather they preside over discrete courts martial proceedings;<sup>30</sup> military judges deal with service offences as defined in the *National Defence Act*, which includes offences under the *National Defence Act*, the *Criminal Code*, or any other Act of Parliament when committed by a person subject to the *Code of Service Discipline*; military judges are precluded from dealing with certain *Criminal Code* offences;<sup>31</sup> and they do not have jurisdiction over civil matters.

#### **D. Current Salary Levels**

27. The current salaries of military judges were set in 2009 by paragraph 204.22(4) of the QR&O. The 2009 amendments to the regulation implemented the Response of the

---

<sup>27</sup> *Lauzon v Her Majesty the Queen*, 129 C.C.C. (3d) 399; [1998] C.M.A.J. No 5 [JBA, Tab 11].

<sup>28</sup> Report of the 2008 Military Judges Compensation Committee, September 2008 at p. 5 [Annex 5].

<sup>29</sup> *NDA*, s. 159.

<sup>30</sup> *NDA*, s. 165.23.

<sup>31</sup> *NDA*, s. 70.

Minister of National Defence to the Report of the 2008 Military Judges Compensation Committee.<sup>32</sup> In that Response, the Minister declined to implement the Committee's September 2008 recommendations.<sup>33</sup> In light of changed economic circumstances, including a sharp deterioration in the Government's financial position after the conclusion of the Committee's 2008 inquiry and the delivery of its Report, the Government limited military judges' salary increases to the IAI. This was consistent with the Government's approach to the salaries of both federally appointed judges and Federal Court prothonotaries.<sup>34</sup> In his Response, the Minister noted that fiscal measures adopted in Canada in response to the deterioration of Canadian economic conditions included the *Expenditure Restraint Act*.<sup>35</sup> Among other things, the *Expenditure Restraint Act* limited annual wage increases to 1.5 per cent for individuals paid from the public purse, other than judges, in 2008-2011.<sup>36</sup> Although military judges were unaffected by the *Expenditure Restraint Act*, the Minister opined that:

... the public would reasonably expect that military judges would not be adversely treated if they, too, were subject to restraint similar to that

---

<sup>32</sup> Response of the Minister of National Defence to the Report of the 2008 Military Judges Compensation Committee [Annex 6]. In this response, the Minister set out the constitutionally mandated explanation and justification for the decision not to implement the Committee's recommendations as required by *Bodner, supra*.

<sup>33</sup> The 2008 Committee recommended that military judges' salaries not be tied to the average of the provincial court judges or their salaries determined in reference to any single comparator. Instead, they recommended that military judges' salaries be set at \$225,000 as of September 1, 2007 and adjusted annually thereafter based on the IAI. A three per cent premium for the Chief Military Judge was also recommended.

<sup>34</sup> Response of the Government of Canada to the Report of the 2007 Judicial Compensation and Benefits Commission, February 11, 2009 [Annex 7]; Response of the Minister of Justice to the Report of the Special Advisor on Federal Court Prothonotaries' Compensation, February 11, 2009 [Annex 8]. The Government's response to the report of the Special Advisor was ultimately upheld by the Federal Court of Appeal as being constitutional in light of the "deteriorating state of public finances" in *Aalto v. Canada (Attorney General)*, 2010 FCA 195 at para 3 (leave to appeal to the SCC denied March 17, 2011) [JBA, Tab 7].

<sup>35</sup> *Expenditure Restraint Act*, SC 2009, c 2 [JBA, Tab 1].

<sup>36</sup> For Members of Parliament, an increase of 1.5 per cent applied for 2009-2010 and no increases were to be made for the 2010-2011, 2011-2012 and 2012-2013 fiscal years: *Expenditure Restraint Act*, s. 55.

implemented for the members of the Canadian Forces, federal judges and others of the federal public administration.<sup>37</sup>

28. The application of IAI increases has caused the salaries of military judges to rise by 16.70 per cent on a cumulative basis since 2006, while salaries for General Service Officers and Senior Officers have increased by only ten per cent over the same period.<sup>38</sup>

<b>Comparison of Percentile Increases to Pay: Military Judges, GSOs, Non-specialist Senior Officers</b>					
<b>Date of Change</b>	<b>Chief Military Judge</b>	<b>Other Military Judges</b>	<b>Percentile Increases</b>		
			<b>Judges</b>	<b>GSOs</b>	<b>Senior Officers</b>
01-Apr-12	\$226,609	\$220,009	2.50%	1.50%	1.50%
01-Apr-11	\$221,082	\$214,643	3.60%	1.50%*	1.50%*
01-Apr-10	\$213,399	\$207,185	1.60%	1.50%	1.50%
01-Apr-09	\$210,039	\$203,922	2.80%	1.50%	1.50%
01-Apr-08	\$204,318	\$198,367	3.20%	2.00%	2.00%
01-Sep-07	\$197,982	\$192,217	3.00%	2.00%	2.00%
01-Sep-06	\$192,216	\$186,618			
		<b>Cumulative Increase**</b>	16.70%	10.00%	10.00%
		<b>Percentile Increase***</b>	17.89%	10.42%	10.42%

**Notes** \*Sum of the actual increase was 1.75%, 1.5% of which was a pay increase, 0.25% of which was an adjustment for the cessation of accumulation of severance  
 \*\*Represents total of percentile increases from 2006 to 2012  
 \*\*\*Represents total increase in actual pay from 2006 to 2012 as a percentage

<sup>37</sup> Response of the Minister of National Defence to the Report of the 2008 Military Judges Compensation Committee, *supra* at para 11 [Annex 6].

<sup>38</sup> Prepared by the Directorate of Pay Policy Development (DPPD), Department of National Defence, May 2012.

29. The principal issue for the Committee is whether these salaries are adequate and what adjustments if any need to be made. As noted above, these issues are assessed based on the criteria set out in article 204.24(3) of the QR&O.

### **PART III – MANDATORY CRITERIA**

#### **A. The Prevailing Economic Conditions in Canada, Including the Cost of Living, and the Overall Economic and Current Fiscal Position of the Federal Government:**

30. The Canadian economy remains very fragile. As a trading nation, Canada is inevitably detrimentally affected by the current global economic turmoil, particularly the challenges faced by the U.S. and Europe. The global economic situation and outlook have deteriorated since the previous Committee hearings, and uncertainty over the outlook has risen, largely reflecting the negative impacts of the sovereign debt and banking crisis in Europe, and concerns over the health of the U.S. recovery and the country's fiscal sustainability.<sup>39</sup>

31. In its April 2012 *World Economic Outlook*, the International Monetary Fund ("IMF") found that while "... some optimism has returned. It should remain tempered. Even absent another European crisis, most advanced economies still face major brakes on growth. And the risk of another crisis is still very much present and could well affect both advanced and emerging economies."<sup>40</sup> The IMF noted that there are continued pressures

---

<sup>39</sup> Letter from B. Robidoux, Assistant Deputy Minister, Economic and Fiscal Policy Branch, Department of Finance dated May 25, 2012 ("Department of Finance Letter") [Annex 9].

<sup>40</sup> International Monetary Fund, *World Economic Outlook, April 2012: Growth Resuming, Dangers Remain* at p. xiii (online: <http://www.imf.org/external/pubs/ft/weo/2012/01/pdf/text.pdf>) [Annex 10].

for “fiscal consolidation” and that “while some immediate adjustment is needed for credibility, the search should be for credible long-term commitments - through a combination of decisions that decrease trend spending and put in place fiscal institutions and rules that automatically reduce spending and deficits over time.”<sup>41</sup> The IMF projects real gross domestic product (“GDP”) growth in advanced economies of about 1.4 per cent in 2012 and 2 per cent in 2013. Its projections for Canada are 2.1 per cent in 2012 and 2.2 per cent in 2013.<sup>42</sup>

32. Uncertainty regarding the global economy has shaken consumer and business confidence and resulted in sharp declines in equity values worldwide. As a result of ongoing weak external demand and a relatively high Canadian dollar, Canadian exports remain below pre-recession levels.<sup>43</sup> The deterioration of the global economic situation has also been felt in Canadian employment, with the unemployment rate at 7.3 per cent in April 2012.<sup>44</sup>

33. On March 29, 2012, the Minister of Finance tabled the Economic Action Plan 2012 (“2012 Budget”).<sup>45</sup> Due to slowing of the global economy and increasing uncertainty, reflecting the negative impacts of the European debt crisis and concerns over the United States’ fiscal situation, private sector economists expect real GDP growth of 2.1 per cent in 2012 and 2.4 per cent in 2013, broadly unchanged from the November 2011 Update of

---

<sup>41</sup> *Ibid.* at p. xiv.

<sup>42</sup> *Ibid.* at p. 2.

<sup>43</sup> Department of Finance Letter, *supra* [Annex 9].

<sup>44</sup> Statistics Canada, *Labour Force Survey, April 2012* (online at: <http://www.statcan.gc.ca/daily-quotidien/120511/dq120511a-eng.pdf>) [Annex 11].

<sup>45</sup> Department of Finance Canada, *Jobs, Growth and Long-Term Prosperity: Economic Action Plan 2012* (March 29, 2012) (online: <http://www.budget.gc.ca/2012/plan/pdf/Plan2012-eng.pdf>) [Annex 12].

Economic and Fiscal Projections but significantly down compared to projections of 2.8 per cent for 2012 and 2.7 per cent for 2013 made for purposes of the 2011 Budget.<sup>46</sup> The global situation continues to evolve, creating great uncertainty for the Canadian economy.

34. The 2012 Budget projected budgetary deficits of \$21.1 billion in 2012-2013, \$10.2 billion in 2013-2014, and \$1.3 billion in 2014-2015.<sup>47</sup> To restrain public sector spending and be able to project a budgetary surplus by 2015-2016, the Government has reduced annual departmental spending by approximately \$5.2 billion from an aggregate review base of \$75.3 billion, resulting in overall reductions of 6.9 per cent.<sup>48</sup> For the Department of National Defence, this amounts to planned annual reductions of \$326.8 million in 2012-2013, \$706.1 million in 2013-2014, and \$1.119 billion in 2014-2015 and ongoing.<sup>49</sup>

35. The planned reductions in departmental spending are expected to eliminate about 12,000 Government positions over a three-year period. In total, federal employment will be reduced by about 19,200 or 4.8 per cent. The planned reduction in employment includes the elimination of about 600 executive positions, or 7.4 per cent of the executive workforce.<sup>50</sup>

36. Wage increases negotiated with some of the largest public sector unions have seen annual economic increases of 1.5 per cent from 2011-12 to 2013-2014, and an additional 0.25 per cent in 2011-2012 and 0.5 per cent in 2013-2014 in respect of the elimination of

---

<sup>46</sup> *Ibid.* at p. 42.

<sup>47</sup> *Ibid.* at p. 236.

<sup>48</sup> *Ibid.* at p. 258.

<sup>49</sup> *Ibid.* at p. 213.

<sup>50</sup> *Ibid.* at p. 221.



the accrual of severance benefits for resignation and retirement (that is, a total wage increase of 1.75 per cent for 2011-2012; 1.5 per cent for 2012-2013 and 2.0 per cent for 2013-2014).<sup>51</sup> The same 1.75 per cent and 1.5 per cent increases for 2011-2012 and 2012-2013 have also been provided to public sector executives and deputy ministers, whose wages are not negotiated by the unions and who were also subject to elimination of severance pay accumulation. These increases to base pay must be absorbed within the departmental budget cuts announced in the 2012 Budget.

37. The salaries and allowances of the Prime Minister, Ministers, Members of Parliament and Senators have been frozen for 2010-2011, 2011-2012 and 2012-2013.<sup>52</sup>

38. The Supreme Court of Canada held in *PEI Judges* that: “Nothing could be more damaging to the reputation of the judiciary and the administration of justice than a perception that judges were not shouldering their share of the burden in difficult economic times.”<sup>53</sup>

39. The guarantee of a minimum salary is not a device to shield the judiciary from the effects of deficit reduction. Accordingly, the adequacy of the remuneration of military judges pursuant to the *National Defence Act* and the applicable *QR&Os* must be assessed in light of the fact that others paid from the public purse were subject to limits on wage

---

<sup>51</sup> Treasury Board of Canada Secretariat, *Table 2 Summary Report – By Year (Excel Spreadsheets of public sector union settlements)* [Annex 13]. See also Treasury Board of Canada Secretariat, “Information Notice: Changes to Executive Level Total Compensation” (online: <http://www.tbs-sct.gc.ca/hrh/110729in-bi-eng.asp>) [Annex 14].

<sup>52</sup> *Expenditure Restraint Act*, s. 55(2).

<sup>53</sup> *PEI Judges*, *supra* at para. 196; see also *Aalto*, *supra* at paras. 11-13.

increases not imposed on military judges for several years, and can expect similar annual wage increases during this period of continuing economic uncertainty.

40. With only four military judges, an increase of any amount will have little effect on the federal treasury in absolute terms. However, the question is not whether an increase will affect the Government's overall expenditures but rather how an objective person would view current military judges' salaries in light of the prevailing economic conditions in Canada. The Government submits that an objective person is likely to conclude that the current salaries, adjusted slightly each year for the next four years, are appropriate.

## **B. The Role of Financial Security of Military Judges in Ensuring Judicial Independence**

### ***(i) The Relevant Principles***

41. Financial security is an essential characteristic of judicial independence.<sup>54</sup> This characteristic has both individual and collective dimensions and requires that the courts be free and appear to be free from political interference through economic manipulation by other branches of Government.<sup>55</sup>

42. A threshold question is what is an appropriate minimum salary, below which the possibility of bias or manipulation may arise. Military judges cannot be paid so little as to cause a reasonable and informed person to perceive that Canada's military justice

---

<sup>54</sup> *PEI Judges, supra* at para. 115.

<sup>55</sup> *PEI Judges, supra* at para. 131.

system is not independent. The Supreme Court provided the following guidance on this component of financial security in *PEI Judges*:<sup>56</sup>

[...] any reductions to judicial remuneration, including de facto reductions through the erosion of judicial salaries by inflation, cannot take those salaries below a basic minimum level of remuneration which is required for the office of a judge. Public confidence in the independence of the judiciary would be undermined if judges were paid at such a low rate that they could be perceived as susceptible to political pressure through economic manipulation, as is witnessed in many countries.

43. The assessment by this Committee as to what is adequate is based on an objective assessment of the level of remuneration that would allow a “reasonable and informed person” to conclude that the judiciary is independent and not susceptible to political pressure through economic manipulation.<sup>57</sup> This test was applied by the New Brunswick Court of Queen’s Bench:<sup>58</sup>

If one applies this test to the matter before us, the question becomes the following: would a reasonable person, appearing before the Provincial Court, fear that he or she is not being heard by an independent tribunal because the Government of this Province declined to raise the presiding judge’s salary from \$141,206 to \$169,805 by this time next year? I would have to answer “no” to the question.

44. Underlying all of the above is the Supreme Court’s confirmation that consideration of financial security by this Committee is dictated first and foremost by the public interest, rather than the benefit of the judiciary:<sup>59</sup>

---

<sup>56</sup> *PEI Judges, supra* at para. 135.

<sup>57</sup> *PEI Judges, supra* at para. 113.

<sup>58</sup> *Provincial Court Judges’ Assn. (Q.B.), supra* at para. 53.

<sup>59</sup> *PEI Judges, supra* at para. 193.

I want to make it very clear that the guarantee of a minimum salary is not meant for the benefit of the judiciary. Rather, financial security is a means to the end of judicial independence, and is therefore for the benefit of the public.

**(ii) Government's Proposal is Objectively Adequate**

45. The salary of a puisne military judge as of April 1, 2012 is \$220,009.00. This represents a cumulative increase of over 16 per cent since 2006, during which time others in the public sector have been subject to more limited wage increases. Given that the average salary of an employed Canadian is approximately \$46,000.00,<sup>60</sup> a reasonable and informed person would be unlikely to view the current remuneration of military judges as inadequate to ensure judicial independence. Military judges are clearly not being paid "at such a low rate that they could be perceived as susceptible to political pressure through economic manipulation."<sup>61</sup>

46. In light of the fact that military judges' salaries are well above the level at which the reasonable person would fear that the judiciary is institutionally vulnerable to economic manipulation, there is no reasonable prospect of inflation taking judicial salaries "below a basic minimum level of remuneration which is required for the office of a judge."<sup>62</sup> Current projections of the consumer price index ("CPI") are at a modest 2.1

---

<sup>60</sup> Statistics Canada, *Employment, Earnings and Hours February 2012*, online at: <http://www.statcan.gc.ca/pub/72-002-x/72-002-x2012002-eng.pdf> at p. 8, based on average weekly earnings of non-farm payroll employees of \$886.45 x 52 weeks [Annex 15].

<sup>61</sup> *PEI Judges, supra* at para. 135.

<sup>62</sup> *PEI Judges, supra* at para 135.

per cent annually and are only slightly above the 1.5 per cent cap on indexation proposed by the Government. Inflation may in fact be less in some years.<sup>63</sup>

47. The Government's proposal is reflective of and upholds the role of financial security of military judges in ensuring judicial independence.

### **C. The Need to Attract Outstanding Officers as Military Judges**

48. As was noted by the previous Committee, "there is no dispute that the remuneration of military judges must be such that it must attract the best candidates to apply for the military judiciary and that it must reflect the nature and status of the office."<sup>64</sup> However, the Committee also confirmed that "[s]alary is not the sole factor in attracting outstanding candidates to the judiciary in general neither to the military justice in particular."<sup>65</sup>

49. The Honourable Peter Cory confirmed in the first Committee report in 2000 that highly qualified individuals are attracted to apply for judicial appointment on the basis of factors other than simply rates of remuneration: "[t]he ideal of service is not yet lost and it figures highly in the consideration of those applying for any judicial appointment."<sup>66</sup>

50. While salary is not the sole factor in attracting outstanding candidates, the present level of salary does indeed attract outstanding officers as military judges. This is confirmed through an examination of the pool from which military judges are selected,

---

<sup>63</sup> Department of Finance Letter [Annex 9].

<sup>64</sup> Report of the 2008 Military Judges Compensation Committee, *supra* at p. 10 [Annex 5].

<sup>65</sup> *Ibid.*

<sup>66</sup> Report on the Compensation of Military Judges, August 2000 at p. 11 [Annex 16].

and the salaries received by that pool of candidates prior to their appointment to the bench. These comparator salaries demonstrate that current remuneration for military judges encourages outstanding officers to apply for the position.

**(i) Pool and Salary Range of Eligible Officers**

51. The eligibility requirements for appointment as a military judge result in a pool of potential candidates which is significantly narrower than the pool from which provincial court, superior court, or federal judges is drawn. A candidate must:<sup>67</sup>

- (i) be an officer in the Canadian Forces;
- (ii) be a member of the Bar of at least ten years standing;
- (iii) possess sound judgment;
- (iv) possess extensive knowledge of criminal law, military law and discipline offences; and
- (v) possess personal characteristics of competence, experience, honesty, integrity and social awareness.

52. The salaries of the vast majority of those officers eligible for appointment are well below the current salary for military judges.<sup>68</sup> As of May 2012, 139 Canadian Forces legal officers were eligible to apply for a military judgeship on the basis of having at least ten years call to the Bar. Of those 139 officers, 100 are regular force members and 39 are reserve force legal officers. The 100 eligible regular force officers range in rank from Major to Brigadier-General. The average salary based on the mid-range salary of this eligible group of \$130,943.44 is well below the judicial salary level.

---

<sup>67</sup> Report of the 2008 Military Judges Compensation Committee, *supra* at p. 10 [Annex 5].

<sup>68</sup> As noted above, the analysis of the potential pool of applicants has been limited to legal officers. There is no reliable data available regarding whether those non-legal officer members of the Canadian Forces with law degrees are members of a Bar or have maintained membership for the requisite period.

<b>Regular Force Legal Officers With 10+ Years of Call to the Bar</b>	<b>Total</b>	<b>Legal Officer Salary</b>
Brigadier-General	1	\$288,100 (actual)
Colonel/Captain (Navy)	7	\$164,220 to \$194,100
Lieutenant-Colonel/Commander	27	\$145,236 to \$154,344
Major/Lieutenant-Commander	65	\$101,232 to \$133,068
Total/Average	100	\$130,943.44

53. The 39 reserve force legal officers eligible for appointment range in rank from Captain to Colonel. Eighteen of these officers are employed in private practice and 15 are employed in government. There is no data available on the actual salary levels for these officers. However, LA pay rates for lawyers employed by the Federal Government are significantly below the current military judicial salary.<sup>69</sup>

54. Only 18 of the 139 total eligible officers are reserve force members employed in private practice. Even if any of these 18 did have incomes greater than \$220,009.00, the vast majority of the eligible pool do not earn as much as military judges are presently earning.

<sup>69</sup> *Tables of Senior Law Group and Law Cadre Group Salary Ranges* (Table prepared by the Department of Justice with data from the Treasury Board of Canada Secretariat and the Department of Justice Human Resources) [Annex 17]. These rates apply to senior unrepresented counsel (Law Cadre Management Group) and excluded counsel (in the Law Group practitioner level) whose rates are set by Treasury Board. The Crown has filed an appeal in the case of *Association of Justice Counsel v. Canada (Attorney General)*, 2012 ONSC 184, in which the Court found that wage restraint on represented employees in the LA Group for 2006-07 was contrary to the *Charter*.

**(ii) Applications for Appointment**

55. Based on information regarding the last three selection processes for military judges held in 2005, 2008 and 2011,<sup>70</sup> there has been no difficulty in attracting outstanding military officers to apply as military judges.

56. Eleven officers applied in each of 2005, 2008 and 2011. In 2005, eight of the 11 applications out of an original eligible pool of 80 were recommended for appointment (ten per cent of the eligible pool). In 2008, 11 officers applied out of a pool of 101. Out of these 11 applications, ten were recommended for appointment (ten per cent of the eligible pool). And in 2011, nine out of 11 applications from an eligible pool of 127<sup>71</sup> were likewise recommended (seven percent of the eligible pool).

57. These rates of application and recommendation compare favourably to historic rates of application for federal judicial appointments. Between April 2007 and October 2011, 2109 lawyers applied for federal judicial appointment. From these applications 768 lawyers (36 per cent) were recommended.<sup>72</sup> We can estimate that there were approximately 50,000 eligible lawyers in Canada who were practicing members of the

---

<sup>70</sup> Statistics provided by the Office of the Commissioner for Federal Judicial Affairs Canada, Military Judges Selection Committee Cumulative Report (2005-2011) [Annex 18].

<sup>71</sup> Statistics on CF Legal Officers Eligible for Appointment as a Military Judge – Page 1 of 2 (As of 31 December 2011) prepared by the Canadian Forces Offices of the Judge Advocate General – Chief of Staff Division [Annex 3].

<sup>72</sup> Statistics provided by the Office of the Commissioner for Federal Judicial Affairs Canada for the 2011 Judicial Benefits and Compensation Commission on Applications from 2007/04/01 to 2011/10/31 [Annex 19].



bar with greater than ten years experience at any given time during this period,<sup>73</sup> and therefore that 4.2 per cent of the eligible pool of lawyers sought federal judicial appointment and that 1.5 per cent were recommended. A higher percentage of the eligible pool applied for the military judiciary, and of those who applied a much higher percentage were recommended.

	<b>Eligible Pool</b>	<b>Applicants</b>	<b>Recommended</b>
Federal Judiciary 2007-2011	50,000	2109 (4.2%)	768 (36% of Applicants, 1.5% of pool)
Military Judiciary 2011	127	11 (8.7%)	9 (82% of applicants, 7.1% of pool)

58. In light of the foregoing, and considering the remuneration level of those officers eligible for appointment and the calibre of the officers seeking appointment, there is ample evidence that the current military judicial salary is more than adequate to attract outstanding officers as military judges.

#### **D. Other Objective Criteria**

59. Under this residual heading as set out under paragraph 204.24(3) of the QR&Os, the Committee may consider additional objective and relevant criteria in making its salary recommendation. This heading is intended to cover other factors that may assist the Committee in its deliberations.

---

<sup>73</sup> Federation of Law Societies of Canada, *2010 Statistical Report [Annex 20]*. The most recently available report lists 108,514 total members in 2010. From this total figure we subtract 22,157 non-practicing members and 36,027 members with zero to ten years of call for a total of 50,330 in the eligible pool.

**(i) *Military Judicial Salaries Should Not Be Benchmarked to Any Single Comparator***

60. Military judicial salaries cannot be determined in reference to any single comparator. As discussed above, the issue of appropriate compensation comparators may come into play in determining whether present remuneration is adequate to attract outstanding officer candidates. In that context, the pool of eligible officers is the appropriate comparator as it provides a benchmark linking attraction of applicants and their prior salaries.

61. While comparisons have factored into this stage of analysis in examining other objective and relevant criteria, the 2008 Committee confirmed that “[t]his, of course, should not assume that parity should be the goal of that exercise. It is not.”<sup>74</sup> This reflects the statutory requirement to apply each of the factors at QR&O 204.24(3). A mechanical benchmarking of military judges’ compensation to any other comparator would ignore, or at the very least minimize, the three mandated criteria governing the determination of “adequacy” in this matter.

62. The Committee should therefore focus on the pool of applicants for the military bench as an appropriate group through which to apply the factors as set out in paragraph 204.24(3). An analysis of the relevant factors in the proper context establishes that the Government’s salary recommendation is adequate to ensure the independence of the military judiciary and to continue to attract outstanding officers.

---

<sup>74</sup> Report of the 2008 Military Judges Compensation Committee, *supra* at p. 11 [Annex 5].

**(ii) *Salary Recommendation Should Reflect Federal Government's Fiscal Situation***

63. Rather than benchmarking salaries to the exclusion of the factors set out in the QR&Os, a far more relevant consideration at this stage of the analysis would be the current state of the economy in general as well as the federal budgetary constraints imposed on the public service and military personnel.

64. The remuneration afforded to military judges should be roughly proportional to overall compensation trends in the federal Government. Given that the eligible pool of applicants consists of officers who are members of the Bar of at least ten years standing, it is relevant that wage increases for General Officers, Colonels and Legal Officers in the rank of Colonel and Lieutenant-Colonel have been set at 1.75 per cent for 2011-2012 and 1.5 per cent in 2012-2013, which include consideration of the changes to the severance benefit as discussed further below.<sup>75</sup>

65. Executives in the public service were treated in a similar manner. Salary ranges for the EX (executive group) were increased by 1.75 per cent in 2011-2012 and 1.5 per cent in 2012-2013.<sup>76</sup> The Government's proposal in this matter is in line with and reflective of the economic realities driving such an approach.

---

<sup>75</sup> Department of National Defence, *Pay Increases and Changes to Severance Benefits for Canadian Forces Personnel – Backgrounder – March 29, 2012* (online: <http://www.cmp-cpm.forces.gc.ca/dgeb-dgras/ps/sg-ig/sg-ig/pib-asd-eng.asp>) [Annex 21].

<sup>76</sup> Treasury Board of Canada Secretariat, *Information Notice: Changes to Executive Level Total Compensation* (online: <http://www.tbs-sct.gc.ca/hrl/110729in-bi-eng.asp>) [Annex 14].

**(iii) Implementation of the Government's Proposal**

66. The Government proposes continued salary increases during the quadrennial period at the IAI but capped at a maximum of 1.5 per cent per annum.

67. The IAI has now been set at 2.5 per cent for 2012.<sup>77</sup> With regard to the 2012-2013 salary period beginning April 1, 2012, the military judges will receive this higher 2.5 per cent because their regulatory indexation will already have been applied before this Committee reports and the Government responds. If the Government's proposal is accepted, there would not be any adjustment of the indexation applied during this period. Rather, the Government proposes that in 2013-2014 it would reduce any indexation to account for the higher rate already provided in 2012-2013.

68. In addition, the Government proposes that military judges cease accumulating severance pay in accordance with article 204.225 of the QR&O.

69. Ending the accrual of severance benefits for retirement and resignations will help provide financial predictability for the Government in this period of fiscal restraint. This position on severance benefits reflects the approach taken in the public service and with military personnel. The Government has signed collective agreements with bargaining units representing over 95,000 public servants that include the elimination of severance for voluntary departures. Wage increases negotiated with some of the largest public sector unions in 2011 have seen annual economic increases of 1.5 per cent from 2011-

---

<sup>77</sup> Letter dated April 1, 2012 from the Office of the Commissioner for Federal Judicial Affairs [Annex 22].

2012 to 2013-2014, and an additional 0.25 per cent in 2011-2012 and 0.50 per cent in 2013-14 in respect of the elimination of the accrual of severance benefits for resignation and retirement.<sup>78</sup>

70. This change with regard to severance benefits was also effective as of October 1, 2011 for senior officers of the Canadian Forces (General Officers, Colonels, and legal officers in the rank of Lieutenant-Colonel and above), and as of March 1, 2012 for all other Canadian Forces officers and non-commissioned members (excluding military judges).<sup>79</sup> Governor in Council appointees and senior executives in the public service ceased accumulating severance pay as of October 1, 2011.<sup>80</sup> Pay increases for senior officers in the Canadian Forces, Governor in Council appointees and senior executives of the public service for 2011-2012 included an adjustment of 0.25 per cent in consideration of the changes to severance benefits. There has been no decision made regarding a pay increase for these groups for 2013-2014.

71. The Government proposes that military judges be provided an additional pay increase of 0.25 per cent in the first year that the changes to the severance benefit take effect. In the event that senior officers in the Canadian Forces, Governor in Council appointees and senior executives of the public service receive a further adjustment for the

---

<sup>78</sup> Treasury Board of Canada Secretariat, *Table 2 Summary Report – By Year (Excel Spreadsheets of public sector union settlements)* [Annex 23].

<sup>79</sup> Department of National Defence, *Pay Increases and Changes to Severance Benefits for Canadian Forces Personnel – Background – March 29, 2012* (online: <http://www.cmp-cpm.forces.gc.ca/dgcb-dgras/ps/sg-ig/sg-ig/pib-asd-eng.asp>) [Annex 21].

<sup>80</sup> Terms and Conditions of Employment for Full-Time Governor in Council Appointees, September 2009 (online: <http://www.pco-bcp.gc.ca/index.asp?lang=eng&Page=information&Sub=publications&Doc=terms-conditions/2009-eng.htm#8.1>) [Annex 24].

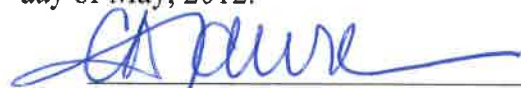
cessation of the accumulation of severance benefits, an equivalent adjustment should be accorded to military judges.

72. The Government submits that a reasonably informed member of the public would expect all members of the Canadian Forces, including military judges, to be treated in a similar fashion with respect to severance pay. Ceasing the accumulation of severance would not undermine the adequacy of military judges' overall remuneration.

#### **PART IV – CONCLUSION**

73. The Government's proposal to increase current military judicial salaries by up to 1.5 per cent per year over the current quadrennial period and to modify their severance pay benefits is reasonable in light of the current fragile state of the Canadian economy. It provides military judges with an appropriate level of financial security to preserve judicial independence and is adequate to attract outstanding officers as military judges. Finally, the other relevant objective criteria described above support the Government's proposal. Accordingly, the Government respectfully submits the Committee should recommend that the Government's proposal be implemented.

All of which is respectfully submitted this 28<sup>th</sup> day of May, 2012.



Catherine A. Lawrence  
Craig Collins-Williams  
Of Counsel for the Government of  
Canada

# JOINT BOOK OF AUTHORITIES / CAHIER CONJOINT DE SOURCES

## INDEX

### A. Statutes and Regulations / Lois et règlements

1. *Expenditure Restraint Act*, SC 2009, c 2, s. 393.  
*Loi sur le contrôle des dépenses*, L.C. ch. 2 art.393.
2. *Judges Act*, R.S.C., 1985, c. J-1.  
*Loi sur les juges*, L.R., 1985, ch. J-1.
3. *National Defence Act* R.S.C. 1985 c. N-5.  
*Loi sur la défense nationale*, L.R.C. (1985), ch. N-5.
4. Bill C-15: *An Act to amend the National Defence Act and to make consequential amendments to other Acts*, First Session, Forty-first Parliament, 60 Elizabeth II, 2011.  
*Projet de loi C-15 : Loi modifiant la Loi sur la défense nationale et d'autres lois en conséquence*, 1<sup>re</sup> session, 41<sup>e</sup> législature, 60 Elizabeth II, 2011.
5. *Queen's Regulations and Orders*, Chapters 101, 111, 112, 204.  
*Ordonnances et règlements royaux*, Chapitres 101, 111, 112, 204.

### B. Jurisprudence

6. *Aalto v. Canada (Attorney General)*, 2009 FC 861, [2010] 3 FCR 312 / 2009 CF 861, [2010] 3 R.C.F. 312.
7. *Aalto v. Canada (Attorney General)*, 2010 FCA 195 / 2010 CAF 195.
8. *Bodner v. Alberta*, [2005] 2 S.C.R. 286 / [2005] 2 R.C.S. 286.
9. *Caporal-chef W.B. Dunphy c. Sa Majesté la Reine et Caporal Parsons c. Sa Majesté la Reine*, 2007 CMAC 1, CMAC-491 & CMAC-492.
10. *Conférence des juges du Québec c. Québec (Procureure générale)*, 2000 CanLII 6948 (QC CA).
11. *Lauzon v Her Majesty the Queen*, 129 C.C.C. (3d) 399; [1998] C.M.A.J. No 5 / [1998] CMAC 415.

12. *Leblanc c. Sa Majesté la Reine*, 2011 CACM 2.
13. *Mackin c. Nouveau-Brunswick (Ministre des Finances)*, [2002] 1 R.C.S. 405, 2002 CSC 13.
14. *Procureur général du Québec et autres c. Conférence des juges du Québec et autres*, 2004 CanLII 22772 (QC CA).
15. *Provincial Court Judges' Assn of New Brunswick v. New Brunswick* (2002) 213 D.L.R. (4th) 329, 2002 NBQB 156 (CanLII) (NB QB).
16. *Provincial Court Judges' Assn of New Brunswick v. New Brunswick*, (2003), 231 D.L.R. (4th) 38, 2003 NBCA 54 (CanLII) (NB CA)
17. *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island; Reference re Independence and Impartiality of Judges of the Provincial Court of Prince Edward Island*, [1997] 3 S.C.R. 3 / [1997] 3 R.C.S. 3.
18. *R. c. Caporal H.P. NGuyen*, 2005 CM 57.
19. *R. c. Généreux*, [1992] 1 S.C.R. 259 / [1992] 1 R.C.S. 259.



## ANNEXES – INDEX

<b>Tab No.</b>	<b>Description of Document</b>	<b>Footnote No.</b>
1.	Salaries of Judges Since 1999 to Present in Background Pay Rates Package prepared by the Directorate of Pay Policy and Development (DPPD), Department of National Defence, May 2012	1
2.	Annual Report of the Judge Advocate General to the Minister of National Defence on the administration of military justice in the Canadian Forces, A Review from 1 April 2009 to 31 March 2010	12
3.	Statistics on CF Legal Officers Eligible for Appointment as a Military Judge – prepared by the Canadian Forces Offices of the Judge Advocate General – Chief of Staff Division	22, 71
4.	Spreadsheet of Court Martial Statistics 2003-2012YTD prepared by the Directorate of Law/Military Justice Policy and Research, Office of the JAG	26
5.	Report of the 2008 Military Judges Compensation Committee, September 2008	28, 64, 67, 74
6.	Response of the Minister of National Defence to the Report of the 2008 Military Judges Compensation Committee	32, 37
7.	Response of the Government of Canada to the Report of the 2007 Judicial Compensation and Benefits Commission, February 11, 2009	34
8.	Response of the Minister of Justice to the Report of the Special Advisor on Federal Court Prothonotaries' Compensation, February 11, 2009	34
9.	Letter from B. Robidoux, Assistant Deputy Minister, Economic and Fiscal Policy Branch, Department of Finance dated May 25, 2012	39, 43, 63
10.	International Monetary Fund, World Economic Outlook, April 2012: Growth Resuming, Dangers Remain	40
11.	Statistics Canada, Labour Force Survey , April 2012	44
12.	Department of Finance Canada, Jobs, Growth and Long-Term Prosperity: Economic Action Plan 2012 (March 29, 2012)	45

<b>Tab No.</b>	<b>Description of Document</b>	<b>Footnote No.</b>
13.	Treasury Board of Canada Secretariat, Table 2 Summary Report – By Year (Excel Spreadsheets of Public Sector Union Settlements)	51
14.	Treasury Board of Canada Secretariat, “Information Notice: Changes to Executive Level Total Compensation”	51, 76
15.	Statistics Canada, Employment, Earnings and Hours February 2012	60
16.	Report on the Compensation of Military Judges, August 2000	66
17.	Tables of Senior Law Group and Law Cadre Group Salary Ranges (Table prepared by the Department of Justice with data from the Treasury Board of Canada Secretariat and the Department of Justice Human Resources)	69
18.	Statistics provided by the Office of the Commissioner for Federal Judicial Affairs Canada, Military Judges Selection Committee Cumulative Report (2005-2011)	70
19.	Statistics provided by the Office of the Commissioner for Federal Judicial Affairs Canada for the 2011 Judicial Benefits and Compensation Commission on Applications from 2007/04/01 to 2011/10/31	72
20.	Federation of Law Societies of Canada, 2010 Statistical Report	73
21.	Department of National Defence, Pay Increases and Changes to Severance Benefits for Canadian Forces Personnel – Backgrounder – March 29, 2012	75, 79
22.	Letter dated April 1, 2012 from the Office of the Commissioner for Federal Judicial Affairs	77
23.	Treasury Board of Canada Secretariat, Table 2 Summary Report – By Year (Excel Spreadsheets of public sector union settlements)	78
24.	Terms and Conditions of Employment for Full-Time Governor in Council Appointees, September 2009	80